START

FIRST

SIDE

Y-93.

Pte THOMPSON, F.J.

Correspondence to be PINNED here.

Y-93

Army Form A.3.

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

PROCEEDINGS.

"A."
Order convening this Court

On Active Service, this FOURTEENTH day of FEBRUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

* Omit where Convening Officer is the Commanding Officer [illegible] of said Rank.

~~*and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

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

* Omit if not applicable.

~~*[I am unable to appoint—~~

~~*(a) Three Officers to form the Court;~~

~~*(b) A Field Officer as President;~~

~~*(c) Three Officers having more than one year's service;~~

for the following reasons, namely:—]

Proceedings Reviewed
Reviewing Officer
[illegible]

President.

Rank.	Name.	Regiment.
Major	F.J. GILMOUR	HQ 2 CDN DIV RCA

Members.

Rank.	Name.	Regiment.
One CAPT. to be detailed by OC R Regt C		R Regt C
One Capt or Lieut to be detailed by OC RHLI		RHLI
WAITING MEMBER One Lieut to be detailed by OC RHLI		RHLI

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (W.H.S. PENHALE) Brigadier,
Commanding 4 CDN. INF. BDE.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No.37640 Private Frederick James THOMPSON, 1st Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army (Active).	FIRST CHARGE A.A.Sec.10(4) BREAKING OUT OF BARRACKS. SECOND CHARGE A.A.Sec.15(1) ABSENTING HIMSELF WITHOUT LEAVE (SEE CHARGE SHEET ATTACHED)	Guilty Guilty Guilty	Guilty Guilty 90 days Detn 17 Feby 1943 F.J.Thompson Major Pres	Confirmed 18 Feb 43

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

(Signed) (M.H.S. PENHALE) Brigadier
Commanding 4 CDN. INF. BDE.

(Signed) F.J.Thompson Major RCR
Convening Officer (e) *President.*

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*3. The interpreter~~ 7/M
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 17th day of February 1943.

F.J.Thompson Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See Section (5) on Part II of M.M.L. Reg.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this day of 19~~

7/M

President of the Court Martial.

D. Confirmation.

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

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

* To be omitted unless penal servitude or imprisonment for two years or upwards is awarded. The Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 18th day of February 1943.

Capt. & Cdn. Inf. Bde.
Confirming Officer.

Promulgated and extracts taken in the case of B 37640 Pte Thompson F. J.

(a) (Dated) 17 Feb 43 (Signed) Adjt., R. H. L. I.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

(13732) Wt. 40113—493 100 m 1/43 B.St. G.

CHARGE SHEET.

The accused B37640. Pte. FREDERICK JAMES THOMPSON, 1st Bn., Royal Hamilton Light Infantry, a soldier of the Canadian Army, Overseas, is charged with;

FIRST CHARGE
Section 10(4)
Army Act.

BREAKING OUT OF BARRACKS

in that he

in the Field, at or about 1800 hrs, 19 Jan 43 broke out of barracks whilst under going Field Punishment.

SECOND CHARGE
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1800 hrs, 19 Jan 43, until 1500 hrs 10 Feb 43.

In the Field
12 Feb 43.

J. J. Hurley
.....Lt-Col.
1st Bn., Royal Hamilton Light Infantry.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
14 Feb 43.

Kae Sinclair Brigadier
.....
Fourth Canadian Infantry Brigade.

"B" 7/1

I desire the Adjutant of the R.H.L.I. to detail an Officer to defend me at my trial by Field General Court Martial.

F.J. Thompson
(B37460. Pte. F.J. Thompson.)

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

The following officers under instruction are duly sworn.

Lt Col E. Elliott Otpa Rifles.
Lieut W.L. Coleman R.I.R.L.I.

Charge-Sheet.

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

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

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

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

Guilty *Answer.*

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

Guilty *Answer.*

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

Answer.

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

Answer.

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

Instruction.

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

A

Army Form A.9.

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

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

Proceedings of a Field General Court-Martial held ~~at~~ in the field on the 17 day of February 1943 by order of Brigadier M H S Penhale Commanding 4 Cdn Inf Bde dated the 14 day of Feb 1943.

President.
Maj J.J. Gilmour
HQ 2 Cdn Div R.C.A.

Members.
Capt H.T. Ben-Oliel
Royal Regt of C.
Lieut L K Amos
RHLI.

~~Judge Advocate~~

Trial of* B37640 Pte Frederick James Thompson RHLI.

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

~~The Court satisfy themselves that is not available to serve owing to~~

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

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

The accused is brought before the Court.

Prosecutor,† Capt A.C. Brett RHLI

Counsel‡ or defending officer† Maj J.T. Bell

At 1030 o'clock the Trial commences.

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

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

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

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

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q13b/. W.W.8503/983. 40,000 pds. 2/43. K. & H., Ltd. G62/111. Forms A.9/22.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? No Sir

Question to the accused.

Answer.

Evidence as to character.

The defending officer addresses the Court - reads a statement in Mitigation of punishment which is handed in attached to the proceedings & marked "J"

H J Gilmour
Major Res

CC

Proceedings on Plea of Guilty.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B37640 Pte F. J. Thompson is found guilty of both the charges

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

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

Answer. No

The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instructions.

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

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

F

Sentence.

Sentence.

The Court sentence the accused B37640 Pte T. J. Thompson to undergo detention for 90 days.

17 Feb. 1943

T. J. Gilmour
Major
Pres

E

Finding.*

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

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction before Sentence.

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

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

Evidence of character, &c.

Capt. A. C. Brett, is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB 276 & Cert. copy of M.F.M.C.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked A & B, signed by the President, and annexed to the proceedings.

Question by the President.

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

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* ~~Not yet~~ They are certified by the adjutant

Question.

Are ~~they~~ true extracts from the regimental books, and is the statement of entries in the ~~conduct~~ sheets a ~~fair~~ and true ~~summary of~~ those entries? *Answer.*

Cross-examined by the accused. Yes as to AFB 276 & Character

Instructions.—If in cases of the nature of the accused is a commercial case, a schedule, the finding of the Court remains [illegible] to any evidence by that, or be accepted by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

(5)

H. Hilmar
Maj. Res.



- M E D I C A L C E R T I F I C A T E -

I certify that I, this morning, have examined No. B 37540

(Rank) Pte (Name) Thompson F.J. (Unit) R.H.L.I.

and find him fit/~~XXXXX~~ to undergo trial by Court-Martial.

Dated 17 Feb. 43.

S.W. Cunliffe Lt

(Medical Officer)

SUMMARY OF EVIDENCE

In the case of B37640. Private FREDERICK JAMES THOMPSON, 1st Bn., Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas.

THE ACCUSED IS INFORMED OF HIS RIGHTS.

THE C.O. DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS FOR THE PROSECUTION.

B41176. L/Cpl. ACKRILL. G.H. having been duly sworn states;

" Sir on the night of 19 Jan 43, I was acting Coy Orderly Sgt. The accused failed to report to be returned to the Gd Room after doing his pack drill. I searched the billets for the accused and could not find him. I immediately reported this to the C.S.M. WILLIAMS. G.E. I know the a ccused and now recognize him.

THE ACCUSED DECLINES TO CROSS EXAMINE.

.....Hqbl. Ackrill. G.H.
B41176 L/Cpl. Ackrill. G.H.

SECOND WITNESS FOR THE PROSECUTION.

B36595. C.S.M. WILLIAMS. G.E. having been duly sworn states;

" Sir, I am C.S.M. of "D" Coy, at about 1800 hrs. 19 Jan 43 L/Cpl. Ackrill reported to me that the accused had failed to report after doing his pack drill and that he could not be found in the billets. I made a further search of the billets but could not find the accused. From that time the accused has been continiously absent. I know the accused and now recognize him.

THE ACCUSED DECLINES TO CROSS EXAMINE.

.....G.E. Williams C.S.M.
B36595. C.S.M. Williams. G.E.

THIRD WITNESS FOR THE PROSECUTION.

B37136. Pte. PEARSON. P.L.D. having been duly sworn states.

" Sir, I am attached to the Regtl Police, I was on duty 10 Feb 43, when the accused reported to the Gd Room after being absent without leave. I know the accused and now recognize him.

THE ACCUSED DECLINES TO CROSS EXAMINE.

"9" 2/43

.....P. Pearson.....
B37136. Pte. Pearson. P.L.D.

SUMMARY OF EVIDENCE

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THE ACCUSED DECLINES TO CROSS EXAMINE.

"9"

.....P. Pearson.....
B37136. Pte. Pearson. P.L.D.

THE ACCUSED HAVING BEEN DULY CAUTIONED IN ACCORDANCE WITH R.P. 4 (a) says;

" I do not wish to make any statement."

THE ACCUSED DOES NOT WISH TO CALL ANY WITNESSES IN HIS DEFENCE AT THIS POINT.

Certified that R.P. 4 complied with

In the Field.

~~14~~ Jan 43.
17 Feb.

J.E.Reekie
(J.E.Reekie) Lieut.

Officer detailed to make the Summary.

J 113

The accused Pte THOMPSON has had an unhappy youth leaving home at the age of 13 and spending most of his time until he joined the army as a wanderer. The reason being that he could not get along with his step mother. His older brother left home for the same reason and his father finally separated from his step-mother in 1940. As a result the accused has never had much education and very little parental discipline. He joined the army when he was 16 and he is now only 19 although his paybook shows him to be 21.

The accused served in Canada for two years with the Victoria Rifles and was in Category B because of flat feet. Just before coming overseas he was given a medical board and his category was raised to A. All this can be verified in Part I of his paybook. When he arrived ~~over here~~ at the R. H. L. field unit he started having trouble with his feet occasioned by Battle Drill. He went to the M.O. who recommended that he be transferred to the Forestry Corps. The necessary papers were signed by the accused and when nothing came of it he applied to his coy comd for a job as DR or Dr I.C. As nothing came of this and as he was still having trouble with his feet he was continually being put on charge. At this time he heard that his brother who had been missing from Dieppe was definitely killed. Feeling upset at this news and believing that he was not getting anywhere with the unit he conceived the idea of getting transferred to the holding unit by incurring a stiff enough sentence to be S.D. 3 days field unit. As an F.P. man was ~~in~~ confined to ~~barracks~~ and ~~drill~~ by the M.O. and as he had plenty of opportunity to walk out ~~as~~ he took a convenient moment.

The accused is anxious to get a crack at the Germans on account of his brother and if he can get a job where his physical

defects won't handicap him knows that he can do a good job of soldering. He is very young and unsettled and I feel more if the court see fit to deal lightly with him he will prove to be a valuable soldier when time for action comes.

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
VALCARTIER	9 NOV	AFX		(AR 15:(1) ANL 0900 HRS 9-10-41 TO 2359 HRS 22-10-41	DECKHON PAYE	14 DAYS C.B. 30 DAYS FORF PAY	30-10-41	LT-COL ECKARDELG	14 DAYS PDY
NANAIMO	17-11-41	AFX		ANL FROM 2100 HRS 17-11-41 TO 2100 HRS 18-11-41	L/CPL HILLDOWSON	7 DAYS DETN	20-11-41	LT-COL EARLIN	FOR 1 DAYS PAY ANL
VAN. BARRACKS	9-3-42	AFX		ANL FROM 0830 HRS 9-3-42 TO 1730 HRS 9-3-42 (TIME OF HRS)	CPL ANDERSON	FORFEITS 3 DAYS PAY AR 40-11-0	10-3-42		
CAMP BORDEN	17-7-42			S.O.S. 3-11 I (A) T.C. DO PT III NO 90 D/16-7-42					
CAMP BORDEN	20-8-42	AFX		AR 15(1) ANL ON FAILING TO RETURN FROM FURLOUGH FROM 2200 HRS 20-8-42 UNTIL 1705 HRS 27-8-42 6 DAYS 17 HRS 5 MIN	CPL CHERTRAM L/C THOMAS	28 DAYS DETN	28-8-42	LT-COL ALDERSON	FORF 7 DAYS PAY FRI. O(A)A
CAMP BORDEN	ONTARIO			S.O.S. ON PROCEEDING OVERSEAS	PT III ORDER	NO. 1198 A	effective 31-8-42		

M.F.M. 6
A.F.B. 177
175M—7-41 (2215-20)
H.Q. 1772-39-1655

No. B3764-0 Name THOMPSON, F.J. Sqn., Battery, or Company D Corps R.N.F.L. Date of enlistment 13-9-40 G.C. Badges Service or Proficiency Pay

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BOTWOOD	11-5-41	RFN		ANL 1330 hrs 11-5-41 to 1330 hrs 13-5-41	L/Sgt. JONES	168 hrs detn	14-5-41	MAJOR AITKEN	forft 7 days PAY. RNR.
"	7-6-41	"		ANL 1700 hrs to 1745 hrs 7-6-41 and missed a military duty (Long Harf Guard)	Col Hefferton	ADMONISHED	3-6-41	CAPT AITKEN	forft 1 days PAY
	4-8-41	"		C.M. / Conviction Conduct to Prej. the Property					forft 5 days PAY (RA 1930(a))
Airport	19-8-41	"		(RAN) Conduct etc, improper possession of pair of boots belonging to RN Robb, N.F.	RFM McVEY	10 DAYS detn	3-9-41	MAJOR AITKEN	
	3-9-41			(RAN) Conduct etc, improper possession of gymnasium belt the property of the Govt of Can	RFM McVEY CFN Stewart CFN Gardiner RFM Ferguson	10 DAYS detn	3-9-41	MAJOR AITKEN	

(P.T.O.)

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Dec	Pte		conduct to the prejudice etc, in that he during rifle inspection used improper language to his Pl Sgt. (A. A. C.)	Sgt McNeil Lieut Spalding	7 days det	11 Dec	MAJOR J.H. GRAHAM	forf 7 days RPY
Field	3 Dec	Pte		(1) Awl. absent 3 Dec 4 hours to 1200 hrs 4 Jan 43 (2 days joint) (2) An sec 10(d) Deserting out of bks in that he at 0900 hrs 3 Dec 4 broke out of bks when his duty required him to be in bks when under open arrest.	Cpl Cooper Cpl McDermott Cpl Cooper	7 days F.P. 7 days F.P.	6 Jan 43 3 Dec 43	Lt-Col J.J. Hurley Lt-Col J.J. Hurley	forf 2 days pay Awl. absent 4 days pay Remainder with the charge.

CERTIFIED TRUE COPY

(G.H.B. STINSON) CAPT & ADJT
1 BN R.C.A. 1 CDN ARMY

No. Name Sqn., Battery, or Company Corps Date of enlistment G.C. Badges Service or Proficiency Pay

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

M.F.M. 6
A.F.B. 122
(19AM—7-41 (1219-20)
H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
LAUREATIDE CAMP	28.7.41	Pte		AWL. 1300 hrs 28 JUL 41 UNTIL 1745 hrs 28 JUL 41 TOT ABSENCE NO MINS AA 15 (1)	DOCUMENTARY	3 DAYS C.B.	28 JUL 41	CAPT. H.C. AITCH	
FIELD	19.8.41	Pte		CONDUCT ETC. IN THAT HIS TIFFIN NOT LEFT IN A FILTHY CONDITION	Cpl McKenzie	3 DAYS C.B.	20.10.41	CAPT. STINSON	
FIELD	6.11.41	Pte		AWL 1345 hrs 1 NOV 41 UNTIL 1100 hrs 12 NOV 41 AA 15 (1)	Capt MAHONEY J.	3 DAYS F.P.	12 NOV 41	LT. COL HUNTLEY	Forf. 1 DAY AWL 1st FORF 4 DAYS PAY
FIELD	17.11.41	Pte		CONDUCT TO THE PREJUDICE ETC. IN THAT HE FAILED TO REPORT TO GUARD ROOM 0730 HRS AS A DET ORDERLY AA 40	Sgt RIDLEY	3 DAYS C.B.	19.11.41	LT. NIDD	

P.T.O.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Nil		

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

Signed this 17th day of February 1943

A/S Quarto Clerk

Army Form B296.

HEADQUARTERS

Statement as to Character and Particulars of Service of Accused.

B37460. Pte. FREDERICK JAMES THOMPSON. of the 1st Bn. Royal Hamilton Light Infnatry.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets, are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 664, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AWL.	4 a&b. times	9 times.
For Conduct to the Prejudice	3 times	5 times.
For Breaking out of Barracks	1 times	1 times.
For	times	times.

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

or,

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

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

~~or,~~

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

Wt. 42565/924 50,000 8/40 W. & L.Ltd. 52—9304

A/S

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

~~or,~~

The accused at the present time is under sentence for AWL. ads.
beginning on the 5th day of Jan 43.

4. The accused has been in confinement, awaiting trial on the present charges

for nil days in Civil Custody,

and 7 days in Military Custody.

Total 7 days.

Of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 13 Sep 1940.

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

8. The accused is entitled to deferred pay or gratuity in respect of years' service. NR

9. The accused is entitled to reckon years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to]

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

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

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

		Date of Promotion
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

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

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

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

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

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Nil		

(*Continued overleaf.*

HH·149

CPL THOMPSON F.J.

K-70134 Cpl Thompson F.J.,
3 Bn, 1 CBRD.
HH-149

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this NINETEENTH day of JUNE, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial on account of the exigencies of the service]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

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

*Omit if not applicable.

* [Where the Convening Officer is not the Commander of a Field Force]

*[A Field Officer specially appointed by the Commander of a Field Force]

[for the following reasons, namely:—]

13-9-43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL.	D.L. REDMAN, V.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A CAPTAIN	FROM	H.Q. C.R.U.
A LIEUTENANT	FROM	H.Q. C.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

RECEIVED 24 JUN 1943 DESP

*Signed (D.H. ROBERTS) Maj-Gen.,
Commanding Cdn Rft Units.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-70134 Cpl Thompson, F.J. 3 Bn, 1 CBRD.	FIRST CHARGE Sec 8(2) A.A.	Not Guilty	Guilty Sentence To be Reduced to the Ranks. 21st June 1943 WWM	Confirmed. J.H.R.
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— answer—no

(Signed) J.H. Roberts (J.H. ROBERTS) Maj-Gen., Commanding Cdn Rft Units.
Convening Officer (e)

(Signed) W.W. Mann Lt Col
President.

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 21st day of June 1943

W.W. Mann Lt Col
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (3) on page 762 M.M.I., 1929.

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

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

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

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

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 22 day of June 1943.

J.H. Roberts
Confirming Officer.

Promulgated and extracts taken in the case of K 70134 Cpl Thompson F.J.

(a) (Dated) 23 June 43 (Signed) A.D. Simmell Capt.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

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

(23678) W1.46179/830 50,000 2-43 A.& E.W.Ltd. Gp.698

CHARGE SHEET

The accused K 70134 Cpl Thompson, F.J. 3 Bn 1 CBRD, a soldier of the Canadian Army Overseas, is charged with:

First Charge
AA Sec 8 (2)

While On Active Service, using insubordinate language to his superior Officer, in that he, on 5 June 43, whilst engaged in taking dictation from Col Basher, did use words to the effect that he would no longer take dictation, and that he did not have to take dictation.

Officer Commanding
Lieut-Col. 3 Bn 1 CBRD

Field
7 June 43.

To be tried by Field General Court-Martial.

(J.H. ROBERTS) Maj-Gen.,
Comd
Cdn Reinforcement Units.

In the Field,
14 Jun 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(J.H. ROBERTS) Maj-Gen.,
Comd
CANADIAN REINFORCEMENT UNITS.

In the Field,
19 Jun 43.

I certify that I have this morning examined E 70134
Cpl. Thompson, F.J. and find him fit to under-
go Trial by Court Martial.

Elliott Capt.

Camp 41.
21 June 1943.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NAAFI OUDENARDE LINES FARNBOROUGH
ON THE 21 DAY OF JUNE 1943

The accused. K 70137 CPL. THOMPSON F.J. Unit. 3 BN. I CERD.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt Col. D L Redman. Unit. HQ. C.R.U.
Members. CAPT G. CORNISH. Unit. HQ. C.R.U.
LIEUT W W LEACH. Unit. HQ C.R.U.

The officers under instruction are duly sworn:-

6 Officers Sworn. Unit.
Unit.

Prosecutor. Lieut B Henderson. Unit. R.C.O.S.
Defending Officer Lieut W A Strook. Unit. I C.E.R.D.

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

The accused when arraigned pled not Guilty
The Question under R.P. 39(A) was asked - Answer - No
Proceedings follow and signed
WW

Sir: Plea of Prosecution on
May it please the Court. Gentlemen
the Court has heard the evidence given in a
clear and convincing manner by Witnesses.
The Prosecution feels the evidence to be most
conclusive as it proves certain facts.
The Accused most certainly did not
act in a soldierly manner. When a man
subject to Military Law shows in such a
startling manner his apparent utter disregard
for that law - he must be punished. The
exact fact he may be called upon to

MM

If perform a duty not especially in accord with his own views or goals for him must bear no weight. It was and is his duty to perform willingly any task given and to do so to the best of his knowledge and ability, without question.

Prosecution believes that the accused fraudulently had an Army Record without claim. Granting this to be true the Pros. can only wonder why a man would prefer anonymity a record of two years training as he most certainly has

W. done in this instance, in a matter of minute. the act shews a dominant defiance of authority. there can be nothing said in mitigation.

therefore in the interest of discipline an offence of such a glaring nature must not go unpunished

Rio. resb.

PLEA OF MIDIGATION

IN THE CASE OF

CPL. THOMPSON. F. J. K 70134

MADE BY THE DEFENCE.

Mr. Pres., sir, and gentlemen of the court you have heard our defence which has been made as straightforward as possible to bring out the truth of the case. You have seen the accused N.F.M.6 and also shown that since enlistment he has been convicted of no crime whatsoever. You have heard the witnesses as to good character. I only wish to say now that this soldier being in civvies and that he was being unjustly treated and harshly dealt with made the mistake of talking back

To a superior officer. The
defence I wish to make
for that ~~defence~~ mistake is, that
after ~~he~~ being recruited
into, & serving with for
22 months, the 12th Can. Lt.
Fd. Brds. he had developed
the practice of bringing
up a grievance with his
superior officers and demanding
satisfaction from them.

In closing I will say
that I am sure the court
will shall be justly treated
in the ~~finding~~ award they
deserve by this court.

Thank you, Sir

Lt. Lt. Lt.

(DEFENDING OFFICER.)

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[illegible] he did not have to take declaration. He took it however. I considered the accused's manner was insubordinate

Cross. Exam by Sup Offr
I heard all the conversation when asked to take cigarette out of his mouth. The accused said I don't like that.

End of case for Prosecution
Precedent advises accused under Note 2 R.P. 40.

1st witness for Defence
The accused duly sworn states
My parents unit was 12 Can Tk Fld Amb. I was 2½ months with them. I mostly contacted Medical Officers. They are not as regimented as line officers. I had no trouble with any of them. I transferred to get into more active service. I had the cigarette in my hand not in my mouth when I came in. In my old unit I used to take declaration ~~under~~ while smoking. I said I did not want to take declaration as I want Gen. Lab. Grade "B" Clerk. The conversation then was questions by the CO and answers by me. At the end I said I don't want to take any more declaration but as I am not

Trial of K70134 Cpl Thompson F.J. 1 C.B.K.D.

Page 2

1st witness for the Prosecution
Lt Col G. Bedley Basher 1 C.B.K.D. duly sworn states:
On afternoon 5th June shortly after lunch about 1330 hrs I called at my orders room and left instruction that when Cpl Thompson returned I wished to see him to dictate. Shortly after about 1400 hrs. he appeared. As he entered I looked up and saw that he was smoking a cigarette which was hanging from his lips. I spoke to him saying this and said when you come in here to take dictation or otherwise you do not come in with a cigarette hanging out of your mouth. I added you should know better than that. Have you not been told before. He replied "No I have been told that one before and besides I don't like it" I explained that whether he liked it or not he would not do it in future I also cautioned him about his manner. He then proceeded to argue that "I don't have to do this sort of work" and he made some remark about "a class B clerk. I explained that he was compelled to carry out this work and therefore should

do as he was told. He persisted in arguing until I told him to be quiet and to sit down and get on with his job. He did this and took dictation for a letter. When he had finished and was about to leave the office he said "well that's the last dictation I take or words to that meaning. During this episode his manner was impudent, insubordinate and in my opinion his attitude at times bordered on defiance. By this I mean that I would not have been surprised if he had walked out of the office.

Cross-Examined by Def Off's
To the best of my knowledge at no time did accused say "Sir" to me I asked accused what hut he came from. The accused was perfectly sober.

2nd witness for Prosecution
Major W.S Coulin ICBRD being duly sworn states
At apx 1400 hrs 5th June I was in Col Bashins office when accused came in to take dictation. He had a cigarette in his mouth. The Col told him to take it out. When asked if he was in the habit of smoking when taking dictation the accused said he was. He seemed to resent this

request and he said that he did not have to take dictation as he was not drawing Group B trades Pay. The Col then ordered him to take dictation which he did. When pressed the accused remarked that that was the last time he would take dictation from him. Because of his insolent manner to Col Bashin he was placed under arrest. I heard that he was taking dictation from Col Bashin for about a week before this occurred. His work was satisfactory

Cross Examined by Def Off's
I heard all the conversation. He addressed the Col as Sir once or twice during the conversation. The ~~witness~~ accused was first charged under Sec 9 (2) but this was dropped and a further charge laid under Sec 8 (2)

3rd witness for Prosecution
Major C.H. Campbell 2nd Bn ICBRD being duly sworn states
On 5th June at apx 1400 hrs I was in a marquee (office) with Col Bashin and accused. I was about 5 yds away and heard the Col reprove the accused for having a cigarette in his mouth. There was some conversation. The accused's manner was insolent and bordered on truculency and he said that as he was not drawing Trade "B"

Friday 16 70134 Cpl Thompson 7 J. ICBRD

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Cpl Thompson 7 J. ICBRD
Questioned as a Group "B" Clerk
I sincerely protest that I was not in
Complaint or questioned to take declaration
I used the term "Sir" at all times.

Prosecution declined to Cross-Exam

End of Defence

Prosecution addresses the Court
As per Charge Sheet
Defending Officer addresses the Court

The Court adjourns to consider its Finding

The Court Reopens

The Prosecution produces a 4 B 296
and two copies of Nº 7 in respect of the accused
Rule 46 (B) complied with.

The Court in Closed Custody to Finding
appear is attached
CA 0 R 0 326 2 was produced in court

The Court adjourns to consider its Sentence.

Returned to Court

Summary of Evidence
in the case of
K-70134 Corporal Thompson F.J.
No 3 Battalion no 1 Canadian Base
Reinforcement Depot.
The Commanding Officer directs that
the evidence be taken on oath:-

First Witness for the Prosecution

Col. H. Hedley Basker, was Comd. Commandant
No 1 C.B.R.D. having been duly sworn
states as follows:-

On Sat. June 5 at about 1400 hrs I left
word in the Orderly Room that as soon as
Cpl Thompson returned from lunch I wished
him to take some dictation. Shortly after
this he (Cpl Thompson) entered the room
where my office is located. As he entered the
room I looked up and seeing that
he was smoking a cigarette I objected to
him regarding it. I said "When you come
in to this office or any other office to take
dictation or any other purpose you do not
come in with a cigarette hanging out of
your mouth. You should know that -
Have you never been told before?" Cpl
Thompson replied "No" I've never been told
that one and what is more I don't
like it." I said "Whether you like it or
not you will comply in future" Cpl
Thompson then became very
insubordinate and said "I don't have
to do this type of work at all - I should be
a Clerk "B" to do this type of work and
I don't want to do it.

My

I explained to him he was qualified to take dictation & would take it. He continued to talk at me & told him to get on with the work. He hesitated & paused in talking. I interrupted & told him he would do one of two things - either take the dictation or send himself under close arrest & he could make up his mind. He then sat down & took some dictation & the conclusion of which when he was leaving the marquee he looked at me & said "well I shan't take any more dictation" or words to that effect. Cpl. Thompson's manner throughout was arrogant & disrespectful. He gave me the impression that he was undisciplined & that his manner bordered on defiance. I consider that I was very patient with Cpl. Thompson & that my remark to him regarding smoking was expressed in a normal tone of voice.

G. Hussey Lieutenant

Cross-examination by accused:-

Question 1. Sir: Are you certain that the time was 1400 hrs. (as in my evidence which was about 1400 hrs)

Answer - not but I believe it was between 1330 and 1400 hrs.

Question 2. Sir: Did I have the cigarette in my mouth when I entered the marquee?

Answer Yes - and it was smoked half-way.

Question 3. Sir did you not question me regarding my previous dealings with persons

Answer - yes at some point during the incident.

Lt. Thompson

Second Witness for the prosecution :-

Major William Southward Coolen, Assistant Commandant 1 Cdn. B and Reinforcement Depot having been duly sworn states :-

"On Sat. June 5th at appox 1400 hrs I went for Cpl Thompson to take some dictation from Col. Baker. He entered the tent smoking a cigarette and Baker. He entered the tent smoking a cigarette and was ticked off about it by the Col. When was ticked off about it by the Col. When the Col. told him to take a letter he said he didn't the Col. told him to take a letter he said he didn't have to take dictation as he was not drawing have to take dictation as he was not drawing pay for a clerk "B". On being ordered to take pay for a clerk "B". On being ordered to take dictation by Col Baker Cpl Thompson dictation by Col Baker Cpl Thompson depos depos under protest and when through rather under protest and when through rather insolently remarked he would not take any insolently remarked he would not take any more dictation. As a result of this I had more dictation. As a result of this I had him placed under close arrest. Cpl Thompson him placed under close arrest. Cpl Thompson had been taking dictation for several had been taking dictation for several days prior to the incident described. days prior to the incident described.

Cross examination by the accused :-

Question : were there others present at the time?

answer - Yes - Major Campbell-Smith whom I was transacting business but couldn't help overhearing what you said to the Col.

~~Evidence~~

Third Witness for the Prosecution

Major C. H. Campbell 2nd Batt. No 1 C.B.R.D having been duly sworn states :-

On the day & date mentioned I was in the marquee engaged in conversation with Major Coolen whose table was not more than 10 feet from Col. Baker's table. During conversation accused whom I recognize, entered

and I became aware of Col Barber chastising him for carrying a lighted cigarette in his hand on entering the marquee. In the conversation between Col Barber and accused dealt with the question of dictation and I heard accused say "I will take this present letter but I will not take further dictation. I am a Grade "B" Clerk and I am not getting paid for it or words to that effect. Accused's attitude throughout and his tone of voice surprised me as I could not understand an L.C. Clerk adopting the insolent and disrespectful attitude he did. I noticed that he did not address Col Barber as is customary in the service with the word Sir during the conversation.

C.W. Campbell Major

Accused then stated:—

"I do not wish to question this witness."

J.F. Thorgeson

The following warning was given to the accused.

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

Accused stated

I wish to reserve my defence.

J.F. Thorgeson

Taken down on 4 pages in long hand in the presence of the accused. Certified that all necessary Rules of Procedure have been complied with.

W.W.W. Hasney Capt RN
Officer detailed to take summary

SUMMARY OF EVIDENCE

IN THE CASE OF:

K 70134 CORPORAL THOMPSON, F.J. 3BN 1 CDN BASE RFT DEPOT

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

1st Witness for the Prosecution

Col. G.Hedley Basher, Commandant 1 CBRD having been duly sworn states as follows:
On Sat. June 5 at about 1400 hours I left word in the Orderly Room that as soon as Cpl Thompson returned from lunch, I wanted him to take some dictation. Shortly after this he (Cpl Thompson) entered the Marquee where my office is located. As he entered the Marquee, I looked up and, seeing that he was smoking a cigarette, I spoke to him regarding it. I said "When you come into this office, or any other office to take dictation, or any other purpose, you don't come in with a cigarette hanging out of your mouth. You should know that. Have you never been told that before?" Cpl Thompson replied, "No I've never been told that one before, and what is more I don't like it". I said "Whether you like it or not you will comply in future." Cpl Thompson then became very insubordinate and said " I don't have to do this type of work at all - I should be a Clerk "B" to do this type of work and I don't want to do it." I explained to him that he was qualified to take dictation and would take it. He continued to talk at me - I told him to be quiet and get on with the work. He hesitated and persisted in talking. I interrupted and told him that he would do one of two things - either take the dictation or find himself under close arrest, and he could make up his mind. He then sat down and took some dictation at the conclusion of which, when he was leaving the Marquee, he looked at me and said, " Well I shan't take any more dictation"- or thats all the dictation I will take - or words conveying the same meaning. Cpl Thompson's manner throughout was arrogant and disrespectful. He gave me the impression that he was undisciplined and his manner bordered on defiance. I consider that I was very patient with Cpl Thompson and that my remark to him regarding smoking was expressed in a normal tone of voice.

Cross-examination by the accused

Ques 1. Sir are you certain that the time was 1400 hours?

Ans. No, but as I stated in my evidence it was about 1400 hours, but I beleive that it was between 1330 and 1400 hours.

Ques 2. Sir did I have the cigarette in my mouth when I entered the Marquee?

Ans. Yes - and it was smoked half-way.

Ques 3. Sir did you not question me regarding my previous clerking experience?

Ans. Yes at some point during the incident.

2nd Witness for the Prosecution

Major William Southward Coolin, Assistant Commandant 1 Cdn Base Reinforcement Depot, having been duly sworn states :
On Sat June 5 at approximately 1400 hours I sent for Cpl Thompson to take some dictation from Col Basher. He entered the tent smoking a cigarette and was ticked off about it by the Col. When the Col told him to take a letter, he said he didn't have to take dictation as he was not drawing pay for a Clerk "B"

On being ordered to take dictation by Col Basher, Cpl Thompson did so under protest, and when through, rather insolently remarked that he would not take any more dictation. As a result of this, I had him placed under close arrest. Cpl Thompson had been taking dictation for several days prior to the incident described.

Cross-examination by the accused

Ques: Were there others present at the time?

Ans. Yes - Major Campbell with whom I was transacting business, but I couldn't help overhearing what you said to the Col.

3rd Witness for the Prosecution

Major C.H. Campbell 2 Bn 1 CBRD having been duly sworn states:
On the day and date mentioned I was in the Marquee engaged in conversation with Major Coolin, whose table was not more than 10 feet from Col Basher's table. During the conversation accused whom I recognise, and I became aware of Col Basher checking him for carrying a lighted cigarette in his hand on entering the Marquee. The conversation between Col Basher and the accused dealt with taking dictation, and I heard the accused say, "I will take this present letter, but I will not take further dictation. I am a Grade "B" Clerk and I am not getting paid for it" or words to that effect. Accused's attitude throughout and his tone of voice surprised me as I could not understand an NCO clerk adopting the truculent and undisciplined attitude he did. I noticed that he did not address Col Basher as is customary in the service with the word Sir during the conversation.

Accused then stated:
"I do not wish to question this witness"

The following warning was given the accused:
"Do you wish to make any statement or to give evidence upon oath? You are not to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

Accused stated:
"I wish to reserve my defence".

Taken down on 4 pages in longhand in the presence of the accused. Certified that all necessary Rules of Procedure have been complied with.

W.S. Haney Capt., 1BN 1CBRD
Officer detailed to take summary.

No K70134 Name Thompson, F.J. Sqn., Battery, or Company | Corps No. 11 Dist Depot AF | Date of enlistment 4 Aug 41 | G.C. Badges | Service or Proficiency Pay | Clerk M.F.M. 6 "CH (3.5.42) 40/P & S/136 (2037)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards 6 - oform from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					

Lt Col Orgn & Equip Adjt
for C.O.

5 Jan 1942

(P.T.O.)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K 70134	Cpl	Thompson, F.J.	3 Bn 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	NIL times	NIL times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

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

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

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

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ~~———~~ beginning on the ~~———~~ day of ~~———~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~———~~ days in civil custody, and 8 16 21 days in military custody, making a total of 8 16 21 days, of which ~~———~~ days were spent in hospital.

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

6. The date of his ~~XXXXXXX~~ attestation specified in his ~~XXXXXXXX~~ attestation paper is 4 Aug 41

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

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to ~~———~~ military *decoration or reward*)).

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

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

(*18240) Wt.30246/902 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. X 70134 Rank Cpl Name Thompson F.J. of 3Bn 1 CBRD Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody, and from information obtained from Regt Sqdn Sgt Major.

Signed this X 21st day of June 1943

T. Mills Capt Adjt 1 CBRD

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

In the rank of , years,

In the rank of Corporal years 9 March 42

In the rank of , years,

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Date of Promotion.

File 6-0

12 Cdn Lt Fd Amb
17 June 43

To Whom It May Concern:

K70134 Cpl. Thompson, Frederick John RCAMC

1. The a/m N.C.O. enlisted in the 12 Cdn Fd Amb (later 12 Cdn Lt Fd Amb) on the 4 Aug 1941. Following basic trg he was employed as a clerk in the Unit Orderly Room. In Mar 1942 he was made an acting corporal and was confirmed in this rank on the 9 June 42. On 30 Mar 43 he was S.O.S. 12 Cdn Lt Fd Amb to # 1 C.G.R.U.

2. As 2 i/c of 12 Cdn Lt Fd Amb I knew Cpl. Thompson from the time of his enlistment until he was S.O.S. to 1 C.G.R.U. He was a most efficient clerk and had no crimes while with this unit. He was somewhat restless and impatient in periods of comparative inactivity and in the Fall of 1942 requested transfer to the R.C.A.F. or to some combatant unit where he could get more action. These transfers were approved by O.C. 12 Cdn Lt Fd Amb but were not granted by higher authorities. Cpl. Thompson was S.O.S. in March 43 to C.G.R.U. in the anticipation of transfer to a more active unit from there.

M.R. Caverhill Maj.
(M.R. Caverhill) Major,
12 Cdn Lt Fd Amb R.C.A.M.C.

/EPB

File 6-0

12 Cdn Lt Fd Amb
17 June 43

To Whom It May Concern:

K70134 Cpl. Thompson, Frederick John RCAMC

1. I took over comd of 12 Cdn Lt Fd Amb 13 Dec 42.

2. Cpl. Thompson was employed in 12 Cdn Lt Fd Amb as Cpl. clerk at that time and continued to be so employed until S.O.S. to 1 C.G.R.U. 30 Mar 43.

3. Cpl. Thompson, during the above mentioned period, was a very efficient clerk, inclined to be restless due to inactivity and expressed a wish to be transferred to the R.C.A.F. or combatant army unit of some type. Being a tradesman, this could not be arranged, but on reorganization of the Medical Services, an exchange of Cpl. clerks was arranged with 2nd Echelon and Cpl. Thompson was S.O.S. to 1 C.G.R.U. This was not done to get rid of Cpl. Thompson, but it was thought that at 1 CGRU. he might be given an opportunity to get into the R.C.A.F. or a combatant army unit.

4. While under my comd he was not crimed at any time, was proficient at sports, cheerful and liked by person nel of this unit. He was at times considered to be verbose but never insubordinate. His verbosity was not considered to be obnoxious but merely an expression of personality.

5. I would be willing to accept Cpl. Thompson as a reinforcement at any time a vacancy exists.

E E Tieman Lt Col

(E.E. Tieman) Lt.Col.,
O.C. 12 Cdn Lt Fd Amb RCAMC

/EPB

1 CBRD/5-4

16 June, 1943

D. J. A.,
HQ., C.R.U.

D.J.A. 429/C.M.T.

Application for Field General Court Martial
K70134, Cpl. Thompson, F. J.

1. Ref. application for F.G.C.M. in respect to above.

2. Prosecuting and Defending Officer having now been detailed, may the trial of m/n please be laid on at your convenience.

(G. Hedley-Basher) Col.
Commandant
1 Cdn Base Reinf. Depot.

LMO/EN

I request that an Officer be appointed to represent me at my trial by Court Martial.

F.J. Thompson

K 70134 Cpl Thompson, F.J.

7 June 43

12 CLFA/6-0

12 Cdn Lt Fd Amb
17 Jun 43

Lt Col Redman

Lieut W.A. Street
3 Bn, 1 CGRU

K70134 Cpl Thompson, F.J.

1. Further to telephone conversation between Major Caverhill and Lieut. Street, two statements by OC 12 Cdn Lt Fd Amb and 2 I/C respectively are submitted herewith with ref to the m/n NCO.

J. M.R. Caverhill Maj
(E.E.TIEMAN) Lt-col
OC 12 Cdn Lt Fd Amb

WRF

5"A - 143

Mr. Thompson, G.B.

SCHEDULE.

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

Accused: F 87065 PTE GE THOMPSON.

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

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

~~At present under sentence of~~ ~~beginning on (date)~~ (1)

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

Time in confinement awaiting present trial—a total of 19 days, of which 0 days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo detention for one hundred and eighty days

(Sgd) [illegible] LT/COL — Judge-Advocate, if any. 7 Feb 45 — Date awarded. (Sgd) [illegible] Brig — President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed.

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

(Sgd) [illegible] Brig.

Date 7 Feb 45. Commanding DDMS FIRST CDN ARMY Confirming Officer.

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

Accused.	Date.	Signature of Offr.
F 87065 Pte G.E. Thompson 1 CDN ARMY CAR COY RCASC	9 Feb 45	[illegible] Capt

A/O.C., Car Coy., R.C.A.S.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 190 5-H-193

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40-P.A.S.-1608 (2884)

Convened by Order of BRIGADIER H.M. ELDER Comd DDMS FIRST CDN ARMY dated 3 FEB 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 87065	Pte	GEORGE EDWARD	THOMPSON	1 CDN ARMY CAR COY RCASC

PROCEEDINGS REVIEWED [illegible] 5 Feb 45

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

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 6 FEB 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 22|25.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fam ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours 6 FEB 45 trial commences.

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

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

A5. President to accused: Do you object to 2/Lt DE MOOR 5 GA as interpreter? Ans No.

The Interpreter is sworn.(1) ~~Do you object to the shorthand writer? Ans: The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

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

Ans No (2)

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

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

President	MAJ	RR MACDOUGALL	6 HUSSARS CA BRANCH HQ FIRST CDN ARMY
Member	CAPT	RA WICKWARE	RCA BRA BRANCH HQ FIRST CDN ARMY
Member	LIEUT	RFK ANTHONY	RCASC 6 DIV TROOPS HQ FIRST CDN ARMY
Judge-Advocate	LT-COL	GE TRITSCHLER	AJAG ADJ HQ FIRST CDN ARMY
Prosecutor	LIEUT	HD HORWOOD	RCASC 1 CDN ARMY CAR COY RCASC
Defending Offr	LIEUT	DG STROBRIDGE	RCASC 1 CDN ARMY CAR COY RCASC

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

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

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

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

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

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

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP 37(A) (E).*)

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. yes give evidence as a witness. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. NA.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

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

D8. The President announces the finding(s), ~~if any~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~first~~.....charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. X and Ex. Y respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 60(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, F-87065 Pte GEORGE EDWARD THOMPSON, "B" Platoon, 1 Cdn Army Car Coy, RCASC, a soldier of the Cdn Army Overseas is charged with:

FIRST CHARGE
Army Act
Sec 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY STEALING

in that he

In the field, in Holland, on 18 Jan 45 did steal a brief case containing 30,000 gulden the property of Gerardus Klerx.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

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

in that he

In the field, in Holland, on 18 Jan 45 was improperly in possession of a brief case containing 29,000 gulden the property of Gerardus Klerx.

Capt

In the Field
1 Feb 45

A/Officer Commanding
1 Cdn Army Car Coy, RCASC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
3 Feb 45

(H.M.Elder) Brigadier
DDMS First Cdn Army

Approved
GS Witness etc
A.F.B.

FIELD GENERAL COURT-MARTIAL

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

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

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-87065	Pte	George Edward	THOMPSON	1 Cdn Army Car Coy RCASC

CONVENING ORDER.

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

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

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

Maj (Rank.)	R. R. MACDOUGALL (Must be named. RP 106.)	6 Hussars, CA Branch HQ First Cdn (Unit.) Army

MEMBERS.

Capt	R. A. WICKWARE	RCA, BRA Branch HQ First Cdn Army
Lieut (Rank.)	R.F. K. ANTHONY (Named or detailed. RP 106.)	RCASC, S & T Branch Hq First Cdn (Unit.) Army

WAITING MEMBER.

Capt (Rank.)	E. BUGLASS (Named or detailed, if any. RP 106.)	RCA, CA Branch, HQ First Cdn (Unit.) Army

JUDGE-ADVOCATE.

Lt-Col (Rank.)	G. E. TRITSCHLER (Must be named, if any. RP 106.)	AJAG, Adm HQ First Cdn Army (Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 3 Feb 45

(Signed personally. RP 105 fn 2.)
(H.M.Elder)
~~Commanding~~ DDMS First Cdn Army
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 65 (In lieu of AFA 3) 40/P A S/1697 (6143)

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

I certify that I have this morning examined No F-87065 Pte George Edward THOMPSON, 1 Cdn Army Car Coy RCASC, and that he is fit to undergo trial by court-martial.

J C Middlebro Capt.

(J C Middlebro) Capt
Medical Offr

6 Feb 45

7 Feb 45

1 Cdn Army Car Coy RCASC

This is to certify that F 87065 Pte Thompson, G.E.
L 107352 Pte Robertson, S.W.

have been medically examined by me and found to be fit to undergo trial by court-martial.

Capt
RCAMC

at 1000 hours the Court adjourns until 0930 hours on the 7 Feb 45.

on the 7 Feb 45 at 0930 hours the Court reassemble pursuant to adjournment: present the same members as on the 6 Feb 45

The Pros. produces a Red. Cert for 7 Feb 45

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1 PW Gerardus Klerx, Laagelande 120 Waalwijk Holland SWORN
(testified in English)

I am the administrator of "Algemeen Ziekenfonds Gertruidenborgen Omstreken" Woolwijk
"(General Sickfund of Gertruidenburg and district" Woolwijk.
on 18 Jan 45 I had to bring 30000 Guilders from Waalwijk to another sickfund in Tilburg by which we are reinsured. When I arrived at the office in Tilburg I saw that the brief case had been lost. I went in the office and reported the loss and I asked to go to the police. I then went back over the way I had come to look for the brief case and also I went to police station. When I was half way back to Waalwijk I went again to Tilburg to see if anybody had found the case. at Police station I got a report that the case had been found by an old man and had been given by an allied soldier as a present and that I could went to a Canadian billet in the Spoorlaan in Tilburg. There I saw P. 2 Hermans a civilian

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and a civilian police man. I reported my loss to Capt Rowland who sent for military police. I had got the 30000 Gulden from the bank at Waalwijk (Nederlandsche Handelmaatschappij N.V.) on 18 Jan 45 and put it in brief case which also contained letters and documents relating to my business. Case was dark brown leather (imitation crocodile) handle broken and mended with piece yellow wire.

EX 1 identified by witness as brief case and contents

This is mine and the case I lost that day. The contents of this case, documents, letters, invoices, statements and loose card record system are also mine and were in the case when I lost it.

The case contained (witness speaks from memorandum)

115 X 100 Gl. notes		11500
157 X 50 Gl. "		7850
414 X 25 Gl. "		10350
15 X 20 Gl. "		300
		30000

I made this record when I drew the money in the bank.

The 115 X 100 Gl notes
157 X 50 Gl "
374 X 25 Gl "
15 X 20 Gl "

now in the case EX 1 are in my opinion part of the same notes which I lost. I say this because of the paper bands which retain the various packets of notes and my recollection of them. They are my property. Witness points out various markings on bands.

EX 1 is case, documents and Gulden notes to Gl 7
Value of 24000 Gl.

I had brief case hanging on handlebar of my bicycle. It is 17 Kilo. from Naaldwijk to Bilbury (12 miles) I cycled thru the Spoorlaan in Bilbarg. It was about 1230 pm I discovered the loss.
The Bag EX 1 contains papers with my signature. Indicates general to court. and demonstrates his own signature for comparison.

XX

I think I saw accused for first time about 4.15 pm when he was brought into billets by investigating officer.

To court.
EX 1 the case and its present contents including the 29000 Gulden is my property.

R.P. 83(b) complied with.

2 P.W. Lieut A.M. Johnston 1 Can SIS. Sworn on 18 Jan 45 approx 1530 hrs I went to "B" Pl 1 Can Armoured Car Coy and there I met Hernandes Klerk (identified) Mr Homels and Capt Rowlands. I was informed that Mr Klerk had lost 30000 G. and it had been found by Mr Homels and turned into "B" Pl by a soldier. Enquiries revealed that Pte Robertson S.N. L 107352 had been sentry at the gate at time money was turned in. He was not available. He returned about 1600 hrs and was interviewed by me. 4/61

As a result I placed him under arrest I decided to conduct a search of the barrack with assistance of sec. of the Corps. When I searched the bed room and effects of the accused I found a brief case which contained 29000 G. which. Brief case EX1 and 29000 G. in it were found on floor underneath accused's mattress. The documents now in the case were handed to me later by accused. I spoke to accused and others in room and they denied all knowledge. I told them I suspected one member of room and I would leave them alone to talk matter over among themselves and clear the matter up if possible. About 10 minutes later accused brought to me in the office downstairs the documents and records now in EX1 and stated he wish to clear the matter up and make a confession. I warned him and took a statement from him in writing.

CT No threats promises or inducements. It was purely a voluntary statement. He came to me. The warning given appears at top of statement. I made sure he understood it.

D.C I have no objection to admission of statement

EX 2 Statement by accused

This is signed by accused in two places

M.T

The bag shown by me to accused & identified by him when statement given is EX I in this case.

No cross examination.

To court. When accused came to me to give statement he had in his hand the papers and documents now in EX I (including papers bearing Mr Klerk signature) accused admitted the case and its contents including the money less the money he had given Robertson was the identical case and contents he had received from Mr Homers who had picked it up on the street. The barracks is in the Spoorlaan in Silberg. On 18 Jan 45 in evening about 2000 hours I held an identification parade. accused in line up. Mr Homers who had not been brought into contact with acc. was brought in and asked to pick out the man whom he had given brief case containing money. He picked out accused. (Witness identifies Homers)

R.P. 83(b) complied with.

3. P.W. Franciscus Petrus Homers Dutch Post Office 21 Silberg Sworn (Thue Interpreter)

I was coming along the road from the direction of the station - I was just 25 metres from the Ambyacht School on 18 Jan 45 about 1245 pm I found a brief case in middle of highway. I picked it up and a soldier came to me and told me to give it to the guard. I did not understand what the guard

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Guard bone but we both tried to find out what was in the case. The moment we opened the case the soldier who had told me to give the case to the guard came up and took the brief case and took it in the building. Two minutes later the soldier came out of the building without the brief case. He went in direction of the station. I thought it wrong for him to come out without case so I immediately went to police (canal) and told my story. The Guard and I looked in the case it contained a lot of paper money bound together in packets.

Ex 1 is the brief case. The Guard saw the money. accused is man who took brief case and money into building. The bldg is on Spoorlaan in Silberg. Witness identifies Pte Robertson S.W. as man who was guard. ~~Robertson~~ is man I gave brief case to Thompson the accused.

X X I do not speak any English. The accused (guard) by signs indicated I should give case to the guard. When I saw bag contained money I let soldier (accused) have it because I thought bag came from the building. It was the Guard Robertson I showed money to.

R.P. 83(b) complied with

Prosecution Closed.

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Defence

1 DW Accused Pte Thompson G.S. sworn

On 18 Jan 45 about 1.30 to 2 pm I was going down for hair cut opp. station. Beside road There was a brief case on side of road. Mr Hamels came along about same time as I did and picked it up. He mumbled something to me I do not know what he said and went on up to Guard Pte Robertson G.S. I started on my way - he was talking to the guard. The Guard was busy checking out a Jeep. He was mumbling away to guard so I went back. He was holding out the brief case and talking as if he meant for me to take it. I takes the brief case up in my room and put it under my pillow and went for hair cut. I did not look in brief case at that time and did not know what was in it. When I come back I went up to my room and I looked in the brief case about that time Robertson come along off duty. I told him that there was money in brief case and he said he was going down town so I give him some money I do not know how much. I went back down on duty. About 5.30 pm I went back up stairs but could not get into my room on account of an investigation I did not know what for. Lieut Johnston found the brief case under my pillow. At the time I was nervous and

feared not having that much money before I told him that I did not know how it got there. 5 or 10 mins. later I go down and took the papers down and gave myself up. I never used any of the money from the case.

XX when Robertson came off Guard I met him in hallway. The money was still in my room under pillow - my bed was on floor. There was no conversation except what I told you. I just gave it to him.

ct

EX 1 is the brief case. I did not remove papers from case. I found them under mattress or pillow just where I had left brief case. Robertson would know money came from brief case. They were a packet of 25 $5 notes I gave Robertson. The only money I took out of grease I gave to Robertson. I was nervous and scared I did not know what I was doing. It was not because Robertson knew I had the boy that I gave him part of money. I did not tell Robertson there was money in bag when I went out for haircut. I took money straight from the case and gave it to Robertson; he could see it. I was worked up when I gave him the money. Previously I had not intended to keep the money. I never did intend to. R.D. 83(b) complied with.

Pros considers no summing up necessary.

D.O. sums up. accused was honest enough when he saw what was in bag, he turned up and took papers down to SIS. He used some

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of money for himself. Only money removed from bag was that given to Robertson and most of that has been recovered.

Lieut A.M. Johnston recalled by court RP 86(c) examined under his former oath.

Lt. Yes it is possible that the papers from the brief case were still under accused's bed when I found those so I did not make a thorough search. The case was closed when I found it.

No questions by D.O.

RP 83(b) complied with.

Gp 1

JA sums up

Functions of JA and Court.
analysis of charges.
Stealing explained and defined
MML 118, 119
Stealing by finding MML 114; Archbold 506.
Ownership MML 51; Archbold 513.
Elements of spec 40 charge.
Alt. charges.
Onus on Prosecutor - Presumption of Innocence.
Evidence reviewed.
Benefit of doubt.
Pros; D.O. not have no other points upon
which JA's advice required.

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D.O. in Interrogation

---

age. is 28. married 2 children 6.4
a farmer. not wealthy.
He picked up a case containing 30000 £
when he took it to his room and opened it
and found quite a stack of money.
more than most guys have seen. He was
nervous. Not knowing what he was
doing he gave away part of it. At
Interrogation he was nervous and denied
knowledge. As soon as he realized
what it was about he voluntarily retd.
papers to SIS and voluntarily gave a
full statement. 24000 £. are intact.
He used none of money himself.

GHT

EXHIBIT "B" 18 Jan. 1945. EXHIBIT 2.

I, F. 87165 Pte. Thompson, G. E. do
Edward have been warned by Lieut.
A.M. Johnston, S.S.S. that I do not have to
say anything but that anything I do say
will be taken down in writing & may
be used as evidence.

I, to show that I fully understand the
above warning I sign my name hereunder
G E Thompson

I George Edward Thompson state
that I am 27 years of age, I am a farmer
in civil life, farming in Nova Scotia.
I am a married man with two boys,
one 6, the other 4. I joined the army in June 1941.
At noon today after lunch I left
my quarters & went out for a hair cut.
About 1230 hrs or 1245 hrs I was returning
& when about 150 x away from the barracks
I saw a bag, brown leather lying on the
side of the road near the sidewalk on popular
street. I know a bag by Lieut Johnston
& identify it as the same one.
A civilian an old guy carrying an old
bag, I think he had a moustache picked
it up ahead of me. I asked
him when I came along he was looking
into the bag & he gave it to me. I said
"Give it to me" & I'll take it into the
police station" & he gave it to me. The bag is the grandad exhibit.
I have a correction to make. I was
while I was going out that I got the bag
I then took the bag up to my room & that
is the first time I looked into it. I saw it
contained money & placed it on the

my sailing – then I went out & got my hair cut & didn't take any of the money out of the bag at this time.

After Robertson came off guard he was in the hallway going out & I took him to the door of my room & said here I gave him a packet of 25 guilder notes. I don't know how much was in it or not for I know how much was in it or not for I saw the man slid away something but I don't know what he said & I didn't say nothing. He went out & I went to work, stayed there until 1150 hrs & when I came in to the room there was search & the box of money was found by you under my bed.

I have read this statement & swear it is the whole truth. D.E. Thompson

Witnessed
Wm. Johnston Lieut.

EXHIBIT X 1

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 87065	Pte	THOMPSON, G.E.	1 Cdn Army Car Coy, RCASC

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

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

For	AA 15(1) AWL	~~13~~ 7 times.
For	AA 19 Drunkenness	2 1 times.
For	AA 40	2 times.
For		times.

Date of first entry in Field Conduct Sheet 22-4-42

Date of last entry in Field Conduct Sheet 3-7-44

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

*Strike out if not applicable.

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

beginning on the -- day of --

4. The accused has been awaiting trial on the present charges for --

days in civil custody; and for 7 days in military custody, *i.e.*, -- days in open arrest, 7 days in close arrest; of which -- days were spent in hospital.

5. The present age of the accused is 27

6. The date of his attestation is 17 Jun 41

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

8. The accused is in possession of† CVSM & C

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

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

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

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

Wt A8960/1602 20,000 3/44 61-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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

Signed this 24th day of January 1945

(G.D.E. Warner) Capt
A.O. 1 Cdn Army Car Coy, RCASC
Officer having charge of Regt books

EXHIBIT Y

No. B87065 Name THOMPSON, G.E. Sqn. Battery or Company — Corps RCASC — Date of enlistment 17 Jun 41 — RCC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/P&R/136 (8438)

Date of last entry in Company Conduct Sheet N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 1 — Signature OC Company, etc Not legible — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Sheet destroyed 17 Dec 41 last instance on NIL	Date of last entry NIL cases of drunkenness NIL			Signature.....	
Field	22-4-42	Pte		AA Sec 15 AWOL	L/Cpl Hunter	Forf 1 days pay 7 days CB	23-4-42	R. Buckan Capt	
Field	27-5-42	Pte		AA Sec 15 AWOL	Pte McDonald Cpl Wilson	Forf 3 days pay	28-8-42	R. Buckan Capt	
Field	26-11-42	Pte		AA Sec 15 AWOL	Documentary	2 days CB	26-11-42	W.A. DeGraves Major	
Field	1-12-42	Pte		AA Sec 15 AWOL	Cpl Paul, J. Documentary	1 day CB	2-12-42	WA DeGraves Major	
Field	27-11-43	Pte		AWOL 1 hr 10 mins	L/C Niblett Sgt Mathews	3 days pay 7 days CB	29-11-43	XX MB Bell Capt	
Field	15-2-43	Pte		AA Sec 19 Drunkenness (1st Off)					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-2-43	Pte		AA 40 Cond to the prej of good order and mil discip (1) urinating in a public street (2) not in possession of MBM I (Pt I) (3) Did refuse to obey a lawful order from a superior offr	Documentary	7 days Deten	22-2-43	Copeland, W.H. Major	
Field	15-4-43	Pte		AA 15(1) AWOL from Unit RAP 2 hrs 30 mins	L/Cpl Martin	3 days pay	16-4-43 Signature.....	M.B. Bell, Capt	
Field	4-4-44	Pte		WOAS AWL from 2230 hrs 4 apr 44 till 0810 hrs 10-4-44 TTA 5 days 9 hrs 40 mins AA Sec 15(1)	Documentary	7 days CB 7 Days pay FR&I 149(2)	17-4-44	Major WH Copeland	Forf 6 days pay FR&I 149(1) (a) Tot Forf 13 days pay
Field	3-7-44	Pte		WOAS cond to prej--disob law comd by sup offr AA 40	Sjt McGrath L/C Armstrong		4-7-44	Maj HG Shepard	Stop pay of £1 FR&I 149(2)

CERTIFIED TRUE COPY

(G.D.E. Warner) Capt
A.O. 1 Cdn Army Car Coy, RCASC
Offr having custody of Orig MFM 6

EE-84

SPR THOMPSON G.L.

EE-84

Correspondence to be PINNED here.

Army Form A.5.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 15 day of May, 19 43

Whereas it appears to me, the undersigned, an officer in Command of R.C.E. First Cdn Army Troops, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

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

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

for 2 May 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj.	W.F. Brownlee	R.C.E. 1 M.E. Coy RCE

Members.

Rank.	Name.	Regiment.
A. Capt.	appointed by O.C. 1 Cdn Wksps	Pk Coy R.C.E.
A. Lieut	appointed by O.C. 1 Rd. Constn Coy	R.C.E.
Waiting Member or Officer under Instruction		
A Lieut.	appointed by OC 1 Cdn Wksps	Pk Coy RCE

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed

Commanding

Convening Officer.

C.R.E. Cdn. Army Tps.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B39741 Spr Thomson G.L. 2 Bn R.C.E.	A.A.157(1) Absence without leave	Guilty	Guilty Forty days detention Guilty 21/5/43.	I confirm the finding and sentence of the court. C.R.E. Cdn. Army Tps. 21 May 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) ..... Col., C.R.E. Cdn. Army Tps. *Convening Officer* (e)

(Signed) W.A.H. Brownlee Major 1st Cdn. M.E. Coy. R.C.E. *President.*

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of May 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~(3. The interpreter)~~ W4B
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 21st day of May 1943

W.A.H. Brownlee Major
President of the Court Martial.

C. Certificate in case of death sentences.

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

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

Signed this ~~day of 19~~ W.A.H.B

President of the Court Martial.

D. Confirmation

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

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ W.A.H.B

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 21st day of May 1943.

..... Col.,
Confirming Officer.
C.R.E. Cdn. Army Tps.

Promulgated and extracts taken in the case of B39741 Spr Thompson G.L. 2 Bn. R.C.E.

(a) (Dated) 22 May 43 (Signed) ..... Capt. Adjt. 2 Bn. R. C. E.

Promulgated and extracts taken in the case of

(Dated)..... (Signed).....

Promulgated and extracts taken in the case of

(Dated)..... (Signed).....

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

W.L. 47797/1937 35 M. 5/41 K.J.L./5268(2) Gp. 698/3

C H A R G E - S H E E T

THE ACCUSED B-39741 SPR THOMSON, G.L. 2 Bn RCE
A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ON ACTIVE
SERVICE, IS CHARGED WITH-

FIRST CHARGE
A.A. Sec 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from
2315 hrs 21 Feb 43 to 2130 hrs 29 Apr 43.

Time Absent - 66 days, 22 hrs, 15 minutes.

(S.W. Archibald) Lieut Col.,
Commanding Officer
2 Bn R.C.E. CA

Field,
6 May 43.

To be tried by F.G.C.M.
15 May 43

Col.,
C.R.E. Cdn. Army Tps.

2 Bn., Royal Canadian Engineers,
Canadian Army, England.

21 May 1943

THIS IS TO CERTIFY THAT B39741 SPR THOMSON, G.L.

IS MEDICALLY FIT TO UNDERGO TRIAL BY COURT MARTIAL.

A Beaucart
.....

Page 1

Accused B-39741 Sapr. George Lawson Thomson 2nd Bn. RCE
(Number) (Rank) (Christian Names)(Surname) (Unit)

Held in the Field in England on 21/May/43.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major.	W.H. Bourke	1st Can M.E. Coy. RCE
MEMBERS:	Capt.	R.C. Chambers	1st Can Sup Coy RCE
	Lieut.	D.A. MacDougald	1st Can C.C. RCE
JUDGE ADVOCATE: (If any)	None.		
OFFICERS UNDER INSTRUCTION:	Lieut.	T.L. Reid	1st Wks Bn RCE
PROSECUTING OFFICER:	Lieut. L.J. Gerrior	Lawyer? Ans	No.
DEFENDING OFFICER:	Lieut. W.W. Mackay	Lawyer? Ans	No.

(The following procedure must be actually carried out)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (R.P. 17(2), 22(4)).

The President, in closed court (R.P.22, fn 2), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.105)

The accused is (are) brought before the Court, and at 1000 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Gen)557 (See Chmn. Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to recorded:
Do you object to _____ as interpreter? Ans None WWB

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? None WWB

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to recorded:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D')

The Charge Sheet(s) is (are) initialled by the President. WWB

WHB

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (Sec. 96(2)(c))

No special plea made WHB

(If special plea(s) is/are made for separate trial on one or more charges (Rs F 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (s. 1.6, R.P.67), record such pleas and evidence (if any) in support thereof and/or to be initialled by the President and Attached to the proceedings.

Each charge is read to the accused and he is asked to each charge if read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Guilty

Second Charge _____

Third Charge _____

Fourth Charge _____

Fifth Charge _____

Sixth Charge _____

Seventh Charge _____

Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE '4'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (in 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B)) Ans No.

(Statement, if any, not on oath to be recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is here given, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C)). Ans Yes WHB

(Statement, if any, to be recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C)). Ans No.

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Lieut Leo Joseph Gerrior 2nd Bn RCE
Statement of Character and Service (A.F.B.196) and Conduct Sheet (R.F.B.6), signed in the manner required by A.C.I. 163(1)(a) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings. (A.C.I. 46; Overseas R.O. 2131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(B)). Ans No. (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.B.3)
(Punishments, A.A.44, K.R(Can)563 - 566; one sentence only awarded, R.P.46). Sentence should be dated)

The sentence is not announced to the accused by the Court.

W. H. Brownlee
(Signature of President)

Statement of B 39741 Spr Thomson G.L.
in mitigation

I had not heard from my home in over four months and this caused me to worry greatly when I went A.W.L. I don't think I knew what I was doing. I did not take any kit not even my razor with me.

Signed G.L. Thomson

W.H.B.

M.F.M. 6
A.F.B. 127
17444—7-41 (1225-20)
H.Q. 1172-35-1052

No. B39741 Name Thomson, George Sqn., Battery, or Company 2 Fd Sqn RCE Corps

Date of enlistment 24 Jun 40 G.C. Badges 1 Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Lawson Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. SW Archibald Major Character A

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet verified on completion of 6 months service 24 Dec 40.					
				Sheet verified on completion of two years continuous service with no entry 24 Jun 42.					
Field	20 Sep 42	Spr		AA 15 (1) AWL 2400 hrs 20 Sep 42 to 2120 hrs 7 Oct 42 (absent 16 days 21 hrs 20 min)	Cpl Rackett Spr Murphy, J Spr Benton, W	Forfeits 15 days pay	8 Oct 42	Lt-Col Archibald	Forf 17 days pay FRI 149 (1) (a)
Field	22 Dec 42	Spr		AA 15 (1) AWL 2300 hrs 22 Dec 42 until 0800 hrs 23 Dec 42	Cpl Bubar	5 days C.B.	23 Dec 42	Capt R.E. Neelands	Forf 1 days pay under FRI 149(1)(a)
Field	2 Jan 43	Spr		AA 15 (1) AWL from 2315 hrs 2 Jan 43 to 0700 hrs 4 Jan 43.	Cpl Reilly	4 days C.B.	5 Jan 43	Major J.F. McDougall	Forf 2 days pay FRI 149 (1) (a)

(over)

(P.T.O.)

A913

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Jan 43	Spr		AA 15 (1) AWL from 2315 hrs 4 Jan 43 to 0800 hrs 5 Jan 43	Cpl Reilly	3 days C.B.	5 Jan 43	Major J.F. McDonald	Forf 1 days pay under FR31 149 (1) (a)

Certified that the above is a true extract from the original document in my custody.

(R.C. Paris) Lieut A/Adjt
for Commanding Officer
2 Bn R.C.E. CA

B.

ARMY FORM B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 39741	Spr	Thomson, G.L.	2 Bn R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, reference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	4 times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[illegible] *or*

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

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

[illegible]

3. The accused is not under sentence at the present time, or [illegible]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 23 days in military custody, making a total of 23 days, of which Nil days were spent in hospital. 21 days in Custody (Apps to - marked)

5. The present age of the accused according to his record of service is 45 yrs.

6. The date of his attestation specified in his record of service is 24 Jun 40

7. [illegible]

8. [illegible]

9. [illegible]

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

11 [illegible]

12 (*In case of a non-effective prisoner of war*) The accused became [illegible]

(*18280) W1 15852/144 125,000 6/41 A.&E.W.Ltd. Gp.698

AFB

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 39741 Rank Spr Name Thomson, G.L. of 2 Bn RCE Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

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

Signed this 21 day of May 43

R Lovaris
A/ Adj't.
2 Bn R.C.E.

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

In the rank of years,

In the rank of years

In the rank of years,

In the rank of Date of Promotion

(Insert, where applicable, any matter in any of the above paragraphs which cannot be stated from the regimental books the paragraph must be struck through, e.g., in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraphs remained amended accordingly.)

SUMMARY OF EVIDENCE IN THE CASE OF
B 39741 SPR THOMSON, GEORGE LAWSON
2 BN., R.C.E., (CA)

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

First Witness for Prosecution. Lieut. R.C. Paris, 2 Bn., R.C.E., having been duly sworn, states:

I am Adjutant, 2 Bn., R.C.E., and I present a true copy of Declaration of Court of Inquiry assembled to investigate and report upon illegal absence of B 39741 Spr Thomson, G.L. This is a true copy of A.B.68 kept in my possession.

R.C. Paris

(R.C. PARIS) Lieut.

The accused declines to cross-examine this witness.

G.L. Thomson

(B 39741 G.L. Thomson, Spr)

The Declaration of the Court of Inquiry referred to by the witness, produced, marked Exhibit "A", read over to the accused, signed by me and attached hereto.

L.J. Gerrior

(L.J.GERRIOR) Lieut.

W.P.B.

Second Witness for Prosecution.

B 39629 Cpl Kelso, E.A., Cpl of No. 2 Pl., No.2 Section, "A" Coy., 2 Bn., R.C.E., having been duly sworn, states:

I am B 39629, Cpl Kelso, E.A. On Feb 21, 1943, at 2315 hrs., I took Tattoo Roll Call. I found B 39741 Spr Thomson, G.L. absent from his billets and he continued to remain absent from his billets until 29 Apr 43, on which date the Orderly Corporal reported to me that Spr Thomson had reported in to the Orderly Room.

Cpl Kelso E.A.

(B 39629 E.A. KELSO, Cpl)

The accused declines to cross-examine this witness.

G.L. Thomson

(B 39741 G.L. Thomson, Spr)

Third Witness for Prosecution

B 39844 Cpl Hyde, C.A., Cpl of No. 3 Pl. "A" Coy, 2 Bn., R.C.E., having been duly sworn, states:

I am B 39844 Cpl Hyde, C.A. I was Orderly Corporal on 29 apr 43 and at 2130 hrs, B 39741 Spr Thomson, G.L., reported to me at the Coy Orderly Room as having returned from A.W.L. He was sober and properly dressed.

Cpl Hyde C.A.

(B 39844 C.A. HYDE, Cpl)

The accused declines to cross-examine this witness.

G.L. Thomson

(B 39741 G.L. Thomson, Spr)

Question to the Accused:

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

Answer by the Accused:

I have nothing to say.

G.L. Thomson,
(B 39741 G.L. Thomson, Spr)

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

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in writing in the presence and hearing of the accused, this third day of May, 1943.

J. Gerrior Lieut.
(L.J. GERRIOR) Lieut.

W.W.B.

UUU-150

Pte Thompson, G. M.

SCHEDULE.

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

Accused: B79358 Pte George Merlle THOMPSON, 2i RC

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

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

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

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

Time in confinement awaiting present trial—a total of 53 days, of which nil days were spent in hospital.(1)

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

Sentence Awarded by the Court: To be imprisoned with hard labour for one year

(Sgd) W.M.W. Shaw Capt — 4 Jul 44. — (Sgd) W. Bridgeford Maj

Judge-Advocate, if any. — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

I confirm the Sentence and finding of the Court.

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

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

(Sgd) Jno. L. Johnston Brig

Date 6 Jul 44 — Commanding 4 Cdn Inf Bde — Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B79358 Pte Thompson, G M	5 July 1944	G S Horgan Lt G S Horgan, Lieut & A/Adjt The Irish Regiment of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

RECEIVED 5 SEP 1944 JAG BRANCH NHQ Ottawa

REVIEWED 5 SEP 44 REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

JUL 1944

CF A96 (In lieu of AF A96) 40 P G S 1698 (5864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier I.S.Johnston Comd 11 Cdn Inf Bde dated 2 JULY 44

ACCUSED.

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

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.79358	Pte	George Merrlle	THOMPSON	Ir R C

PROCEEDINGS OF TRIAL.

Held in the Fd (~~country~~) ITALY on (date(s)) 4 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

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

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

~~The interpreter is sworn(1). Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

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

Ans No, Sir.(2)

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

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

President	Major	HA Bridgeford	Perth R
Member	Capt	RL Simmonds	P L Fus
Member	Capt	SE Cameron	2i RC
Judge-Advocate	Capt	WMW Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lt	A Salzetta	2i RC
Defending Offr	Lt	HR young	2i RC

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

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

A8. The accused ~~not~~ before arraignment make(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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

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

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

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No, Sir.(5)

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

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

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

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

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

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

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

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

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

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

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

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

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

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

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 116.)

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

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

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

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

(1. AA 54(7) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans No, Sir

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

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

(1. MFR 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes then Def Offr.(2)

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

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

(1. AA 54(6), RP 120(A).)

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

(1. When several accused tried separately see RP 26(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 300, 330, 563-566, Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B79358 Private George Merrlle THOMPSON, The Irish Regiment of Canada, a soldier of the Canadian Army placed on active service, is charged with:

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, did absent himself without leave from his unit from 0800 hrs, 13th March 1944, until 1715 hrs, 10th May 1944.
Total absence 58 days, 9 hrs, 15 mins.

W H Armstrong, Major
A/Comd The Irish Regiment of Canada

In the Field
28 June 1944

To be tried by Field General Court-Martial

(I.S. Johnston) Brig.
Comd 1 Cdn Inf Bde.

In the Field
2 JUL 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FAN/1697 (2nd3)

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit:
B.79358	Pte	George Merrile	THOMPSON	Ir R C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 JUL 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

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

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

4. ~~I am unable to appoint (a) three Offrs to sit as the Court, (b) a Pl Offr as President, for the reasons I have stated herein.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

Major (Rank.)	H.A. Snelgrove (Must be named. RP 106.)	Perth R. (Unit.)

MEMBERS.

Capt (Rank.)	A.C. Sim	C B Highrs (Unit.)
Capt (Rank.)	S.E. Cameron (Named or detailed. RP 106.)	Ir R.C. (Unit.)

WAITING MEMBER.

Capt (Rank.)	R.L. Simmonds (Named or detailed, if any. RP 106.)	P.L. Fus. (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W.M.N. Shaw (Must be named, if any. RP 106.)	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 2 JUL 44

Ian S. Johnston.
(I.S. Johnston)
(Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Commanding 11 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

WMNS H.A.S.

D 7758

Pte. Thompson, 6 M.

Freed.

4 July 64

N.B. ass chronic discharge from R. cardrum but Thinks fit to undergo treat. R.

Macey
(Medical Officer)

(K R (Gen) 577)

WOMAC

Capt AC Sim not available due to acting pros ✓
on case to be heard by Court, Capt
RL Semmonds takes his place

Acsd's statement:-
Ever since unit on ORTONA front was with them. 2 was stretcher bearer. CSM + 2 didn't click. Went to rest area + 2 asked Padre to see if could get transfer to another Coy. My coy went into line + 2 went to MO + asked him for transfer to another coy. Came out of line, nothing done about transfer. Went awol + turned myself in to Bari rest camp.

On way from Bari to Avallano - 9 prisoners made break but 2 did not try + stayed behind. At Avellano 2 was put in gd rm to await escort + was not back to unit.

Def offr in mitigation:-
Acsd 23 yrs old + in army almost 4 yrs went to front + unit during muddy mos of Jan, Feb + part of March. Acsd with Coy HQ. Whether CSM to blame or acsd to blame there was friction + acsd wanted to get to another Coy to avoid this saw padre + could not get transfer. Went back into line + did his work. When came out to Castelnuovo Rest area he still had no satisfaction so to get away from friction went on loose.
AWOL but shows court the problem on his mind - it grows + ultimately becomes unbearable + tried to get away...

WMD Shaw
Capt

SUMMARY OF EVIDENCE

IN THE CASE OF

B79358 Pte Thompson, G.M., The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service.

CHARGE:

Absent without leave.

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

FIRST WITNESS

B78828 L/Cpl Doggart, J.H., The Irish Regiment of Canada, having been duly sworn, states:

Sir, at 0800 hrs 13 Mar 44 in my capacity as NCO i/c Coy Headquarters I called the roll of Coy HQ. The accused B79358 Pte Thompson, G.M. whom I recognize, failed to answer his name. I made a search of the area and he was nowhere to be found. I reported his absence to B78808 CQMS Malone, C. who was A/CSM of "B" Coy and his name was placed on the Absentee report. At no time did he answer his name on any subsequent roll call.

Accused declines to cross-examine the witness.

J.H. Doggart. L/Cpl.

SECOND WITNESS

B79419 CSM Arnall, N.S., The Irish Regiment of Canada, having been duly sworn, states:

At about 1600 hrs 28 May 44, while in "B" Echelon, B79358 Pte Thompson, G.M. was turned over to me under escort from 4 Bn 1 Canadian Base Reinforcement Group. I placed him under close arrest.

Accused declines to cross-examine witness.

N.S. Arnall. CSM.

THIRD WITNESS

Lieut G.S. Horgan, The Irish Regiment of Canada, having been duly sworn, states:

In my official capacity as Acting Adjutant The Irish Regiment of Canada, I have custody of all official documents. I herewith present a Certificate of Surrender A.A.Sec 163 (i) (j) of B79358 Pte Thompson, G.M. (Marked Exhibit "A" and attached hereto) H.S.

Accused declines to cross-examine witness.

G.S. Horgan. Lt.

Question to the accused:

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

Answer by the accused:

No sir, I do not wish to make any statement.

I certify that Rules of Procedure 4 (c),(d),(e) and (f) have been complied with.

Taken down by me in the presence of the accused at Field, 27 Jun 44.

A. Labelle Lieut.

EXHIBIT 'A'

CERTIFICATE OF SURRENDER UNDER A.A. SEC 163(i)(3)

I, A.M. Morrison Lt-Col R.A. certify that No. B.73358.

Rank. Pte Name. THOMPSON. R. Unit. IRISH REGT OF CANADA

surrendered himself to No. Rank. L/Cpl

Name. FORD Unit. 606th I.M. PROVOST Coy.

at 8th REST CAMP at about 1715 hrs on the 10th day of

MAY 1944 as a ~~Deserter~~/Absentee without leave. He was

dressed in uniform/~~civilian clothes~~.

Date. 10th MAY 1944

A.M. Morrison Lieut. Col.
Commandant, Eighth Army Rest Camp.

Substitute for AFB 296
or NFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. B79358 Rank Pte Name Thompson, G M Unit The Irish Regiment of Canada

Age 23 Married or Single Single No of Dependents Nil

Date of Attestation 12 September 1940

Number of Days in Close Arrest awaiting trial ~~43~~ 53 days

Civil Nil Military ~~43~~ 53 Hospital Nil Total ~~43~~ 53

Dates of appointment, promotion, etc (if any) Nil

Decorations Nil

In the Field
~~24 Nov~~ 4 Dec 44
Date

"B"

G S Horgan Lt
Officer i/c Regtl Books
G S Horgan, Lieut & A/Adjt
The Irish Regiment of Canada.

Note: Certified true copy of AFB 6 must accompany this form.

M.F.M. 6
(A.F.B. 122)

No. B79358 Name THOMPSON, G.H. | Sqn., Battery, or Company | Corps CIC | Date of enlistment 12/9/40 | G.C. Badges NA | Service or Proficiency Pay NA | 40/P & B/136 (2637)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/11/40	Pte		A.A.15(1)AWL from 0100 hrs 16-11-40 until 0700 hrs 16-11-40 (did alter pass from 0100 hrs to 0700 hrs)	Sgt Walker	14 days C.B. with 1 hr extra drill each day	16-11-40	Lt-Col H.B. Duthie	Forf 1 days pay FRI 149
Field	13/1/41	Pte		A.A.15(1)AWL from 1200 hrs 13-1-41 until 1540 hrs 14-1-41 (1 day 3 hrs 40 min)	Cpl Malone " Smith	7 days CB with extra drill 4 days pay AA 46	14-1-41	Major A Cockeram	Forf 2 days pay FRI 149
Field	28/3/41	Pte		A.A.40 Conduct to the prejudice of good order and military discipline.(Gambling in barracks)	Lt.M.O'Brien	7 days C.B.	1-4-41	Lt-Col H B Duthie	
Field	1/8/41	Pte		A.A.15(1)AWL from 2200 hrs 1-8-41 until 2230 hrs 1-8-41(30 min)	L/Cpl Morse Cpl Garrity	2 days C.B. 2 extra drills	4-8-41	Capt T Langstone	
Field	21/2/42	Pte		A.A.40 Conduct to the prejudice of good order and military discipline(removed clothe contrary to orders)	Sgt Malone	7 days CB.name moved end of furlough list	22-2-42	Major Hughes	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15/9/41	Pte		A.A.15(1)AWL from 15-9-41 until 0930 10-10-41(26 days)Apprehended 0930 hrs 1-11-41. Under close arrest until 0615 hrs 24-11-41 when he escaped. Apprehended 1030 hrs 2?-11-41. Under close arrest until sentenced 1000 hrs 1-12-41	Lt Leitch Walker	28 days det'n To pay cost of apprehension $60.37	1-12-42	Lt-Col R.B.Duthie	Forf 56 days pay FAD 149 1a Forf 28 days pay FAD 149 1 b Total forfeiture 84 days pay
Field	17/7/42	Pte		A.A.15(1)AWL from 2?00 hrs 17-7-42 until 0220 hrs 25-7-42	Lt Pickard Capl Galt	Forf 14 days pay AA 46	25-7-42	Lt-Col R C Clark	Forf 6 days pay FAD 149 1 a
Field	24/9/42	Pte		A.A.15(1)AWL from 2?00 hrs 24-9-42 until 0600 hrs 26-9-42	Lt Brubich	5 days pay A A 46	26-9-42	Major J H Broughall	Forf 2 days pay FAD 149 1 a
Field	4/10/42	Pte		A.A.15(1)AWL from 0700 hrs 4-10-42 until apprehended 1020 hrs 2?-10-42 at Gateshead (18 days 3 hrs 20 min)	Lt Smith Malone Documentary	28 days det'n To pay cost of apprehension $19.50	9-11-42	Lt-Col R C Clark	Forf 19 days pay FAD 149 1 a Forf 28 days FAD 149 1 b

M.F.M. 6
(A.F. B.122)
40/P.& P./8136 (2965)

No. B79358 Name THOMPSON, G.M. | Sqn., Battery, or Company | Corps CIC | Date of enlistment 12/9/40 | G.C. Badges NA | Service or Proficiency Pay NA | Character

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/10/42	Pte		A.A.15(1) AWL from 0700 hrs 4-10-42 until apprehended at 1020 hrs 20-10-42(18 days 3 hrs 20 min)	Sgt Crawford Documentary	28 days det'n Under close arrest from 1020 hrs 22/10/42 until 1100 hrs 26-10-42 Cost of apprehension	9-11-42	Lt-Col R C Clark	Forf 19 days FRI 149 1 b and 4 days pay FRI 149 1 a Total forf 51 days pay
Field	24/5/43	Pte		A.A.40 Neglect to the prejudice of good order and military discipline(did not move away from stove when ordered to do so)	Sgt Quitt L/Cpl Stephenson	7 days C.B.	26-5-43	Capt S C Bell	
Field	20/10/43	Pte		A.A.15(1) AWL from 0930 hrs 20-10-43 until 1200 hrs 21-10-43(1 day 2 hrs 30 min)	Sgt Lean R A/Cpl Prokaksa E	5 days forf of pay AA 46	22-10-43	Lt-Col R C Clark	Forf 2 days FRI

(P.T.O.)

Place	Date of offence	Rank	Dates of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/12/43	Pte		A.A.15(1) AWL from 2200 hrs 17-12-43 until 1945 hrs 18-12-43	Lt Martin Lt Simpson /Sgt Mason	14 days F.P. 14 days pay admonished Priv.cancelled 30 days	24-12-43	Lt-Col R C Clark	Forf 1 days pay PRI
Field	25/2/44	Pte	/	A.A.19 NOAS Drunkenness, 1st offence.					

Certified true copy of original RFE 6

C.S.Morgan

C.S.Morgan, Lieut A/Adjutant
The Irish Regiment of Canada

SCHEDULE.

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

Accused: B.79358 Pte George Merile THOMPSON, Ir R C

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

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

"WMWS"

[illegible] [illegible] (1)

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

Time in confinement awaiting present trial—a total of 53 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF b355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for one year

(Sgd) "W.M.W. Shaw Capt" — Judge-Advocate, if any. 4 Jul 44 — Date awarded. (Sgd) "H.A. Snelgrove Major" — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

I confirm the sentence and finding of the Court.

[illegible] "ISJ"

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

(Sgd) "Ian S. Johnston Brig"

Date 4 Jul 44 — Commanding 11 Cdn Inf Bde. — Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B.79358 Pte Thompson, G.M.	5 Jul 44	"G.S. Horgan Lt" (G.S. Horgan) Lieut & A/Adjt The Irish Regiment of Canada.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY RECORDED AT CMHQ IN AB 160 4114-152

FIELD GENERAL COURT-MARTIAL

CPA96 (To form of AFA9) 40-P-30-8-1000 (43050) 4/38B

(D.M. Owen) Lieut.

Convened by Order of Brigadier I.S. Johnston Comd 11 Cdn Inf Bde dated 2 Jul 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.79358	Pte		George Merrile	THOMPSON	Ir R C

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 4 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1000 hours trial commences.

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

"WMWS" [illegible]

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

"WMWS" A5. [illegible]

(1. RP 72. Delete, if none employed.)

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

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President.	Major	H.A. Snelgrove	Perth R.
Member	Capt	R.L. Simmonds	P L Fus
Member	Capt	S.E. Cameron	Ir R C
Judge-Advocate	Capt	W.M.W. Shaw	HQ 5 Cdn Armd Div
Prosecutor	Lieut.	A. Falzetta	Ir R C
Defending Offr	Lieut.	H.R. Young	Ir RC

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) [illegible] plea "WMWS" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

"WMWS" A9. The accused is [illegible] arraigned [illegible] on all charges in the charge sheet.(1) The accused does [illegible] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"WMWS" A10. The Court [illegible] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Yes, Sir .....(5)
(1. RP 37(D). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the ..... charge(s). [illegible]
(1. Court may be closed to consider the statement. Delete whole or part not used.)

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[X] as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet[X](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier[X] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.79358 Pte George Merrile THOMPSON, The Irish Regiment of Canada, a soldier of the Canadian Army placed on active service, is charged with:

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from his unit from 0800 hrs, 13th March, 1944, until 1715 hrs, 10th May 1944. Total absence 58 days, 9 hrs, 15 mins.

In the Field
28 June 1944

"W.H. Armstrong" Major
(W.H. Armstrong) Major
A/Comd The Irish Regiment of Canada.

To be tried by Field General Court-Martial

In the Field
2 Jul 44.

"Ian S. Johnston"
(I.S. Johnston) Brig.
Comd 11 Cdn Inf Bde.

"WMWS"
"HAS"

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.79358	Pte	George Merrile	THOMPSON	IRISH R C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and endorsed by me, 2 Jul 44 (date), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

	PRESIDENT.	
Major (Rank.)	H.A. Snelgrove (Must be named. RP 106.)	Perth R (Unit.)
	MEMBERS.	
Capt (Rank.)	A.C. Sim	C.B. Highrs Ir R C (Unit.)
Capt (Rank.)	S.E. Cameron (Named or detailed. RP 106.)	P L Fus (Unit.)
	WAITING MEMBER.	
Capt (Rank.)	R.L. Simmonds (Named or detailed, if any. RP 106.)	HQ 5 Cdn Armd Div (Unit.)
	JUDGE-ADVOCATE.	
Capt (Rank.)	W.M.W. Shaw (Must be named, if any. RP 106.)	

On Active Service in the Fd in Italy (Country.)

"Ian S. Johnston" (I.S. Johnston) (Signed personally. RP 105 fn 2.)

Brig. (Rank.)

Commanding 11 Cdn Inf Bde. Convening Officer.

Date 2 Jul 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"WMWS" "HAS"

4/38A CFA80 (In lieu of AFA3; 40/F & S/1497 (4681))

FIELD GENERAL COURT-MARTIAL

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.79358	Pte		George Merrlle	THOMPSON	IRISH R C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Jul 44 endorsed by me, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~, "To be tried by Field General Court Martial". "ISJ"

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

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

4. ~~xxxxxxxxxxxxxxxxxxxx

"I certify that I have this morning examined No B.79358 Pte Thompson, G.M. and in my opinion he is fit to undergo trial by court-martial.

In the Field
4 Jul 44

"? Boiley"
(Medical Officer)
(KR (Can) 577)

N.B.
Old chronic discharge from R. eardrum but "undecipherable" fit to undergo trial.

H.A.S.
"WMWS"

SUMMARY OF EVIDENCE
IN THE CASE OF

B.79358 Pte Thompson, G.M., The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service.

CHARGE:

Absent without leave.

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

FIRST WITNESS B.78828 L/Cpl Doggart, J.H., The Irish Regiment of Canada having been duly sworn states:

"Sir at 0800 hrs 13 Mar 44 in my capacity as NCO i/c Coy Headquarters I called the roll of Coy HQ. The accused B79358 Pte Thompson, G.M. whom I recognize, failed to answer his name. I made a search of the area and he was nowhere to be found. I reported his absence to B.78808 CQMS Malone, C. who was A/CSM of "B" Coy and his name was placed on the Absentee report. At no time did he answer his name on any subsequent roll call.

Accused declines to cross-examine the witness.

"J.H. Doggart L/Cpl"

SECOND WITNESS B.79419 CSM Arnall, N.S., The Irish Regiment of Canada, having been duly sworn, states:
At about 1600 hrs 28 May 44, while in "B" Echelon, B79358 Pte Thompson, G.M. was turned over to me under escort from 4 Bn 1 Canadian Base Reinforcement Group. I placed him under close arrest.

Accused declines to cross-examine witness.

"N.S. Arnall CSM"

THIRD WITNESS Lieut. G.S. Horgan, The Irish Regiment of Canada, having been duly sworn, states:
In my official capacity as Acting Adjutant The Irish Regiment of Canada, I have custody of all official documents. I herewith present a Certificate of Surrender A.A. Sec 163 (i) (j) of B.79358 Pte Thompson, G.M. (Marked Exhibit "A" and attached hereto) A.F.

Accused declines to cross-examine witness.

"G.S. Horgan Lt"

Question to the accused:

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

"A"
"Arnall"

Answer by the accused:
No Sir, I do not wish to make any statement.

I certify that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused at Field, 27 Jun 44.

"A. Falzetta" Lieut.

EXHIBIT "A"

CERTIFICATE OF SURRENDER UNDER AA SEC 163 (i)(j)

I, W. Morrison Lt-Col R.A. certify that No B.79358 Pte THOMPSON, G. Irish Regiment of Canada surrendered himself to L/Cpl FOHD 506 I.M. Provost Coy at 50th Rest Camp at about 1715 hrs on the 10th day of May 1944 as an absentee without Leave. He was dressed in uniform.

10 May, 1944.

"W. Morrison" Lt.-Colonel
Commandant Eighth Army Rest Camp.

"A"
"WDAWS"

Capt A.C. Sim not available due to being pros.
on case to be heard by Court, Capt R.L. Simmonds
takes his place.

Acsd's Statement : -

Ever since unit on ORTONA front was with them.
I was stretcher bearer. CSM and I didn't click. Went to rest
area and I asked Padre to see if could get transfer to another
coy. My coy went into line and I went to MO and asked him for
transfer to another coy. Came out of line, nothing done about
transfer. Went AWL and turned myself in to Bari rest camp.
On way from Bari to Avellino - 9 prisoners made break but
I did not try and stayed behind. At Avellino I was put in gd rm
to await escort and was brought back to unit.

Def Offr in mitigation: -

Acsd 23 yrs old and in army almost 4 yrs.
Went to front and with unit during muddy mos of Jan, Feb and
part of March. Acsd with coy HQ whether CSM to blame or
acsd to blame there was friction and acsd wanted to get to
another coy to avoid this. Saw padre and could not get
transfer. Went back into line and did his work. When came
out to Castelnuovo rest area he still had no satisfaction so
to get away from friction went on loose.
AWL but shows Court the problem on his mind - it growes and
ultimately becomes unbearable and tried to get away.

"WMW Shaw Capt"

Substitute for AFE 896
or MFB 355

TREATMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No B.79358 Rank: Pte THOMPSON, G.M. Unit The Irish Regiment of Canada AGE 23 Married or Single: Single No of Dependents: Nil

Date of Attestation 12 September 1940

Number of Days in close arrest awaiting trial: 53 days

Civil: Nil Military: 53 Hospital: Nil Total: 53

Date of appointment, promotion etc (if any) Nil

Decorations: Nil

In the Field
4 Jul 44

"G.S. Horgan Lt"
Officer i/c Regtl Books
G.S. Horgan, Lieut & A/Adjt
The Irish Regiment of Canada.

"B"
"NEWS"

Note: Certified true copy of MFM 6 must accompany this form.

MFM 6
(AFB 122)
10/P&S/138 (3428)

No 179358 Name THOMPSON GM | Sqn, Battery, or Company | Corps CIC | Date of enlistment 28/9/40 | GC Badges | NA | Service or Proficiency Pay | NA

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16/11/40	Pte		AA 15(1) AWL from 0100 hrs 16-11-40 until 0700 hrs 16-11-40 (did alter pass from 0130 hrs to 0700 hrs)	Sgt Walker	14 days C.B. with 1 hr extra drill each day	18-11-40	Lt.-Col MB Duthie	Forf 1 days pay FSI 149
Field	13/1/41	Pte		AA 15(1) AWL from 1800 hrs 13-1-41 until 1540 hrs 14-1-41 (1 day 3 hrs 40 min)	Cpl Malone " Smith	7 days CB with extra drill 4 day pay AA 46	14-1-41	Major A Cockeram	Forf 2 days pay FSI 149
Field	28/3/41	Pte		AA 40 Conduct to the prejudice of good order and military discipline. (Gambling in barracks)	Lt. M. O'Brien	7 days CB	1-4-41	Lt.Col MB Duthie	
Field	1/8/41	Pte		AA 15(1) AWL from 2200 hrs 1-8-41 until 2230 hrs 1-8-41 (30 min	L/Cpl Morse Cpl Garrity	2 days CB 2 extra drills	4-8-41	Capt T Langstone	"C" "AAAS"
Field	21/2			AA 40 Conduct to the prejudice of good order and military discipline (removed clothe contrary to order)	Sgt Malone	7 days CB name moved end of furlough list	28-2-42	Major Hughes	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15/9/41	Pte		AA 15(1) AWL from 15-9-41 until 2359 10-10-41 (26 days) apprehended 0930 hrs 1-11-41. Under close arrest until 0615 hrs 24-11-41 when he escaped. Apprehended 1030 hrs 25-11-41. Under close arrest until sentenced 1800 hrs 1-12-41	Sgt Leitch " Walker	28 days det'n to pay cost of apprehension £68.37	1-12-42	Lt.-Col MB Duthie	Forf 56 days pay FRI 149 1a Forf 28 days pay FRI 149 1b Total Forf 84 days pay
Field	17/7/42	Pte		AA 15 (1) AWL from 2200 hrs 17-7-42 until 0220 hrs 25-7-42	CSM Pickard L/Cpl Salt L/Cpl Drubich	Forf 14 days pay AA 46 5 days pay AA 46	25-7-42	Lt Col RC Clark Major JH Broughall	Forf 8 days pay FRI 1a Forf 12days pay FRI 149 1a
Field	24/9/42	Pte		AA 15(1) AWL from 2200 hrs 24/9/42 until 0800 hrs 26-9-42	Sgt Smith " Malone	28 days det'n Topay cost of	9-11-42	Lt.Col RC Clark	Forf 19 days pay FRI 149 1a
Field	4/10/42	Pte		AA 15(1) AWL from 0700 hrs 4-10-42 until apprehended 1020 hrs 22-10-42 at Mulgrave N.S. (18 days 3 hrs 20 mins)	Documentary	apprehension £9.30			Forf 28 days FRI 149 1b

MFM 6 (AFB 122) 40/P&S/136 (3428)

No 379358 Name THOMPSON GM | Sqn, Battery, or Company | Corps GIC | Date of enlistment 12/9/40 | GC Badges NA | Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet NA | No and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/10/42	Pte		AA 15(1) AWL from 0700 hrs 4-10-42 until apprehended at 1020 hrs 20-10-42 (16 days 3 hrs 20 min)	Sgt Crawford Documentary	28 days detn Under close arrest from 1020 hrs 22/10/42 until 1100 hrs 26/10/42. Cost of apprehension	9-11-42	Lt Col R.C. Clark	Forf 19 days FRI 149 1b an 4 days pay FR 149 1a Total forf 51 days pay
Field	24/5/43	Pte		AA 40 Neglect to the prejudice of good order and military discipline (did not move away from stove when ordered to do so)	Sgt Quitt L/Cpl Stephenson	7 days CB	26-5-43	Capt S.C. Bell	"C" "WMWS"
Field	20/10/43	Pte		AA 15 (1) AWL from 0930 hrs 20-10-43 until 1200 hrs 21-10-43 (1 day 2 hrs 30 mins)	Sgt Lean A/Cpl Prokakis E	R 5 days Forf of pay AA 46	22-10-43	Lt Col R.C. Clark	Forf 2 days FRI

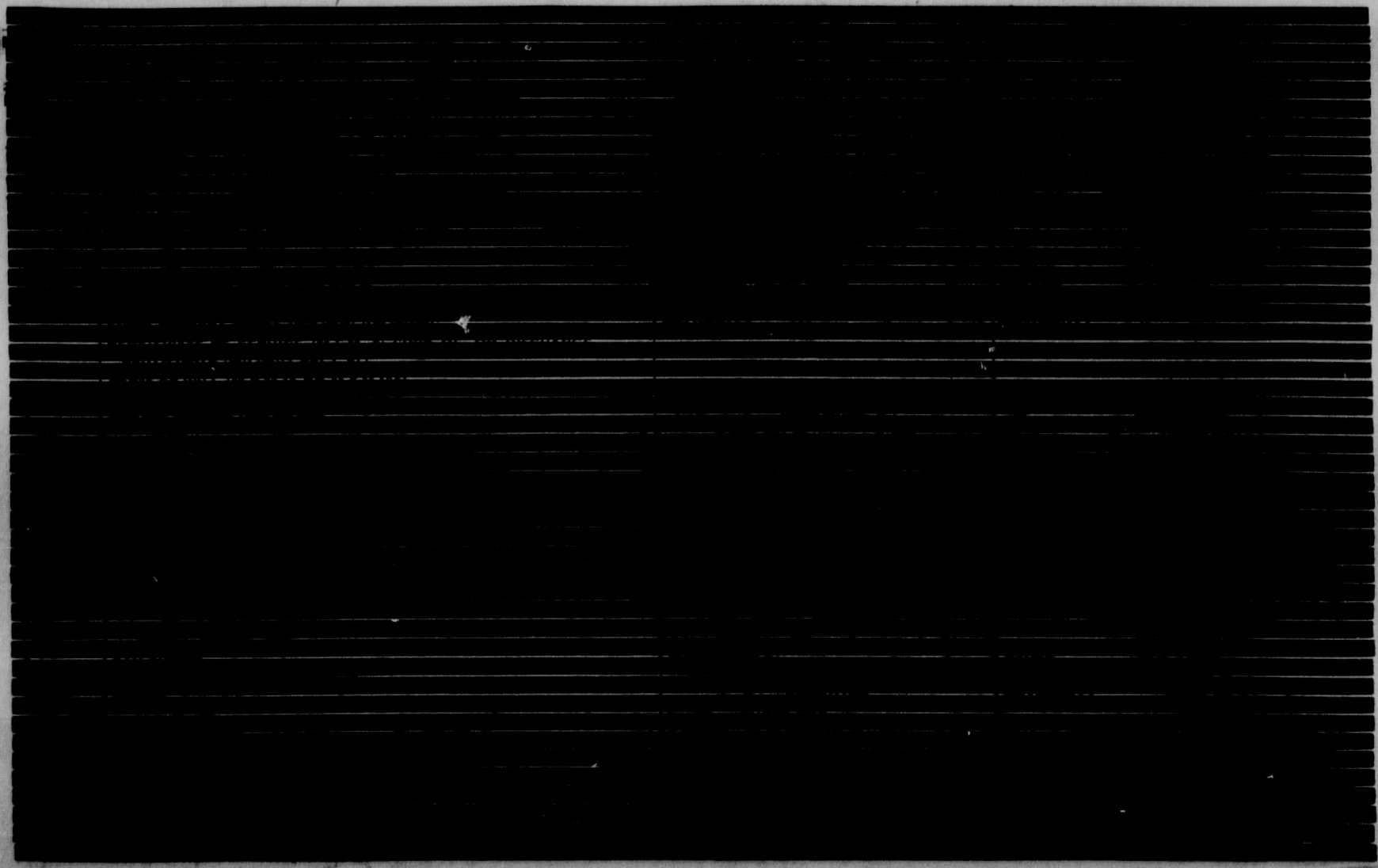
(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/12 43	Pte		AA 15 (1) AWL from 2200 hrs 17-12/43 until 1945 hrs 18-12-43	14 days FP 14 days pay L/Sgt Mason	24-12-43	Lt Col RC Clark		Forf 1 days pay FRI
Field	25-2-44	Pte		AA 19 WOAS Drunkenness 1st offence		Admonished Priv cancelled 30 days			

Certified true copy of original NFM 6

"G.S. Horgan"
(G.S. Horgan, Lieut A/Adjutant
The Irish Regiment of Canada.

52-117 PX Thompson L M.



SCHEDULE.

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

Accused : B.79358 Pte George Merrle, THOMPSON

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

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

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

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

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

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

Sentence Awarded by the Court :

To undergo detention for a period of one (1) year.

(Sgd) ..... 25 MAR 46 (Sgd) C.E. Woodrow

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) LT COL

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

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

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

Date 27 Mar 46 (Sgd) A.R. Cassels Brig

Commanding CRU Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B79358 Pte Thompson G.M.	2 April 46.	E.D. Smulgrow, Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 168 S 2-117

CPA96 (In lieu of AFA96) 40/P & B/1600 (A)(M)

FIELD GENERAL COURT-MARTIAL

4/388

RECEIVED APR 2 1946 JAG BRANCH C.M.H.Q.

Convened by Order of Brig. A..B. CONNELLY CBE Comd CRU dated 22 Mar 46

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.79358	Pte		George Merrle	THOMPSON	4 (Gen Rft) Wing, 1 Cdn Repat Depot

PROCEEDINGS REVIEWED 26 Apr 46 C.H. Tait, Maj.
REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd Jn (Gen Hosp) at ENGLAND on (date(s)) 25 MAR 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1100 hours trial commences.

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

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

A5. President to accused : ~~Do you object to~~ ~~as interpreter ? Ans~~ ~~The interpreter is sworn.~~(1) Do you object to E.100409 Sgt O'Neill, J. as shorthand writer ? Ans NO SIR The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

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

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Lt-Col	C.E. WOODROW OBE ED	HQ CRU
Member	Capt	H.W. NOBLE	1 C Rep Dep
Member	Lieut	J.F.W. COLLINSON	1 C Rep Dep
~~Judge Advocate~~			
Prosecutor	LIEUT	K.L. MILLER	1 C Rep Dep
Defending Offr	LIEUT	D.T. SMITH	1 C Rep Dep

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

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

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use ~~separate~~ copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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

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

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

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

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

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 2. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Not attached (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 86, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, B.79388 Pte. George Merrle TWOMPSON, CIC., on strength No 4(Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE

SECTION 15(1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 0015 hrs 26 Aug 45 until surrendering himself to Civil Police at Coventry at 1800 hrs on 6 MAR 46.

Absent: 194 days 9 hrs 45 mins.

Officer Commanding,
No 4(Gen Rft) Wing,
No 1 Cdn Repatriation Depot,
(Lorne Scots)
Cdn Army Overseas.

Field.

20 MAR 46.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
22 Mar 46

(A.B. Connelly) Brigadier,
Commander CRU

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B79358	PTE		George Merrle	THOMPSON	4(Gen Rft)Wg 1 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 22 Mar 46 endorsed by me, "~~I am of opinion that a Field General Court-Martial is necessary and that the~~ To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable for the Court mentioned in the margin to be assembled for the purpose of trying the accused person(s) mentioned in the said charge sheet without detriment to the public service~~

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

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

4. ~~The Court shall be composed of officers of the Canadian Army Overseas~~

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

~~If any officer appointed by me to be a member of the Court is unable to attend, the Court may proceed with the remaining members.~~

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	C.E. Woodrow, OBE, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed from	1 Cdn Repat D
Lieut	to be detailed from	1 Cdn Repat D
(Rank.)	~~Reserve~~	(Unit.)
(Rank.)	(Named or detailed, if any. RP 106.) ~~JUDGE ADVOCATE~~	(Unit.)
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 22 Mar 46

(Signed personally. RP 105 (n 2))

Brigadier, (Rank.)

Commanding (A.B. Connelly) Canadian Repatriation Units

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER'S REPORT

I certify that No. B78388 THOMPSON G.M.

of 7 CONVALT DEPOT is in a unsatisfactory state of health,

and is able to undergo Trial by Court Martial. To-day

H. McQuaig Capt
Medical Officer

Station FIELD

Date 25/3/46

3/59A MFB 246
40. P & S/572 (7351)

Plea attached at E3.

PLEA IN MITIGATION

By R.79158 Pte George Merrle THOMPSON, 4 (Gen Rft) Wing, 1 Canadian Repatriation Depot, (the accused).

The Accused requested that his Plea in Mitigation be given under Oath. After being sworn he made the following plea:

When I returned from Italy in approximately Apr 45 I returned to England here to find that my Regiment was overseas on the Continent somewheres and after trying to rejoin my unit several times I was powerless and I could not get over there at all. Shortly after that VE Day came along and hostilities ceased on the Continent and I thought I would be able to get home right away. Previous to this I had applied for leave but was refused and I waited until waited until after VE Day and they asked for volunteers for the Burma campaign, so I volunteered expecting to go any day and they sent me to No 3 Repat Depot. There they gave me a leave for a few days. While on leave I was taken ill and gone for 21 days. When I returned they took me off the draft and a day or so later when I tried to get on another draft for Canada they said they could do nothing for me, so I waited around another few days and got another leave, expecting this to be my last one. I went to see my girl friend and told her that it would be the last leave as I expected to go to Canada shortly. Just before my leave ended she told me she was pregnant. I told her I was going to Canada on this Burma Campaign and she was beside herself with grief. I told her that I would be back as soon as I could but she would not believe me and she threatened to take her life if I went. I pleaded with her and I pleaded with her to make her understand but I could not get anywhere with her at all. I kept pleading with her to see my side of the story as well as hers but she would not listen to me and told me that I was going to Canada and would not return. She is a married woman but is legally separated since 1942. She has no mother or father and has no one to take care of her at all. She thought I was going to leave her in the cart more or less and she threatened me with her life. There was not much I could do but stop that. I told her I would not be able to work as we had no employment cards, but I did get a job which I had to quit in a couple of weeks and get another one, and that went on for some time. I kept after her to see my side and trust me but she would not listen to me. She got on in her pregnancy and went to London to get in the hospital there as she did not want anyone in Coventry to know. We went to London but we could not get in a hospital there as I had no permanent address and so we went back to Coventry and tried to get in a hospital there but could not. We had no place of our own and were living with other people, so we rented a caravan and were living ~~the~~ in the caravan. She was still unable to get into the hospital and was very destitute as to what she was going to do about the child. As I said before, she has no mother or father or anyone to take care of her and she has a little boy by her husband. I was doing all I could do to make things easier but all the time it was getting harder on me. I could not reason with her and one day I had an argument with her brother and he said he was going to get even with us. The next day there was a PC constable came up and asked me for my pass. I told him I had none and he said you are an absentee from the army and I said I was, so he asked that I surrender myself to the civilian police and I said that I would. I asked him for a little time as she was not home then. When she came home I told her what happened and she knew who it was without me saying anything and all she said was "I'll kill him". I knew who she was referring to and I tried to get her to calm down a bit. She is beside herself now with worry because she cannot get in the hospital and has no one to take care of herself as she is living alone in the caravan. She has a friend who is coming from the ATS and who may be able to stop with her for a few days but apart from that there is no one who can help her. Besides all this her sister passed away on Saturday, adding more worry to it. There was only one thing I could do and that was stay away as I did not want to have that woman's life on my hands. As

things are going now I don't know what she is going to do. She has very little money to carry on with as it is now and I don't know how she is going to fare with the baby coming along and no one to look after her but herself. I hope I will get someone to understand the position I was in as I had no alternative but to stop that.

Exhibit A

SUMMARY OF EVIDENCE

in the case of,

B.79358 Pte. George Merrle THOMPSON, CIC, on strength No 4(Gen Rft) Wing, No 1 Cdn Repatriation Depot, a soldier of the Cdn Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order No 5352 which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1)Certified True Extract from the original MFR 4 concerning B.79358 Pte. Thompson, G.M. which declares that the accused absented himself without leave from 0815 hrs 26 Aug 45, authority for said entry being 3 Repat Part II Order No 81, dated 1945.
(Marked Exhibit "A")

(2)Army Form C.1617 dated 9 Mar 46 and signed by the Officer of Police in charge of "B" Div Coventry City Police Station, which declares that B.79358 Pte. Thompson, G.M. surrendered himself to Civil Police at 1600 hrs 8 Mar 46 at Coventry.
(Marked Exhibit "B")

C.E. Ennis
.....
(C.E. Ennis) Lieut. RCA.,
Officer detailed to take
the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

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

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page was taken down by me in the presence and hearing of the Accused, and Rules of Procedure 4(c) (d) (e) and (f) have been complied with."

C.E. Ennis
.....
(C.E. Ennis) Lieut. RCA.,
Officer detailed to take
the Summary of Evidence.

Field

20 Mar 46

Exhibit "A"

SERVICE AND CASUALTY FORM

(PART II)

Regiment or Corps: CIC | Regimental Number: B.79358

Substantive Rank: Pte. | Surname: THOMPSON | Christian Names: George Kerrle

Acting Temporary or Local Rank
(To be entered in pencil to facilitate alteration)

(a) Report: Date	(a) Report: From whom received	(b) Unit	(c) Record of all casualties regarding promotions, acting, temporary, local or substantive, appointments, transfers, medals, attachments, etc., forfeiture of pay, wounds, accidents, admission to and discharge from Hospital, Casualty Clearing Stations, &c. Date of discharge/duties and authorities from a theatre of war (including furlough, &c.) in accordance with para. 2 of Note to Table I of Appendix III of Field Service Regulations, Volume I	(d) Cause of Casualty	(e) Date of Casualty	(f) Army rank and No.	(g) Letter, Folio, or other authority for entry to be shown
	3	Repat	SOS as Deserter. Illegally absent from 0815 hrs 26 Aug 45, still absent 1000 hrs 22 Oct 45. Deficiencies $11.39 CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION. C.E. Ennis (C.E. Ennis) Lieut. RCA., Officer having custody of original document. 15 MAR 46.	U.K.	22 Oct 45	Pte.	81/45

Exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 215 Oxman at Coventry at (hour) 6.0 p.m. on the 9th day of March 46 as being No. B.149358 (Rank and Name) Pte George Mortimer Hopkins. Lincs Regt a deserter (or absentee without leave) from Aldershot Camp and it appears to me from his confession that he is a deserter or absentee without leave.

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

Age 24 Height 5 Feet 8 Inches
Complexion Fresh Hair Light brown
Eyes Grey
Marks Nil
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	12-9-40 Toronto Canada.
Probable Date of Desertion or beginning of absence, and from what place	1st August 1945 Aldershot.

A Black Insp
Signature of Officer of Police in charge of 13 Div Coventry City Police Station

9th March 1946 Date of Signature.

COVENTRY CITY POLICE MARTYRS 9 FOLESHILL STATION

Army Form D.1617
R.A.F. Form 1617

PART 2.

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

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

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

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

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

Payable to .....

CERTIFIED that this statement of expenses is correct.

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

..... Date of Signature.

Exhibit "B" [illegible]

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B.79350	Pte.	Thompson, G.R.	1 Cdn Repatriation Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment.
For	A.A. Sec 15(1) — times	4 times
For	~~C.E.E.~~ — times	~~times~~
For	~~C.E.E.~~ — times	~~times~~
For	~~C.E.E.~~ — times	~~times~~
For	~~C.E.E.~~ — times	~~times~~

~~Number of instances of gallantry or distinguished conduct, C.E.E.~~

~~or~~

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

2. ~~The accused has not been previously convicted, or C.E.E.~~

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

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for C.E.E. beginning on the day of C.E.E.~~

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 17 days in military custody, making a total of 17 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service is 24 yrs 6 mos
~~attestation paper C.E.E.~~

6. The date of his ~~commission C.E.E.~~ attestation specified in his record of service is 12 Sep 40
~~attestation paper C.E.E.~~

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is C.E.E.~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of C.E.E. service C.E.E.~~

9. ~~The accused is entitled to reckon C.E.E. service for the purpose of determining his pension, etc. C.E.E.~~

10. The accused ~~is in possession of, or entitled to, no military decoration or military award for C.E.E.~~ is in possession of or entitled to (*state any military decoration or reward*). CVSM & Clasp, 1939-45, 2 Italy Stars 2/.

11. ~~(*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of C.E.E.~~

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

W.L.52657/1519 20M. 5/44. P. Ltd. T51-2.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.79358 Rank Tmps Pte. Name Thompson G.E. of 1 Cdn Repat Depot CEE Regiment (or as the case may be)

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.C.C.M.	4 Jul 44	A.A. Sec 15(1)	1 yrs R.L.	115 days remission

CEE

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

Signed this 25 day of MAR 46

C.E. Equin Capt. RCA
Royal Officer
i/c 1 Cdn Repat Depot

---

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

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accurately.*)

Date of Promotion.

Forfeiture "C"

No. B.79558 Name Thompson G.M. Sqn, Battery, or Company — Corps CIC — Date of enlistment 12 Sep 40 — Badges — Signature OC Company, etc — Proficiency Pay — Character

3/17 MFM 6 (AFB 122) 40/P&S/138 (7910)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1

Place	Date of offence	Rank	Cases of drunken crim	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
						28 days detn'	4-12-42		51 d.p. tot
Field		Pte		A.A. Sec. 15(1)		5 d.p. forf	22-10-43		7 d.p. tot
"		"		A.A. Sec. 15(1)		14 days f.p.	26-12-43		15 d.p. tot
"		"		A.A. Sec 15(1)		1 yrs H.L.	4-7-44	F.O.C.M.	419 d.p. tot
"		"		A.A. Sec 15(1)		GRANTED 115 DAYS REMISSION 10 MAR 45			
						Admonished	16-5-45		1 d.p. forf.
"		"		A.A. Sec 15(1)					

CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION

C.E. Ennis

(C.E. Ennis) Lieut. RCA.,
Officer having custody of
original document.

L 16 MAR 46

(PTO)

THE CASE OF B.79358 Pte. George Merrle THOMPSON

(i) LIST OF WITNESSES FOR THE PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR THE DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR THE PROSECUTION

(a) Cert true extract from original MFM 4 which declares that B.79358 Pte. Thompson, G.M., absented himself without leave from 0815 hrs 26 Aug 45.
(Marked Exhibit "A")

(b) Army Form C.1617 dated 9 Mar 46, concerning the surrender of B.79358 Pte. Thompson, G.M.
(Marked Exhibit "B")

(iv) LIST OF EXHIBITS FOR THE DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I her by acknowledte that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

.....
(B.79358 Pte. Thompson, G.M.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

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

I desire the services of.....
if he is available.

.....
(B.79358 Pte. Thompson, G.M.)

Signed in the Field

This 8th day of MAR 1946.

WW 68

SPR. THOMPSON G.W.

SCHEDULE.

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

Accused: D 173 Spr GILBERT WARREN THOMPSON, 1 BN RCE

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

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

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

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

Sentence Awarded by the Court:

~~Fined £ 10-0-0 damages~~

To be put under stoppages of pay until he has made good the sum of £10-0-0 in respect of part of the damage to WD Vehicle Number CM 4202750

(Sgd) 7 Nov 43 (Sgd) William, Major RCE

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

I confirm the findings and the sentence p the court.

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

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

Date 8 Nov. 43. (Sgd) ..... Col

Commanding C.E. Works, First Cdn Army Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D-173 Sgt Thompson, G.W.	10 Nov 43	W.B. Sinclair, Capt RCE

Adjutant, 1st Battalion, R.C.E. - C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WWCR T13.

FIELD GENERAL COURT-MARTIAL

CFA86 (To item of AFA3) 40/P & S/1858 (2004)

Convened by Order of DH STORMS, Col Comd CE WKS FIRST CDN ARMY dated 4 Nov 43

10 Nov 43

5-9-3

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D173	Spr	GILBERT WARREN	THOMPSON,	1 BN RCE

11 Nov 43

Kerfoot Capt for em v.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 5 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1610 hours trial commences.

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

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

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

~~The Interpreter is sworn.~~(1) Do you object to Pioneer Cpl J.A.P. RIVET as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

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

Ans NO (2)

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

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

President	A/MAJOR	J.F.V. MORAZAIN	3 BN RCE
Member	CAPT	H. GOODFELLOW	1 CDN ARMD BTR RCE
Member	LT	M.S. BEAGLE	2 BN RCE
Judge-Advocate	N/A		
Prosecutor	CAPT	W.B. SINCLAIR	1 BN RCE
Defending Offr	LT	F.L. McDONALD	1 BN RCE

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

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

A8. The accused 2174 Spr THOMPSON, G.W. before arraignment make(s) (his) (a) plea of NOT GUILTY (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 71, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes, on oath, as to the facts. Do you intend to call witnesses on your behalf? Ans. NO. Are they witnesses as to character only? Ans. N/A.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex [redacted] D and Ex [redacted] E respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

N.A.

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

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

SCHEDULE

Air Force

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

Unit

Name of Regiment

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

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

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

Signed this First. day of November 1943.

W. B. Sinclair. Capt.

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

Ex "D" 78

M.F.B. 155 / 200 FGCAJ

22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-173	Spr.	Thompson, G.W.	1st. Battalion RCE

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

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15 (1)	one times	A.A. Sec 15 (1)	one times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

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

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

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court martial or a civil court, of summary awards under Air force act section 47 of the Army Act and dispensations with trial under Art. 74 are set out in the schedule Art. 74~~ ~~annexed to this statement.~~

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

or,

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

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

5. The present age of the accused according to his record of service is 21 yrs 8 months ~~attested on page 1~~ 28 days.

6. ~~The date of the accused's birth is to the best of his knowledge~~ ~~his declaration~~ ~~his baptismal certificate~~ 5 Nov. 41

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

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

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

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

E "E"

M.F.M. 6
A.F.B. 177.
—1750M. 7-41 (1019-20)
H.Q. 1772-20-1002

No. D-173 Name Thompson, G.W. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 4 Jan 41 | G.C. Badges | Service or Proficiency Pay 20¢

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. D.C. Douglas Capt RCE | Signature of Witness

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	11 Sep 43			Old sheet destroyed in accordance with C.A.R.O. 2084 Date of last entry 20 Oct 41 Nil cases of drunkenness (D.C. Douglas) Capt RCE					
Field	7 Feb 43	Spr		A.A. 15 (1) WOAS AWL from 2359 hrs. 7 Feb 43 to 0830 hrs 8 Feb 43 (Absent 8 hr. 31 min.)	Cpl. Reily WJ Sgt Pinette JM	4 day pay FR &I149(2)	9 Feb43	Major Williams	For. 1 days pay FR&I 149 (1a)
Field	10 Sep 43			Verified with MFM 4. (D.C. Douglas) Capt.				Ex	
				Certified true copy (W.B. Sinclair) Capt RCE Adjt 1 Bn RCE CA					

P.T.O.

I desire to have

Maj. F. A. McJarvish

defend me at my trial.

W. Thompson

(D173 Spr. Thompson, G.W.)
1 Bn RCE CA

In the Field

LIST OF WITNESSES

1st Witness - B26384 Spr. McRae, C.H.
1 Bn RCE CA

2nd Witness - B94782 Sgt. Harrison, G.
1 Bn RCE CA

3rd Witness - Capt. P.B. McCaffary RCE
1 Bn RCE CA

4th Witness - Lieut. R.W. Anderson RCOC
25 LAD, att 1 Bn RCE CA

5th Witness - S/Coy/O J. McGregor NFS
H.M.S. Tandridge

6th Witness - Lieut. W.H. Powell RCE
1 Bn RCE CA

LIST OF EXHIBITS

Exhibit A - Work Ticket A/3/3/15. (Ex "A" of Proc of FGCM)

Exhibit B - Statement of estimated cost of repairs. (Ex "B" of Proc of FGCM)

SUMMARY OF EVIDENCE

In the case

of

D173 Spr. Thompson, G.W.

1st. Battalion R.C.E.

Cdn Army (o)

First Witness - B26384 Spr. McRae, O.N. having been duly sworn states, On 10 Jul 43 at approximately 2000 hrs Spr. Thompson whom I recognize and myself left 1 Bn transport parking lot in a station wagon and proceeded to the N.A.A.F.I. Canteen in Upper Caterham. There Spr. Thompson informed me that he had a cheque that he wished cashed. We proceeded to Godstone. Spr. Thompson left me with the car while he cashed the cheque. When we went back to the car he and I went into a pub in Godstone and had one pint of bitter each. We then proceeded back to Bn H.Q. Spr. Thompson driving. On the Caterham By-Pass I dozed off to sleep and the next I remember I was picking myself up off the road, by the chalk cut on the Caterham by-pass.

O N McRae
B26384 Spr. McRae, O.N.

The accused declines to question the witness.

Second Witness - B94782 Sgt. Harrison, G. having been duly sworn states, I, B94782 Sgt. Harrison, G. on 10 Jul 43 at approximately 2215 hrs at approximate M.R. 786755 on sheet 115 - 1 inch to 1 mile saw Ford Station Wagon W.D. No. 4202780 in a wrecked condition and upon examining it found work ticket A/3/3/15 which I now produce.

G Harrison Sgt

B94782 Sgt. Harrison G.

The accussed declines to question the witness.

Work ticket A/3/3/15 referred to in the above evidence was produced, shown to the accused, marked exhibit "A" and is attached hereto.

W B Sinclair

(W.B. Sinclair) Capt RCE

Third Witness - Capt. P.B. McCaffary having been duly sworn states, In August 1942 I, together with Capt. E.B. Scott conducted a course at Buck's Green, Surrey, to qualify sappers as drivers i/c. At the time this course was conducted the new M.T. Drivers Regulations had only been in 1 Bn for four or five weeks. Two of the lectures given by myself during this course covered,

(1) The highway code, road signs and signals.
(2) Drivers documents and vehicle documents.

When these lectures were given the drivers regulations manual were issued to the students under instruction and collected at the end of the lectures to be issued again for the next lecture. The method of conducting the lecture was for myself to read aloud paragraph by paragraph and explain them as I proceeded. The students followed me in their own manual. In this manner pages "1" to "29" were covered completely. D173 Spr. Thompson, G.W., whom I recognize was a member of this class and attended these lectures. On the completion of this course Spr. Thompson was granted the qualification Driver I/C as is shown in 1 Bn RCE Part II order No. 45 dated 29 Aug 43.

(P.B. McCaffary) Capt RCE

The accused declines to question the witness.

Fourth Witness - Lieut. R.W. Anderson, R.C.O.C. having been duly sworn states, I am Lieut. R.W. Anderson, C.O. 25 L.A.D. RCOC attached to 1 BN RCE. On 13 Jul 43, I examined Ford Station Wagon, W.D. No. C.M. 4202780 which was damaged and estimated the cost of repairs to be approximately £54-5-0 as shown in the statement signed by me which I hereby present.

(R.W. Anderson) Lieut. RCOC

The accused declines to question the witness.

The statement referred to in the above evidence was produced, read over to the accused, marked exhibit "G" and attached hereto.

(W.B. Sinclair) Capt RCE

5th Witness having been duly sworn, states - I S/Coy/O McGregor, N.F.S., R.R.S. Tandridge, was on the Caterham by-pass at approx. 21-15 hours on 10th July, 1943. An N.F.S. self-propelled heavy appliance was parked by the side of the road. [redacted]. I saw a Canadian Army Station Waggon pass the N.F.S. vehicle and turn over four times. I saw no other vehicle on the road at the time that could have been implicated. The parked N.F.S. vehicle was in full view and could have been seen for at least a quarter of a mile from the direction from which the Canadian vehicle was coming. I helped render first aid to the two occupants of the Canadian vehicle until the ambulance arrived shortly afterwards.

J McGregor.

The accused declines to cross-examine the witness.

Sixth Witness - Lieut. W.H. Powell having been duly sworn states,

I, Lieut. W.H. Powell on the afternoon of 10 Jul 43 arrived at 1 Bn R.C.E. Headquarters at Caterham from Colchester in a Ford Station Waggon driven by D-173 Spr. Thompson, G.W. When we arrived at the 1st. Battalion officers mess at about 1700 hrs. Spr. Thompson asked if he would be needed any more during the evening and I told him that I didn't know but that if he telephoned me after supper I would let him know then. He then asked me to sign a pass for him for his use in case we did not need him. This I did. At about 1900 hrs. Spr. Thompson phoned me and I told him that Major J.T. Williams required him at the officers mess 1 Bn R.C.E. in time to take him to Purley to meet a train at 2130 hrs. At no time during the afternoon or evening did Spr. Thompson ask me for permission to use the station waggon for personal or other reasons.

W.H. Powell

(W.H. Powell) Lieut. RCE

The accused declines to question the witness.

The accused having been duly warned under the provisions of R.P. 4(c) declines to make a statement, reserving his defence.

The above summary was taken down by me in the presence of the accused, this 30th day of Oct. 1943. Certified that the provisions of R.P. 4(c), (d), (e) and (f) have been complied with.

W.B. Sinclair

(W.B. Sinclair) Capt RCE
1 Bn RCE CA

In the Field

A/3/2/90

Army Form G 3518
40/P & S/490

TRANSPORT WORK TICKET

Mike of Vehicle FORD Class STATION WAGON W.D. No. OM 4202280 Date 3/7/43 No. U

Unit 1 Bn RCE Section B Coy Driver's Name THOMPSON G.W. Hour of Parade

For whom journey is performed. (1)	FULL Details of load and service. (2)	ROUTE From (3)	ROUTE To (4)	Via (5)	Signature of person authorising journey. (6)	TIME TAKEN. From (7)	TIME TAKEN. To (8)	Miles run. (9)
3-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Colchester Area	A T Williams Maj	0730	0830	7
3-7-43 Own unit	A Coy Duty	A Coy	A Coy	Colchester Area	B T Williams Maj	0830	1630	21
4-7-43 Own unit	A Coy Duty	A Coy	A Coy	Colchester Area	C T Williams Maj	0830	2330	20
5-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Colchester Area	D T Williams Maj	0730	1830	30
6-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Colchester Area	E T Williams Maj	0730	1830	31
7-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Colchester Area	F T Williams Maj	0730	1830	29
8-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Returned Borden	G T Williams Maj	0730	1830	212
9-7-43 Own unit	R.C.E. Works	A Coy	A Coy	Colchester Area	H T Williams Maj	0730	1830	28
					K		TOTAL	378

SPEEDOMETER READINGS.	Miles
(10) In	21959
(11) Out	21581
Mileage	378

PETROL.	Galls.
(12) Held at Start	12
(13) *Add*—Amount drawn	29
(14) *Deduct*—Remains on completion	12
(15) Quantity Consumed	29

(16) TOTAL hours out on duty

(17) *Signature of Driver* W. Thompson

(18) *Countersigned* [signature]

Rank [illegible]

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

(19) Special instructions to driver. —

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

(21) Reference to documentary authority (*e.g.*, Army Form F 756,) &c. where such exists (see instructions for items 6 and 18).

Date	Name	No	Rat	To	Petrol	Oil	
7-7-43	Thompson	D-173	21581	21588			
8-7-43	Thompson	D-173	21588	21609			
7-7-43	Thompson	D-173	21609	21629			
5-7-43	Thompson	D-173	21629	21659			
6-7-43	Thompson	D-173	21659	21690			
7-7-43	Thompson	D-173	21690	21719	11		
8-7-43	Thompson	D-173	21719	21931	9	MW0 1 Pt	
9-7-43	Thompson	D-173	21931	21959	7..	MW0 1 Pt	

It is strictly forbidden to employ any M.T. vehicle, other than a tank or dragon, without a Work Ticket, which is the only authority for journeys and must be shewn if demanded.

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

(19) Special instructions to driver.

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

(21) Reference to documentary authority (*e.g.*, Army Form F 756,) &c. where such exists (see instructions for items 6 and 18).

Date	Name	No	Out	In	Petrol	Oil	
2-7-43	Thomson	D 173	21581	21588			
3-7-43	Thompson	D-173	21588	21609			
4-7-43	Thomson	D-173	21609	21629			
5-7-43	Thompson	D-173	21629	21659			
6-7-43	Thompson	D-173	21659	21690			
7-7-43	Thompson	D-173	21690	21719	11		
8-7-43	Thompson	D-173	21719	21931	9	MW0 1 Pt	
9-7-43	Thompson	D-173	21931	21959	7..	MW0 1 Pt	

It is strictly forbidden to employ any M.T. vehicle, other than a tank or dragon, without a Work Ticket, which is the only authority for journeys and must be shewn if demanded.

Army Form G 3518
40P & S400

TRANSPORT WORK TICKET

R/3/2/22.
Ex "A"

Make of Vehicle FORD Class ~~15~~ STATION WAGGON W.D. No. CMU202750 Date 18/6/43 No. U

Unit 1 BN RCE Section A Coy Driver's Name AUDET R. Hour of Parade

For whom journey is performed. (1)	FULL Details of load and service. (2)	ROUTE From (3)	ROUTE To (4)	ROUTE Via (5)	Signature of person authorising journey. (6)	TIME TAKEN. From (7)	TIME TAKEN. To (8)	Miles run. (9)
Own unit	Mr. A. Coy. Dance	A. Coy	A. Coy	COLCHESTER ARRA COLCHESTER	J. F. Williams Maj.	1600	2359	34
Own unit 24-6-43	R.C.E. Works	A Coy	A. Coy	ARRA	J. F. Williams Maj.	0800	1800	26
Own unit 25-6-43	R.C.E Works	A. Coy	A. Coy		J. F. Williams Maj.	0800	1230	10
D								
E								
F								Ex "C"
G								
H								
K								

TOTAL 70

SPEEDOMETER READINGS.

	Miles
(10) In	21481
(11) Out	21411
Mileage	70

PETROL.

	Galls.
(12) Held at Start	12
(13) *Add*—Amount drawn	—
(14) *Deduct*—Remains on completion	5
(15) Quantity Consumed	7

(16) TOTAL hours out on duty

(17) *Signature of Driver* R. Audet

(18) *Countersigned* [signature]

Rank

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

(19) Special instructions to driver.

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

(21) Reference to documentary authority (*e.g.*, Army Form F 756), &c., where such exists (see instructions for items 6 and 18).

A

B

C

D

E

F

G

H

K

It is strictly forbidden to employ any M.T. vehicle, other than a tank or dragon, without a Work Ticket, which is the only authority for journeys and must be shewn if demanded.

Ex "B"

DAMAGE AND INJURY REPORT NOTES

Damage to Canadian Army Vehicle

Vehicle No. - CM-4202780 Make - Ford Type - CIIAD.

Particulars of Damage. Tow bows and slats all broken, topping torn (C/S), 14 Glasses broken, doors smashed, running boards, fenders crumpled, running board brackets broken, petrol tank bent, smaller miscellaneous damage.

Estimated cost of repairs: 160 hrs @ 3s. Labour: £24-0-0
(No. of hours)

Materials: £30-5-0

Total: £54-5-0

Any special remarks: Nil

Date 13 Jul 43 (Signature) [signature]
(R.W. Anderson) Lt.Mech.Off
(Wkshp, Unit or Det.) O.C. 25 L.A.D. R.C.O.C.

A/3/3/15

Ex "A"

Army Form G 3518

40/P & S/405

TRANSPORT WORK TICKET

Make of Vehicle FORD Class STATION WAGON W.D. No CM 4202780 Date 16/7/43 No. U

Unit 1 Bn. RCE Section A Coy Driver's Name THOMPSON G.W. Hour of Parade

For whom journey is performed (1)	FULL Details of load and service (2)	ROUTE From (3)	ROUTE To (4)	Via (5)	Signature of person authorising journey (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run (9)
Own unit	RCE Works	A Coy	A Coy		A [signature] B	0730		
					C			
					D			
					E			
					F			
					G			
					H			
					K			
							TOTAL	

SPEEDOMETER READINGS.

(10) In [illegible] Miles

(11) Out 2192-9

Mileage

PETROL. Galls.

(12) Held at Start 12

(13) *Add*—Amount drawn

(14) *Deduct*—Remains on completion

(15) Quantity Consumed

(16) TOTAL hours out on duty

(17) *Signature of Driver* W. Thompson

(18) *Countersigned*

Rank

FGCM

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

(19) Special instructions to driver.

This is exhibit "A" referred to in the evidence
of B-77182 Sgt Thomson, G.
W.B. Sinclair, Capt.

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

(21) Reference to documentary authority (*e.g.*, Army Form F 756,) &c. where such exists (see instructions for items 6 and 18).

	DATE	NAME	REG. No	OUT	IN	GAS.	OIL
A	10-7-43	Thompson G.W.	7-773	21759			
C							
D							
E							
F							
G							
H							
K							

It is strictly forbidden to employ any M.T. vehicle, other than a tank or dragon, without a Work Ticket, which is the only authority for journeys and must be shewn if demanded.

Remark by the Court

The Evidence has revealed that at the time of the accident there existed in "A" Coy 1 Bn RCR some irregularity in the method of issuing M.T. Work Tickets, which irregularity may have induced the accused to commit the offence.

J. [illegible] Major RCR
Pres. FGCM

JAG BRANCH - REVIEW RECORD

Accused

D173 Cpl. Thompson B W
1Bn. R.C.E

Remarks	Date
Trial in (Country) Eng	7 Nov
Charges 40	
Sentence ~~R~~ 10-0-0	7 Nov.
Rec'd from CR at JAG Branch	15 Nov
To EKM for ~~(pre)~~(post) rev	15 Nov
Recommendations by JAG CMT (1) ~~Pass and record~~ (2) ~~Ltr on irregularities~~ (3) ~~Quash~~ charge(s) (4) ~~further review by another Board~~ Recom. Rest. 3 yrs.	
Ret'd to JAG Rev 1 by JAG CMT	18 Nov 43
Passed to EKM - proceedings returned	9 Dec 43
Passed to AAA - finding & sentence	10 Dec 43
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal Records to file	11 Dec 43
Instrs completed by	

CHARGE SHEET

D-173 Spr. Thompson, G.W. of the 1st Battalion Royal Canadian Engineers, Canadian Army Overseas, a soldier on active service is charged with:

FIRST CHARGE
A.A. Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

while on active service at CATERHAM at approximately 2000 hrs on 10 Jul 43, used without proper authority a military vehicle, Ford Station Wagon No. CM4202780 knowing it to be against Driver's Regulations, and, as a result, became involved in an accident, at 2115 hrs on the Caterham By-Pass, thereby causing damage to the vehicle to the amount of approximately £54-5-0.

SECOND CHARGE
A.A. Sec. 40
In the
Alternative

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at 2115 hrs on 10 Jul 43 on the Caterham By-Pass, while driving Ford Station Wagon No. CM4202780, became involved in an accident, due to negligence, thereby causing damage to the vehicle to the amount of approximately £54-5-0.

(A.J. Kerry) Lt Col RCE
Cond 1 Bn RCE CA

In the Field
1 Nov 43

To be tried by Field General Court Martial

Col
Cd. Works, First Can Army

In the field
Nov. 43

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

I certify that I have this morning examined No. D-173

Spr. Thompson, C.W. of 1st. Battalion RCE and, in my

opinion he is fit to undergo trial by Court-Martial.

~~until~~

Station Wield

Date 5 Nov 43.

Medical Officer

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA33)
40/P&S/1697 (2002)

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-173	Spr.	Gilbert Warren	Thompson	1 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Nov 43. endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
A/Major	J. F. J. Morozain	3 Bn. RCE

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain or Lieut	(To be detailed by)	2 Bn. RCE
Captain or Lieut	(To be detailed by)	1 Cdn Wksp & Park Coy. RCE

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England.
(Country.)

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

Date 4 Nov 43. Commanding Officer. Col

C.E. Works, First Cdn Army

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"D-2"

Opening Address by Prosecution:-

On this case I hope to prove beyond reasonable doubt the following points:-

(i) That D-173 Pte Thompson, G.W., the accused, was the driver of Ford Station Wagon W.D. No C.M. 430278, on 10 Jul 43 at approximately 1115 hours when it was involved in an accident.

(ii) That there was no authorization for the journey that this vehicle was engaged in at the time of the accident.

(iii) That M.T. driver's Regs had been read and explained to Pte. Thompson and that, therefore, he was well aware that the vehicle was on an unauthorized trip.

(iv) The amount and value of damage done to the car by this accident.

(v) That the accident occurred on a straight stretch of road with good visibility, in broad day light, and that the only other vehicle on the road at that time was stationary at the curb and in plain view for a reasonable distance.

Field General Court Martial

"D-3" D-173 Sgt. Thompson, R. H.

Re the field
5 Nov 43. 1 Bn R.C.E.

First Witness: B-26384 Sgt. McRae, O.H having been duly sworn states:

On 10 July 1943 at approximately 2115 hours Sgt. Thompson and myself left the Bn parking lot and proceeded over to the N.A.A.F.I canteen with the station wagon. Sgt. Thompson then informed me that he had a cheque which he wished to cash. We proceeded to Godstone and Sgt. Thompson went in the first "Public House" and left me in the car while he cashed his cheque. Then Thompson went out we both went back in the "Public House" and had one drink of bitter, We proceeded for home after that and the last I remember on the way home was passing under the overhead bridge on the Caterham by-pass. Next I remembered I came to on the side of the road I also saw Thompson on the road, Then the National Fire Service came around and we were moved off to the hospital.

Questions by the Prosecution:

Q: Is Sgt Thompson in your evidence D-173 Sgt. Thompson, R. H. the accused?

A: Yes Sir.

Cross Examined by the Defence:

Q: Did you say in your evidence that you were going to the N.A.A.F.I.

A: Yes Sir.

Q: Did you have anything to eat there?

A: Yes Sir.

Q: Have you any evidence to show that Sgt. Thompson was driving negligently?
A: No Sir.

Questions by the Court

Q: From the time that you left the "Public House" to the moment which you came to what did you actually do with the car?
A: Almost immediately we left the "Pub" I dozed off to sleep.
Q: Were you aware that the vehicle was on an unauthorized trip?
A: I knew Sgt. Thompson informed his Officer. I believe Sgt. Thompson phoned him from Godstone about getting permission to use the vehicle
Q: Did you see him phone?
A: No Sir
Q: What time did you actually leave the Unit's lines?
A: Approximately one hour.

Re-examined by the Prosecution

Q: What had you been doing that day?
A: I was engaged on driving maintenance and a few odd jobs around camp.
Q: Any more than normal?
A: No Sir no more than usual
Q: You stated in your evidence that you only had one pint of bitter.
A: Yes Sir.
Q: On your oath you have stated that you went to sleep at 2 1/2 hours after you had been in the car and drove only 3 miles?
A: Yes Sir.

2: What if any thing wrong with your health at that time?
A: Not that I know of, Sir:

Second Witness:
B94782 Sgt. Harrison, S. having been duly sworn states:
On the 10 July 43 I was informed that one of Bn Station Wagon had been smashed. I went to the scene of the accident on the Caterham by-pass and found the station wagon on the side of the road and this work ticket on the floor of the car. That is all the knowledge of the accident I had.
"The Work ticket was submitted to the Court and was marked Exhibit "A" and also was accepted by the Court as evidence.
Defence declines to question the Witness.

Questions by the Court
2: What is your occupation?
A: Transport Sargeant.
2: Had this vehicle made any authorized journey during that day?
A: Not that I know of?

Third Witness:
Capt. P. B. Mc Caffery. R.C.E having been duly sworn in states:
The accused Sgt. Thompson received his qualifications as driver ilc in August 1942, on the completion of a driving course at 1 Bn R.C.E. The course was under the supervision of Major E. B. Scott the then Transport Officer and myself was an instructor. At the time of the course the new M.T. Regulations

had only been in circulation on the Base for four or five weeks. Two of the lectures given were given by me and covered about 29 or 30 pages of M.T. Regulations. I believe that the 1942 edition was then in use. Those 2 lectures were on road signs, signals and highway code also drivers documents and vehicles documents. At that time the M.T. Reg. were issued on the basis of one per driver throughout the battalion. I was reading the paragraphs one by one and the students followed me with their copy. In this way about 30 pages of the manual were covered and Sgt Thompson whom I recognized here was a member of this class. On the completion of this course Sgt Thompson was qualified driver type

2: How much of this book did you read?
A: About 29 or 30 pages.
2: Do you remember the following paragraphs as being extracts of M.T. Regulations:
Quoted but under are extracts referred to:
(a) With the exception detailed in para. 9 (b) mil. transport will be used only for strictly military duty, i.e. normal military work such as training or administration.
(b) When driving a vehicle a driver must have in his possession a copy of Accident Report Form C.M.H.D. 1005:42 (A.F.H. 3676 or Rd.) and a Work ticket, A.F.H. 3518 authorizing the journey.

(c) They will also be responsible for ensuring that all recreational journeys are clearly shown on the transport work ticket (Army Form S-3518)

A: I do.

Q: The rest of the M.T. Regs. was explained to the drivers?

A: It certainly was.

Questions by the defence.

Q: Who would be responsible for a vehicle when more than one are riding in a military vehicle?

A: The senior person in the party is responsible for the vehicle.

Questions by the Court:

Q: At the time which the accident happened. were there rules in M.T. Regs? I mean in the old edition?

A: At the time of the accident these rules were in M.T. Regs; as a matter of fact they are in both editions with very little variance.

Further witness:

Lieut R.W. Anderson, R.C.O.C. having been duly sworn in states:

At this time the Prosecution presents to the Court a document signed by the witness showing the material damage to the W.D. vehicle No CM 202780. This document, ~~is accepted by the Court as~~ part of the Summary of Evidence, accepted by the Court and also as Exhibit 'B'.

Q: Will you tell the Court what you know about an accident which involved the vehicle No CM 202780?

A: I was called upon at the Officers

I was on 10 Oct 43 to an approximately 2000 hours to go over the Catterham by-pass and examined a vehicle involved in an accident. I proceeded to the scene and found the vehicle on the side of the road at about half a mile from the Catterham round about.

Q: How did you find the vehicle.

A: As I said before half a mile from the round about on the right hand side of the road.

Cross-examined by the defence.

Q: Was there any thing wrong with the steering wheel?

A: I can't recall that?

Questions by the Court.

Q: You recognize this report bearing your signature as being your own work?

A: Yes Sir.

Q: When you said that this vehicle was on the right side of the road you mean the wrong side?

A: Yes Sir. It was diagonally across the road the wrong way of the dual lane carriage way.

Q: What direction was the vehicle travelling?

A: It was on the east lane facing north east!

Fifth Witness: Senior Coy Officer (Mc Gregor, J. Regional Reserve Station, N.F.S, Tandridge, having been duly sworn in states:

At about 2110 hours on 10 July 43 I was in charge of a heavy self-propelled appliance parked on the Catterham

by-pass when I heard a vehicle proceeding down Catterham and the next I saw of the vehicle was when it passed the one I was sitting in after having passing us it suddenly turned over four times. At the fourth time it shot the two occupants of the car on to the road and proceeded on an erratic course further down the road. I then dismounted from the vehicle in which I was and proceeded where the two men were on the road. I rendered first aid and by that time some Canadian soldiers arrived with an ambulance. The ambulance took the casualties to Dean's Hospital. That was all that happened Sir!

Q: This way was your vehicle facing?

A: Heading towards Caterham I think it would be east facing the direction of the traffic.

Q: What happen to the car after it turned over?

A: It righted itself and then ran on a zig-zag course and finished up on a hillside on the other side of the road.

Q: Except for the vehicle in which you were sitting was there any other car in the vicinity before the car turned over?

A: No.

Q: From the disposition of the car vehicle how far could your vehicle be seen?

A: About a ¼ of a mile.

Defence Officer cross-examined the witness.

Q: Could you say that the car was driven at an excessive rate of speed?

A: No

Q: Did you examine the car?

A: I did walked across to have a look at it; it was badly damaged I tried the steering wheel but it was out of control, I turned it around four or five times without any effort on the front wheels at all!

Q: Did the vehicle touch your car?

A: It just scratch off the paint of a fender of the front side.

6th Witness: Lieut. W. H. Powell, R.C.E. having been duly sworn in states:

I arrived in Cutterham as the Officers' Mess at approximately 1700 hours in a Station Wagon No. C.M. 400 2780 driven by Sgt. Thompson. After we arrived Sgt. Thompson asked if he would be needed further on the evening. I told him to phone the Officers Mess and would be be needed I then would tell him. In case that his services would not be required that evening he asked me to sign a pass for him which I did. At about 1915 hours Sgt. Thompson telephoned me and I then told him that he would have to drive Major Williams to Purley in time to catch a train at about 2130 hours.

Q: Did Sgt. Thompson asked you at any time if he could take the Station Wagon for his own use?

A: No he did not!

Q: At Colchester if Sgt Thompson would of asked you to sign the work ticket for the trip to Caterham, would you have done so?

A: Yes!

Q: Did you know that the work ticket was made up only from 'A' Coy to 'A' Coy RCE Works?

A: No I did not. It had been a practice in A Coy to make out work tickets like that when the vehicle was staying in the area. No special work ticket was issued

Cross-examined by the defence:

Q. Who else rode in the car?

A. Lieut. I. Smith and Pte. Murdock.

Q. Who was the senior in that vehicle?

A. Lieut. I. Smith

Q. Had you been in that vehicle before on that day?

A. Yes from the Officers' Mess to the Parade Square in the morning.

Q: Did you have any cause to steal that work ticket?

A: No

Q: Was it the custom in A Coy to make out work tickets from A Coy to A Coy?

A: It was for jobs in the area, any long trips would not really require a new work ticket.

Q: Would you consider 30 miles a special trip?

A: Yes

Q: When Sgt. Thompson took you over to the Officers' Mess; was there any provision made for him to have supper?

A: No special provision had been made but it was about 5 o'clock and it was not considered that special provision were necessary.

Q: Did you considered that Sgt. Thompson in driving you to the Parade Square

in the morning and 2 Paterhand in the afternoon was driving on an authorized trip?

A: Yes I did!

Q: Did you know that that day the work ticket had not been made out correctly?

A: No I did not!
At that time the Work ticket already submitted by the Prosecution was placed by the defence in front of the witness who recognized the signature on it; especially authorizing this trip namely that of Lieut P. K. Smith of 2nd Coy, 1 Bde HQ.

Q: Where was the pass made out to?

A: I cannot recall for sure it was for one of the neighbouring boats either Purley or Draydon!

Q: Do you think any use was made of the pass?

A: Yes I do not.

Q: Did you think that Thompson intended to make that trip at 3130 hours as instructed?

A: Yes I do.

Adjournment

At 1800 hrs the Court adjourn until 1900 hrs on the 5th Nov 43.

On the 5th Nov 43 at 1905 hrs the Court reassemble, adjournment to a later would have entailed too great an expense to the public, present the same members as on the 5th Nov 43.

The Court is now declared open.

D-6

"D-6"

Defending Officer's Opening Address.

The accused pleads not guilty to both charges since:

(1) He was ~~driving~~ a vehicle which was his duty to drive. He was using a work ticket which he believed to be in order.

(2) He had further trips to make that day and was following his instructions to return to the Officers' Mess Cottesmore to take a trip at 2130 hours. He had received no instructions regarding the parking lot to be used for the vehicle. He was away from his normal mess. No provisions were made for the driver's evening meal. He proceeded to the N.A.A.F.I. canteen to provide himself at his own expense with food, under normal circumstances a trip which would normally not be forwarded upon by those in authority. Having a chance which he wished to cash, Dvr. Thompson proceeded to return to the Officers' Mess via Godstone, which he knew he could cash the chance. It was a devious route, true but negligible as to point of mileage.

(3) Dvr. Thompson was driving the vehicle with the work ticket shown as Exhibit 'D' (Summary of Evidence). This ticket had previously been used that day for the following trips:

Dr Colchester:

(a) To take Officers from the Mess to the parade square.

(b) To take an Officer to the work project on which the Coy was employed.

(c) To draw rations to Ms Officers Mess in Colchester.
(d) One trip to Colchester pursuing section to purchase food for the Officers' Mess (Extra-messing - Tomatoes etc.)
(e) With Officers forecast - presumably their orders — drove down Colchester to Caterham — approx. 90 miles — to Officers' Mess smoker. Ticket was not as presented as Exhibit 'A'. The responsibility for this trip if unauthorised should rest on the senior passenger.
Trips in Caterham area.
(a) Other Officers to Mess.
Called as Bde Orderly Lnd. J. M. Thompson Bde. and found it closed. Returned to Transport Office to pick up articles for the A/Coy Transport Corporal. All these trips were presumably in the line of duty. If the work ticket was not in order Dr. Thompson could scarcely be to blame. Further he was instructed by Lieut. Powell to return to the mess as he did so again it is presumed the usual work ticket was to be used.
- Proof of Ticket Authority — Two previous work tickets. By practice to make them out summarily, inaccurately. Could scarcely blame driver on such a technicality.
(b) Dr. Thompson did not ever suspect that his F.F.S. 3518 (work ticket) was not in order.
(c) He was providing himself with food, at his own expense and was proceeding back to Officers' mess to be there as ordered by Lieut. Powell.

The Defence presents 2 work tickets previous to that of the one given as Exhibit 'A' in support of a statement made by the Defence to the effect that it was the practice of A Coy to make out work ticket in a summary manner and similar to the one referred to above. Exhibit 'A' in the Summary of Evidence. These are signed by the President and marked Exhibits 'B' "C"

D-193 Sgt. Thompson, J. H. the accused, having been duly sworn states:

Q: Give an account of what actually happened after you arrived at the Officers' Mess in Caterham?

A: After I had delivered Lieut Powell at the Officers' Mess and Cpl. Murdock I went down to the Bn. Post Office, D.R., then I proceeded to the Mess Mess which was locked at the time. I then went back to Transport Office to get some forms and supplies for Cpl. Reilly of A Coy transport. I then phoned Lieut. Powell and asked if I would be needed he told me that I would be needed at approx. 2130 hrs. I then went up to the N.A.A.F.I. to have something to eat. After having eaten I proceeded to Godstone and cashed a cheque after I had cashed that cheque I proceeded back to Caterham via the Caterham by-pass after passing the railroad bridge on the by-pass the steering wheel seemed to go completely out of control. From there I do not recall much that happened

and came to in Dean's Hospital.
That is all.

Q: Can you tell me if you had made some previous trips that day on the same work ticket.

A: For the morning I went from the Officers' Mess to the Parade ground of A Coy. After that I took one Officer to the construction site where A Coy was on works. I then reported back to the Officers Mess and from there proceeded to Colchester to detach some extra messing rations for the Officers' Mess. I then left Colchester with the party already mentioned and proceeded to Catterham.

Q: Did you make any attempt to see the pass Lieut Powell gave you?

A: No Sir I did not.

Q: Did you intend to make trips for Major Williams as Lieut Powell instructed you?

A: Yes Sir I did!

Q: Were you under the impression that you were doing with a properly made out work ticket?

A: I was Sir!

That is all.

The Prosecution Cross-examined the Witness:

Q: Did you considered your trips to get a meal and the cheque cashed a military duty.

A: I did as no provisions were made for my evening meal.

Q: Have you thought of asking Lieut. Powell for some cash to pay for your supper?

A: I did not think of it, Sir!

The defence do not desire to cross-examine the witness:

Questions by the Court:

Q: If your work ticket is made out for a special place does that mean that you are prohibited to drive all around the area?

A: No Sir!

Q: Can you explain to the Court why you took the Station Wagon for your own use!

A: I considered that getting a meal was part of my duties.

The defence makes a closing address:

I just want to point out that the whole case of the prosecution is based upon a small technicality. Namely an incorrect work ticket. The moral responsibility of the accident should not rest with Gr Thompson but with the Junior member of the party. He was under the impression that the work ticket was correctly made out and so carried out orders given to him by his superior Officer. If the Court found fit to find him guilty on that charge I wish to impress upon the Court that the whole case rest on a technicality. Gr Thompson in other words is a good soldier with a clean record and I am sure that the Court will not render him responsible for a miscarriage of moral justice.

The Prosecution Closing Address:

The accused has based his defence

on the facts that he believed that he was on an authorized trip or military duty. The authorization being from the Officers' Mess on an alleged trip with the vehicle to a site called R.C.E. works and from there on until providing for his own supper. On leaving the Officers Mess in Castleton Spr. Thompson would have left time for his supper would he had not called at different places on Bn area. It was not beyond possibility for him to do so. He then believed that he was authorized to take a military vehicle in order to obtain money for his supper. Could he not have done so by asking an Officer of 6 Coy? The defence alleged that the case of the prosecution is entirely on technicalities. I believe that the case of the prosecution is based on ~~to~~ material facts as the case of Spr. Thompson is based upon the verification of an Officer's signature on a work ticket. I doubt if Spr. Thompson is reasonably safe to believe that his work ticket was made out properly that for instance ~~the~~ he would be passed the Forward Corps would be ~~have been~~ stops. It is significant that he did not asked Lieut. Powell's permission to take the vehicle to Godstone. I have shown that Spr. Thompson has negligently violated R. & F. Regs. I believe that there is no doubt of him being guilty of that Offence.

The Court is Cleared to consider its Findings:

The Court is re-opened:

"E3" On the Evidence of Character the defence states that it is hoped that the Court will take in consideration his good record in the Army of his M.E. Medal and since the Court has chosen to lend ~~more~~ more weight to the purely technical side of the case in view of the moral aspect and the financial capabilities of the accused I hope that the Court will exercise all the leniency the case deserves.

The Court is Closed.

Lt H Field
Date: 6 Nov 43

J. Field Capt.
1 Bn R.C.E.

367 E - P.S.M. Thompson H.H.

O. H. M. S.

M. F. B. 270

G-17240 P.S.M. Thompson, H.H.
1 C.D.I.R.U.

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 21st day of February, 19 42

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable that the trial should be delayed for the convenience of superior qualified officers,

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

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

* Omit if not applicable.

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

for the following reason, namely:—]

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	A.E. Fort	No.1 Cdn Arty Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	J.P.W. Taylor	2 Cdn Div Inf Reinf Unit
Lieutenant	H.P. Thomson E.T. Marley	No.1 Cdn Arty Reinf Unit
Lieutenant	J.A. Prince	2 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-17240 P.S.M. THOMPSON, H.H. 1 Cdn Div Inf Reinf Unit.	First Charge A.A. sec 19	Not Guilty	Not Guilty (for reason of insufficient evidence)	
	See charge sheet attached.			

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

(Signed) W. Whelan Brigadier (Signed) H E Fosbery
Commanding Cdn Reinforcement Units. *Convening Officer (c)* HICARV *President.*

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court ✓
2. The witnesses ✓
*(3. The interpreter) ✓
*(4. The officers under instruction) ✓
were duly sworn. 5. The Shorthand Writer ✓

* Omit if not applicable.

Signed this 27th day of February 19 42

H E Fosbery HICARV
President of the Court Martial.

C. Certificate in case of death sentences.

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

I certify that the rules of [illegible] have been complied with.

Signed this [illegible] day of [illegible]

President of the Court Martial.

D. Confirmation

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

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

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

(41758) Wt. 40075—993 500 m 1/40 P. St. G. 640

MEDICAL OFFICER'S CERTIFICATE.
- K. R. (Can.) Para. 557 -

I certify that I have this morning examined No. G 17240 PSM Thompson W.H. of the Carleton and York Regiment, 1st Canadian Division Infantry Reinforcement Unit, and is in my opinion fit unfit to undergo trial by Court-Martial.

Capt.
Medical Officer,
1st Cdn. Div. Inf. Reinf. Unit.

27 February 1942

CHARGE-SHEET

The accused, No. G-17240 P.S.M. THOMPSON, H.H. (Carleton & York Regiment), on the strength of No. 1 Canadian Division Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:-

1st Charge
Section 19
Army Act.

Drunkenness,

in that he

at East Worldham, at 2250 hours on the 16th October 1941, when on duty as an umpire, was drunk.

C.C. Ferrie, Lt-Col. A/Cmdr.,
No 1 Cdn. Div. Inf. Reinf. Unit

Algonquin Camp, Witley,
17th February, 1942.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 21 day of Feb 42.

SUMMARY OF EVIDENCE

In the case of G-1/240 PSM Thompson R.H. (C.A.S.F.R.) No. 1 OCIRU

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

C

1st Witness - Lieut. R.W. McArthy (WNSR) being duly sworn states:

On the night of Oct 16, 1941 at approximately 2230 hrs. I was acting as umpire with a Company of the Mobile Column on a scheme (which they were) White mounted by the Royal Marines, umpiring a clash between the two forces. Lieut. Shuter came to me and said he had discovered a man lying in the field nearby, who was obviously drunk, and who said he was an umpire. I went over and investigated, and found the man definitely worse for liquor. He said he was PSM Thompson. In order that the Exercise should not be interrupted, I asked Lieut. Shuter to detail a couple of his casualties to accompany the PSM in question back to the cross-roads where Company H.Q. were. This I believe was done. About a half hour later I went back myself, and again spoke to the PSM, who assured me that he had only had a couple of drinks, but in my opinion he was unfit to carry out his duties. I ordered him to stay in a barn nearby that we were planning on using for sleeping quarters for that night. At that time the Major of the Black Watch, who was acting as Chief Umpire, came up and questioned me. I told him the story as I knew it. He ordered me to lay a charge in the morning. This I did. The charge was one of being drunk, the only possible charge.

On the evening of the 17th, the Chief Umpire with the Royal Marines, whom I believed to be an Essex Scottish Officer, told me that PSM Thompson was an umpire under him, and was missing from early in the evening to the end of the exercise. He was last seen proceeding, under instruction, in the direction of the field where I found this man. I would say that he was incapable of doing his duties as an umpire.

The accused declined to cross examine this witness.

R.W. McArthy Lieut.

2nd Witness - G-17081 CSM Glass, A.E. be (C.A.S.F.R./No. 1 OCIRU being duly sworn states:

I was detailed to the job of umpire on the scheme through my Training Wing last Fall. I was detailed to act as umpire on this scheme, but I was needed for other duties. I made arrangements through Major Price, O.C. of Training Wing to detail another NCO to take my place. The job was given to PSM Thompson, and he went out as umpire.

Question by PSM Thompson - When you asked me if I would go on that job that night, did you state that it would be with the Home Guard or with the Royal Marines.

Answer - If I remember correctly Sgt Major Thompson, I detailed you to report to No. 1 Holding Company for further instructions. If I remember correctly I did mention that the duties were with the Home Guard.

.....CSM

A87

Summary of Evidence in the case of C-17240 PSM Thompson, H.H. (C.& Y.R.) No 1 C.D.I.R.E. Cont'd --- Sheet No 2

The accused, having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rule of Procedure 4(c), (d), (e), (f) and (g), have been complied with.

Taken down by me in the presence and hearing of the accused this 17th day of February 1943, at Algonquin Camp, Witley.

Morrison Lt.

Officer Taking Summary

A84

ADDITIONAL SUMMARY OF EVIDENCE

In the case Of No C-17246 PSM THOMPSON, H.H. (C.& Y.R.)

By direction of the Commanding Officer, the summary of evidence is taken on Oath.

1st Witness — Lieut. E.H. SHUTER (R.C.R.), having been duly sworn, states:

I, Lieut. E.H. Shuter, R.C.R., do most solemnly swear that as O.C. R.C.R. Pl. on a mobile column exercise 16 Oct 41 in pursuance of my duties as advance Pl. Cmdr. I entered the village of East Worldham. Whilst halted there I had occasion to speak to some person lighting a cigarette and making a lot of noise. He said he was an Umpire and pointed out a strip of 2" x 4" on his coat that I had not previously perceived. I was called away at this point to see the Coy Cmdr but as I doubted his identity I told my Pl Sgt who was a N.P.B. Sgt to check his paybook. He told me on his return that the man was a bona fide umpire and agreed with me that the man was under the influence of liquor. He also said that the man was a P.S.M. of the Carlt & York Regt.

Later that evening in making an attack I stumbled over the prone body of the same P.S.M. After the attack I sent the P.S.M. back to Coy HQ with two men to assist him, he slept all that night at Coy H.Q. Another Umpire told me that the P.S.M. was umpire to the Royal Marines and in view of the seriousness of his conduct before English troops I reported the incident to my Coy Cmdr Capt Charlebois and the Chief Umpire with our Coy.

In my opinion the PSM was drunk that night.

(Sgd) "E.H. Shuter" Lieut. R.C.R.

A sworn statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

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

J.R. Turner Lieut.
Officer taking Summary.

The accused, having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rule of Procedure 4(c), (d), (e), (f), and (g) have been complied with.
Taken down by me in the presence and hearing of the accused this 13th day of February 1942, at Algonquin Camp, Witley.

J.R. Turner Lieut.
Officer taking Summary.

H.Q. R.C. 1 Cdn Div
22 Jan 42

Commanding Officer
1st Cdn Div I.S.U.

Sir -

I, Lieut. E.H. Shuter R.C.R. do most solemnly swear that- as O.C. R.C.R. Pl on a mobile column exercise 16 Oct 41 in pursuance of my duties as advance Pl. Cmdr. I entered the village of East Worldham. Whilst halted there I had occasion to speak to some person lighting a cigarette and making a lot of noise. He said he was an Umpire and pointed out a strip of 2"x4" on his coat that I had not previously perceived. I was called away at this point to see the Coy Cmdr but as I doubted his identity I told my Pl Sgt who was a R.P.E. Sgt to check his paybook. He told me on his return that the man was a bona fide umpire and agreed with me that the man was under the influence of liquor. He also said that the man was a P.S.M. of the Carlt & York Regt.

Later that evening in making a attack I stumbled over the prone body of the same P.S.M. After the attack I sent the P.S.M. back to Coy HQ with two men to assist him, he slept all that night at at Coy H.Q. Another Umpire told me that the P.S.M. was umpire to the Royal Marines and in view of the seriousness of his conduct before English troops I reported the incident to my Coy Cmdr Capt Charlebois and the Chief Umpire with our Coy.

In my opinion the PSM was drunk that night.

I remain Sir,

Your obedient Servant

E.H. Shuter Lieut.,
R.C.R.

Sworn before me this 22nd day
of Jan 1942

Capt.
R.C.R.

XX-137

PTE THOMPSON H.J.

SCHEDULE.

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

Accused: B 46275 Pte Harold James THOMPSON - 1 Cdn Corps Def Coy

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

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

At present under sentence for ~~.....~~ beginning on (date) ~~.....~~ (1)

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

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

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

Sentence Awarded by the Court:

To undergo Detention for 6 Months,

(Sgd) ~~.....~~ Judge-Advocate, if any. 6 Dec 43 Date awarded. (Sgd) C.D. Kingsmill Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part 1 is:

I confirm the findings and sentence of the Court but remit two (2) months detention

~~I direct that the accused be not committed to military detention barracks until further orders.~~(1) NSE

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

Date 8 Dec 43. (Sgd) NS Lamb Lt Col

Commanding Comd R.E.M.E. 1 Cdn Corps Tps

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B.46275 Pte Harold James Thompson 1 Cdn Corps Defence Coy	9 Dec 43	J. Healy, Capt. O.C. 1 Cdn Corps Defence Coy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AF A32) 40-P-B-S-1698 (2604)

Convened by Order of Brig H.D.W. Brownfield Comd CCRA 1 Cdn Corps dated 4 Dec 43

ACCUSED.

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

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B46275 Pte	Harold James	THOMPSON	1 Cdn Corps Def Coy (Lorne Scots)

Reviewing Officer (JAG) FMHQ

2, Dec 43

J.H.H. Stacey Lt Col

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Sicily on (date(s)) 6 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Finn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

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

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

A5. President to accused: Do you object to Antonio Rizzo as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

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

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

President	Major	C.D. Kingsmill	GSO2 (Int) HQ 1 Cdn Corps
Member	Capt	J.W. Popes	S.L.I.Q. HQ 1 Cdn Corps
Member	Capt	R.K. Thomson	S.I. B&F HQ 1 Cdn Corps
Judge-Advocate	~	~	~
Prosecutor	Lt.	G.R. Lent	1 Cdn Corps Def Coy
Defending Offr	Lt.	J.R. Newell	1 Cdn Corps Def Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Pte Harold James THOMPSON before arraignment make(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, ~~make a statement or do neither~~? Ans. Yes. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the same charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B. respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 91(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No B-46275 Private Harold James THOMPSON, of 1 Canadian Corps Defence Company (Lorne Scots, a soldier of the Canadian Army Overseas, is charged with, when on active service:

First Charge
Section 6 (3)(d)
Army Act

Committing an offence against the person of an inhabitant of the country in which he was serving,

in that he,

when serving in Sicily, at Taormina, at or about 2000 hrs on the 20th day of November, 1943 assaulted Salamoni Domenica, an inhabitant of Sicily, by striking her on the chin with his fist and knocking her down.

Second Charge
Section 6 (3)(d)
Army Act

Committing an offence against the person of an inhabitant of the country in which he was serving,

in that he,

when serving in Sicily, at Taormina, at or about 2030 hrs on the 20th day of November, 1943, assaulted Barberina Raitano, an inhabitant of Sicily, by holding her against a wall and putting his hand under her skirt and against her leg.

S. Beatty, Capt.

(S.Beatty) Capt.
Comd 1 Cdn Corps Def Coy.
(Lorne Scots)

Signed in the Field,
this 3rd day of December, 1943.

To be tried by Field General Court Martial.

H.O.N. Brownfield

(H.O.N. Brownfield) Brigadier
C.C.R.A. 1 Cdn Corps.

In the Field
4 Dec 43.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA83)
40/PASS/1697 (2568)

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-46275	Privete	Harold James	THOMPSON	1 Cdn Corps Def Coy (Lorne Scots)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 4 Dec 43 endorsed by me, ~~(or by an offr of my staff for me),~~" To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	C.D. Kingsmill	GSO 2 (Int) HQ 1 Cdn Corps	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	J.W. Pipes	SL "Q" HQ 1 Cdn Corps	
Captain	D.L. Underwood	GSO 3 (ASSU) HQ 1 Cdn Corps	

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Captain	R.K. Thompson	SL "S&T" HQ 1 Cdn Corps	

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Sicily (Country.)

(H.O.B. Brownfield) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 4 Dec 43

Commanding CCRA 1 Cdn Corps

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

I hereby certify that this morning I have examined
B 46275 pte Thompson & I. Corne sects and find
him fit to undergo trial by Court Martial

In the field
6 Dec 43

John E Barbieri Capt.

D Hargreaves
Maj

F.S.C.M.

Pte Thompson
1 Can Corps Def Coy (Charm Scale)

Due to the exigencies of the Service Capt Underwood was unable to appear and the waiting member Capt RH Thomson was duly sworn as a member of the Court.

Witnesses for the Prosecution

1st Witness: B95605 Sgt McKeown W. No 3 Pro Coy having been duly sworn states: I am B95605 Sgt McKeown of #3 Pro Coy and at 1600 hrs 21 Nov 43 an identification parade of personnel of 1 Can Corps Def Coy was held. Salomani Domitica identified the accused, whom I now recognize, as the soldier who stands last on the face on the night of 20 Nov 43. On this parade also Barbara Raitano identified the accused as one of two soldiers who had molested her on the night of 20 Nov 43. There were 120-125 personnel on the parade and the identification of the accused by the first girl was well done in the presence of the other girl.

No cross-examination. R.P. 27 (a) complied with.

2nd Witness: Salamani Domitica, of Tasmania. - having been duly sworn states: On the night of 20 Nov a soldier whom I now recognize as the accused (Points to the accused) came to my home and asked for a girl. I made a business agreement with him for intercourse at the price fixed at was 10 shillings. He went into the next room and slept with me. After he had finished we came into the other room + he asked me for 5 shillings back. I did not want to give him 5 shillings back. So he gave me a blow on the face which knocked me down

and then he kicked me. He was accompanied by two soldiers. At this time they left. The accused was arrested.

The Deposition Cross-examined and the Court records (Witness sworn):-

I can not understand English and do not speak it at all. I understood what he wanted by the expression "Jiggy-Jig" the accused spoke to me in English and I did not understand him. The argument was made for 200 lira. He also used gestures. The accused returned to the house about 2 hours later and I gave him the 200 lira back. I was afraid that he would kill me. I was also told the soldier was pushing the door hard and demanding the money.

R.P. 53 (6) complied with.

3rd Witness BS/9212 Pt HALE S.D. of 1 CAMEL Def Coy having been duly sworn states:- On Saturday evening Nov 20 43 the accused, Pt Pender and myself went out and had a few drinks in a wine shop. From there we went to the house of the woman I now know as Barberina Raitano. We had a few more drinks there and then went to the house of the woman I now know as Salpurni Domicina. It was there that the accused made an agreement to have sexual intercourse with Domicina. The price first upon was 5 shillings. He gave her a 10 shilling note and they went into the next room. When they came out the accused asked for his 5 shillings change. There was an argument and the three of us and Domicina went outside. For a few minutes she went back in and the accused followed her. In a couple of minutes I heard her scream and I ran back to my billet.

Cross-examined The agreement between Dominica and the accused was carried on in a mixture of English and Italian. - She seemed to understand a little English and understood what we meant. I did not see the accused strike Dominica. I am convinced that the agreed price was 5/-. and that Domi. is fully understood the agreement.
R.P. 83 (B) complied with.

4th Witness. Barberino Salvatore, of Taormina - Sicily having been duly sworn states: The fellows came to my house at about 4 o'clock, there were 3 of them. They asked for Marsala and my mother went out and bought them a bottle which they drank and left. About 6 o'clock the accused and the other soldier returned, stayed until 6.30 and then left. The accused and the other soldier returned about 8 o'clock and asked for drink. I told them we had no ~~good~~ wine and in order to get them nicely out of the house I walked with them to the Victoria Hotel, and as soon as we got part way there they held me up against the wall by my waist. I bit one of the soldiers' hands (not the accused's) in order to escape. I could not get away and sat down on the ground & escaped that way and ran up the street & called for help in front of the Hotel Romachei - two other soldiers came on the scene and the others ran away.
Cross-examined: At the time of the struggle the accused was trying to harm me, trying to lift up my dress - but he did not hurt me. Both soldiers were trying to touch me - they did not touch my legs my petticoat up above my knees.
R.P. 83 (B) Complied with.

5th Witness: Pasquatino Russo, of Taormina Sicily having been duly sworn states:

The accused and another soldier came to my house at 8 o'clock in the evening on 20 Nov 43; they stood in wine, my daughter and I went outside & locked the door to keep them out. We went with the two soldiers to accompany them to their billets. About half-way to the hotel I saw the soldiers holding my daughter by the waist against the wall. I ran for help; the soldiers from the hotel Victoria came to the scene and just as we approached, I saw my daughter run away. The struggle took place in a side street just off the via Umberto.

No cross examination
R.P. 89(B) complied with

6th Witness: 85:192: Pte Pender C.T. of 1 Can Def Coy having been duly sworn states: On last night 21 Nov 43 I left my billet with the accused & Pte Hare. We went to a wineshop and had a couple of bottles of wine between the three of us. At approx 1900 hrs we went to the house of the woman I now know as Barbarino Raitano. We had a few drinks there and went to the house of the woman I now know as Domenica. In the house the accused asked if he could have sexual intercourse with her. She asked for 10 shillings. He told her he would only give her 5 shillings. The accused and Domenica made a bet with the arrangement agreed upon 5 shillings. The transaction seemed to be quite certain, she said "Cinque shillings". They went into the other room for a few minutes and came out. The accused owed her 5 shillings change. She said something in Italian & went out in the street. We all followed her. She stood there a few minutes and went back in the house - the accused followed her. They were in there a few seconds and he

6th Witness (Cont)

saw the accused hit her and saw her fall to the floor. She started to scream - so PC Hall and I started running - and PC Thomas followed. The accused and I, then went to the home of Barbarina Rainaud and stood for some while. She brought a couple of glasses + a bottle and we sat on the steps. We drank the wine and she said she would take us back to our hotels. We walked along arm in arm with and holding her hands. I felt her pull away + looked round and saw the accused trying to get his hand up her skirts. She struggled and hit my hand. I cut off + her and she made away from us. During the struggle some men came on the scene and asked if anything was wrong + then went away. When the accused was touching her skirt he may have touched her knee, but went no further.

Upon Cross-examination

The accused did not touch Veronica - I did not see it. I know nothing about Veronica

Giving back 102 to the accused.
R.P. 82 (B) complied with

First Witness to the Defence. B41273 PC H. J. Thompson

Having been duly sworn, states:-

On the 20 Nov 43, Pte Hall, Pte Pender and myself left our billets about 1730 hrs to get a drink. We went to the house of Barbarina Raitano & bought a bottle of Marsala. After finishing this we left & had a few more drinks in the main street. We then went to the house of Dominica and I made arrangements to have intercourse with her. She wanted 10 shillings but I argued her down to five. After I had argued for a while she seemed to understand that I only wanted to pay her five shillings. We went into the next room & had ~~more~~ intercourse. After finishing we went into the next room and I asked her for a change as I had given her 10/- before commencing. She did not bother to give me the change. She went out the door and I followed her, accompanied by the two others. She then made a dash for the door and I followed her back in, I argued with her for the change but she would not give it to me. I got quite angry, & was feeling pretty good & I hit her and knocked her to the floor. I turned around & went out the door. I caught up to Pte. Pender, we went to the house of RAITANO. We asked for some wine, she brought us out a bottle and 2 glasses. And we drank it. RAITANO decided to take us home & took us each by the hand and led us down the steps. When we were going up the alley towards the main street, Pender & I had her by the hand. I tried to put my arm around her waist. She broke away & hit Pender in the head, gave me a shove and broke away from us. She then ran away & Pender & I returned home.

(First witness for the Def. - Cont.)

Upon Cross - examination by the Defence.

I knew RAITANO, because she came into our billets to pick up our laundry - her mother had given us an invitation to go to her house for a drink a couple of days before. I saw her serve some wine to two other soldiers.

I had been to Domenico's house before with another soldier, who worked with me. I did not like her, my feet never went near here.

In the struggle with RAITANO she did not hold her against the wall - we were nowhere near a wall. It took place when she started to struggle. I thought she was very nervous. I could come to her finger. When we returned to billets, I did not go out again. I did not go back to Domenico's house that night.

Upon Cross - examination by the Prosecution

When bargaining with Domenico, I held up my fingers & counted off 5. She seemed to understand what I meant & understood my meaning. I am not definitely positive. I was not so drunk that I could not understand what was going on. I was not with RAITANO 3 minutes at the most - She seemed to understand in that length of time.

I had been to the RAITANO house on two other nights. The last time.

Upon Cross - examination

During the struggle I did not hold RAITANO against the wall. I do not remember pulling my hand under her skirt.

R.P. 83 (B) complied with.

Statement of the Prosecuting Offr.

He reads MML PARA 84 (definition of an assault)

In the case of Dominica, it has been proven that an assault was registered by the accused in the evidence of Dominica, Pinder & the accused.

In the case of RAITANO the accused is very indefinite as to his actions. RAITANO states that there was a definite struggle. RUSSO corroborates the evidence that Raitano was not against the wall. Pinder states a struggle took place. That there was physical contact in the struggle. RAITANO says therefore there was no fear.

Statement of Defending Offr:

There is a difference of opinion of the word serious for the prosecution. There is considerable provocation in Dominica stating a man is trying to rob him of $5. There is no corroborative evidence as to be being robbed.

RAITANO says that the accused did not put us hand on her legs. Circumstances might have indicated that a kiss or embrace was to be expected.

The Defending Offr makes the foll. statement in mitigation of punishment:-

The H.T.M. 6, does not reveal any serious of the accused charges. I hope that the Court will take into consideration the character of the person assaulted & the degree of provocation.

Summary of Evidence in the case of

B 46275 Pte Thompson, Harold James

The Commanding Officer has directed that the evidence be taken under oath

Witness – B 95605 Sgt. McKeown W. "3 Pln Coy

having been duly sworn states

at a parade of personnel of 1 Com Comp. Def Coy held at 1600 hrs 21 Nov 43 ~~counted~~ noted

Vittoria Taoumina, Salamoni Dominion

identified B 46275 Pte Thompson H. P. ~~identified~~

as the man who had struck her in the face

at her home on the night of 20 Nov 43.

H. McK. Sgm.

At this same parade Barberine Rentano

identified B 46275 Pte Thompson as one of the

soldiers who had molested her on the night of

20 Nov 43.

H. McK. Sgm.

Accused declines to question witness.

7.

Witness - On the night of 20 Nov 43 at approximately 2000 hrs three soldiers came to my house and asked me for some wine and they also asked me if I had any girls. I said I had no girls. The soldier before me (Pte Thompson) gave me ten shillings to have intercourse with me and we went into another room. After we were finished the soldier asked me for 5 shillings back. I would not give it to him and he hit me on the chin and knocked me down. He also kicked me. This happened when we had come out into the same room as the other two soldiers were in. The three soldiers then ran away. Later they came back and I handed this man (Pte Thompson) his ten shillings out through a small window. One of the other soldiers shone a light on the money to see the amount and they then went away.

Question - Was there any agreement before the intercourse as to how much the soldier was to pay?

Answer - No.

Accused declines to question witness.

Signed Solomone Dominica - Witnessed - Antonio Rizzo

3/ Witness - Barberina Reitano having been duly sworn

States - On the night of 20 Nov 43 at approximately 2000 hrs two soldiers whom I now know as Pte Pender & Pte Thompson came to my house and asked for wine. I did not give them any so that there would not be any trouble ~~in~~ I took one by each hand and started to take them home. On the way the soldiers took hold of me and held me up against a wall when they tried to put their hands up under my skirts. My mother who had been with us ran to the Uttoxeter Hall to get help a soldier whom I do not know and have not seen since returned with my mother but did not help us. I then managed to break away from the two soldiers and went to a friend's house for the night.

Questions by ~~Pte~~ Accused - Did you not give us any wine?

Answer - No.

Question - Did this soldier (Pte Thompson) hit you?

answer - No

Thompson

4

Witness - Pasqualina Russo having been duly sworn states

On the night of 28 Nov 43 at approximately 2030 hrs I was in my daughters house when two soldiers knocked at the door and asked for wine. My daughter did not give them any. My daughter took them by the hand to take them home as we did not want trouble in the house. I took the one whom I now know as Pte Thompson by one hand to help my daughter take them home. On the way home the two soldiers grabbed my daughter by the waist and held her against a wall I went to the Villa's Hotel for help. A sentinel came back with me but when he saw what was going on he laughed and went back. I then got two more soldiers who came and looked but at this time my daughter broke away from the two soldiers and ran away. I ran to the home of some friends where I spent the night.

Russo Pasqualina

Refused names to question writer.

5/ Witness - P 41693 Pte Pendle C.J. - [illegible]

sworn states

On Sat. 20 Nov 43 at approximately [illegible] I left my billets with Pte Thompson and Pte Hare, both of my unit. We went to a wine shop and had two bottles of wine between the three of us. We then went to the house of a woman I know now as Barberina Paitoni. We then went to the home of another woman whom I now know as Salamani Dominica. While the three of us were in this house Pte Thompson gave this woman ten shillings to permit him to have sexual intercourse with her and the two of them went into another room. In a few minutes they both came out and Pte Thompson then asked this woman to return his five shillings. The woman talked a little in her own language then went out on the street and the three of us followed her out. She stayed on the street for a few minutes and then went back into the house and Pte Thompson went in with her. After they had been inside for a few minutes, Pte Hare and myself through the door which was partly open, saw Pte Thompson strike this woman, at least I think Pte Hare saw this incident, but I myself definitely did see this woman fall to the floor and at the same time I heard her scream and at this time Pte Hare and I ran away and I heard Pte Thompson running behind us. When I stopped running Pte Hare had [illegible]

6/ It was not Pte Thompson had caught up with me. Pte Thompson and I then returned to the home of Barbarina Paulano where we stayed outside and she brought out a glass of wine each. This woman then knew where we were billetted when said she would take us home and started to walk back with us. While walking with this woman we were each holding one of her hands. I felt her arm jerk and on looking I saw Pte Thompson kneeling over and trying to put his hand up underneath her clothes. She then started to struggle and at the same time left my left hand, and I then let go of her. She then broke away from Pte Thompson and ran away from us. Both of us then returned to our billets. This was at approximately 2100 hrs. Although I had quite a few drinks this night I was not drunk and knew what I was doing at all times.

Signed 846693 Pte Pender C.T.

Question - Did you see Pte Thompson kick Salamonie Dominica?

Answer - No.

Accused declines to question witness.

Pte C.T. Pender

Interpreter

7/. Witness - B51922 Pte Hare G.D having been duly sworn states - At approximately 1730 hrs, on Nov 4th I left my billets with Pte. Pender and Pte Thompson with of my unit. We went to a mine shaft and had a couple of drinks. After this we went to the home of a woman I now know as Barberina Pantano and we had a couple more drinks. We then went to the home of another woman whom I now know as Salamoni Dominica. While in here Pte. Thompson gave this woman a ten shilling note and she agreed to have sexual intercourse with him, but I think that the agreement was that she was to give him five of the ten shillings back. They then went into another room and came out again in a few minutes. Pte Thompson then asked for his five shillings back and she went out on the street and we all followed her. After talking on the street for a few minutes the woman went into the house again and Thompson followed her. After a few minutes I heard the woman scream and at this point I ran away with Pte Pender and while running I parted from Pte Pender and returned to my billets at about 2040 hrs. I later saw Ptes. Thompson and Pender in billets at about 2100 hrs. but no mention was made of this incident

Recorded declines to question witness

G. D. Hare.
Signed B51922 Pte Hare G.D

8. The accused was cautioned as follows –

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

The accused declines to make a statement and reserves his defence

I certify that the foregoing Summary of Evidence consisting of ~~eight~~ nine (9) pages was taken down by me in the presence of the accused in the field in Sicily this 30th day of November 1943 and that rules of procedure 4 c, d, e, f have been complied with.

In the Field
Sicily
30 Nov 43

A.R. Lunt Lieut.
Com Coy 5th Lancs Fus
Officer detailed to take
summary of evidence

CERTIFIED TRUE COPY

APPX B

Officer having custody of regtl books

No. H-462?5 Name Pte Thompson H.J. Sqn., Battery, or Company — Corps C.I.C. — Date of enlistment 23-142 — G.C. Badges — Service or Proficiency Pay — M F M 6 (A F B 122)

Date of last entry in Company Conduct Sheet: N/A — No. and date of last drunk: N/A — Period not reckoning towards freedom from extra fine: N/A — Sheet No. 2 — Signature O.C. Company, etc. S.Beatty Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				Previous Sheet Destroyed after 6 Months Service 23/7/42					
Field	28/7/42	Pte		W.O.A.S. A.W.L. 35 Min A.A.15	Cpl Walker	7 Days C.B.	3/8/42	Major F.H. Chisholm	
Field	31/10/42	Pte		W.O.A.S. A.W.L. 23 Hrs 31 Min A.A. 15 (1)	Pte McCorrister.	6 Days C.B.	2/11/42	Major F.H. Chisholm	Forf. 1 days pay P.R.&I. (Can)149 (1)(a)
Field	30 Jan 43	Pte		W.O.A.S. A.W.L. 8 hrs. 11 min. A.A. 15 (1)	Cpl Thompson (Documentary) Cpl Walker	10 Days C.B.	1 Feb 43	A/Capt.S. Beatty	Forf 1 Days pay FR&I(Can) 149 (1)(a

Place	Date of offence	Rank	Cause of disciplinary case	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Feb 43	Pte		(1)W.O.A.S. A.W.L. 15 Days 14 Hrs 31 Mins. A.A. 15 (1) (2)W.O.A.S. A.W.L. 1 Day 8 Hrs 10 Mins A.A. 15 (1)	Sgt Winchester Cpl Rooks,H. Sgt Sadler L/C Eccles (Documentary)	28 Days Field Punishment	15 Mar 43	A/Capt.S. Beatty	Forf 16 Days Pay FR&I(Can) (1) (a) Forf 2 Days Pay FR&I(Can)149(1)(a) Forf 28 Days Pay FR&I(Can) 149 (1)(b)
Field	17 Jul 43	Pte		W.O.A.S. AW.L. 8 Hrs 24 Min A.A.15 (1)	Sgt Barker L/C Tost (Documentary)	14 Days C.B.	19 Jul43	Lieut W.H.Burden	Forf 1 Days Pay FR&I(Can) 149(1) (a)

No B-46275 Name Pte Thompson H.J. | Sqn., Battery or Company | Corps C.I.C. | Date of enlistment 23-1-42 | G.C. Badges | Service or Proficiency Pay | M.F.M. & (A.F.B.122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. S.Beatty Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Aug 43	Pte		W.O.A.S. (1) Did urinate in the hallway at Town Hall Alresford (2) Did fail to have in his possession his M.B.M. 1(1,11) A.A. Sec 40	L/C Sangster L/C Comis NO 3 Provo (Documentary)	14 Days C.B.	30Aug 43	Capt S. Beatty	Forf 28 Days Pay FR&I 149 (2)
Field	14 Sep 43	Pte		W.O.A.S. A.W.L. 6 Days 21 Mins From 2359 hrs 14 Sep 43 until 0040 hrs 21 Sep 43. A.A. 15 (1)	L/C Quinn (Documentary) Sgt Nokes	14 Days C.B.	21 Sep 43	Capt.S. Beatty	Forf 14 Days Pay FR&I 149 (2) Frof 7 Days Pay FR&I 149 (1)(a)

APPX A to Kingsmill Maj

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-46275	Pte	Harold James Thompson	1 Cdn Corps Defence Coy.

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

	Within last 12 months		Since enlistment	
For Sec. 15 (1)	5	times	Sec. 15 (1)	7 times
For Sec. 40	~~2~~ 1	times	Sec. 40	1 times
For		times		times
For		times		times

[redacted]

or,

[redacted]

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

2. The accused has not been previously convicted

[redacted]

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

[redacted]

4. The accused has been in open arrest awaiting trial on the present charges, for ..... days in civil custody, and 15 days in military custody, making a total of 15 days in custody,

[redacted]

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

[redacted]

6. The date of his commission specified in his record of service is attestation attestation paper N.A.

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

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc. N.A.

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

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

N.A.

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

.....dated....., N.A.

.....dated.....

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

.....Date of promotion.

In the rank of.....years. N.A.

In the rank of.....years.

In the rank of.....years.

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

SCHEDULE

N.A.

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

Name..... of.....Regiment

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

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

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

Signed this [redacted] day of December, 1943

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

4R 103

Pte. Thompson V.J.

SCHEDULE.

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

Accused : B-43294 Pte Herbert James THOMPSON, RCASC, 2 CBR Bn

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

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

At present under sentence for ..... beginning on (date) ..... (1)

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

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court :

To undergo det for a period of fifteen (15) months

(Sgd) ..... 8 Jan 45 (Sgd) R K Kelsey Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed & to be promulgated on Bn parade.

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

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

(Sgd) .....

Date 10 JAN 45 (G S N Gostling) Brigadier

Commanding 2 CDN BASE RFT GP

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B43294 Pte Herbert James THOMPSON RCASC, 9 C.B.R. Bn.	10 Jan 45	Promulgated on Bn parade. CAPT. & ADJT., 9 BN. 2 C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4P-103

CFA96 (In lieu of AFA81) 40/9 & 3/1698 (1944) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G S N GOSTLING Comd 2 CBRG dated 6 JAN 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-43294	Pte		Herbert James	THOMPSON	RCASC, 9 C.B.R. Bn.

PROCEEDINGS REVIEWED J. Kilgour Capt. 20 Feb 45 DATE ... STAFF OFFICER, 2nd BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date) ..... (1)

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

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

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

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

~~The Interpreter is sworn.(1)~~ Do you object to ..... as shorthand ~~writer ? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

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

Ans No.(2)

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

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

President	Major	A E KELSEY	CIC,	20 Cdn Spec Emp Coy
Member	Capt	H W STEVENSON	CIC,	12 CBR Bn
Member	Capt	S L MacDONALD	RCE,	9 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	C J MADER	CAC,	9 CBR Bn
Defending Offr	Lieut	R K POTTS	CAC,	9 CBR Bn

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

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

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol I p 121

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

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

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

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

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

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

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

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

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

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

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 9 ~~and Ex ..... respectively~~.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"A"

CHARGE SHEET

The accused, B-43294, Pte, Herbert James, THOMPSON, RCASC, P.E., 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he

in the Field, absented himself without leave from 1400 hours, 15 Oct 44 until apprehended at approximately 1200 hours, 27 Dec 44. Total time absent, 72 days 22 hours.

(H.W.Rick),Lt-col
Commanding
9 Bn, 2 C.B.R.Gp.

In the Field

3 Jan 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(C S N Gostling) Brig/Mar
Asst
2 Can Base Rft Gp

In the Field
6 JAN 45

"B"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-42294	Pte		Herbert James	THOMPSON	RCASC, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 JAN 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A E KELSEY,	CIC, OC 20 Bde Sped Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut.	To be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	To be detailed by OC 9 CBR Bn	9 CBR Bn

~~JUDGE-ADVOCATE.~~

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

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Gostling)

Dat 6 JAN 45

Commanding 2 CDN BDE HQT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 38 (in lieu of AFA 3) 40/F & S/1697 (6143)

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

MEDICAL OFFICER'S CERTIFICATE

Ex "F"

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined B.43294
(Rank) PTE THOMPSON H.J. (Name) (Number) and in my opinion he is

~~unfit~~ fit to undergo trial by Court Martial

Station FIELD

Date JAN 8-45

J.H. Martin Capt RCAMC
(Med. Cat Officer) (Sgd)

(Unit) 1 C.B.R. BN.

Trial of D 4 TI 9H Pte Thompson H.J.

The accused does not wish to make any statement

Witness as to character

Capt H.K.D. Heming on being duly sworn states.

" Pte Thompson joined my company P.E. in England in May or June 1944 and came to France with my P.E. to serve with us until the commencement of his AWL. During the time he was with us he worked hard under difficult circumstances and did not commit any crimes. In my opinion Pte Thompson is a man who could be led astray by a stronger character.

Cross examination

Q. what do you mean by working hard. Did he work harder than required by normal duty?

A. Yes Pte Thompson did his duty as a Coy cook under adverse conditions without complaint.

Q. Would you say he worked harder than anyone else?

A. I wouldn't say that - He carried out his duties satisfactorily

The defending Officers address is attached hereto.

PLEA FOR MITIGATION OF SENTENCE IN THE CASE OF
B-43294 Pte THOMPSON H J.

The a/m soldier has served with the Cdn Active Army for nearly 4½ years. During this time he has had a clean crime sheet, which would prove that he has always done his duty as a soldier. He has been employed as a cook for a considerable length of time and has always proved satisfactory to his comds up to the time he was sent to OSTEND where he came under command of a new messing officer. From then on he couldn't seem to please the messing officer in any way.

Owing to the trying nature of a job as cook coupled with his inibility to get along in his new situation and having been away from this job for 24 hrs on a pass he went AWL. Once started he became frightened of the consequences of returning and in due course was apprehended.

R K Potts, Lt, CAC,
9 Bn, 2 CBRG
Defending Officer.

Plea for Mitigation of Sentence in the case of 843294 Pte THOMPSON H.S.

The a/m soldier has served with the Colours Active Army for nearly 4½ years. During this time he has had a clean crime sheet, which would prove that he has always done his duty as a soldier. He has been employed as a cook for a considerable length of time and has always proved satisfactory to his Undrs up to the time he was sent to Ostend where he came under command of a new [redacted] messing officer. From then on he couldn't seem to please this messing officer in any way. Owing to the trying nature of a cooks work coupled with his inability to get along in his new situation and

(over)

having been away from this job for 24 hrs on a pass he went AWL. Once started he became frightened of the consequences of returning and in due course was apprehended.

R H Potts Lt. C.A.S.
4th Div. H.Q.
Defending Officer

SUMMARY OF EVIDENCE

in the case of

B-43294 Pte Herbert James THOMPSON, RCASC, P.E., 9 Canadian Base Reinforcement Bn, a soldier of the Canadian Army Overseas, who is charged with.

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

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

FIRST WITNESS (Documentary) Certified true extract from the original Part II Order No. 33, 9 Canadian Base Reinforcement Battalion, produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

(B. L. Elliott) Lieutenant
Officer detailed to take
Summary of Evidence

The accused declines to cross-examine the witness.

SECOND WITNESS (Documentary) Certificate of arrest in accordance with Army Act, Section 163 (i) (jj), produced as documentary evidence, was read over to the accused, marked Exhibit "B", signed by me and attached hereto.

(B. L. Elliott) Lieutenant
Officer detailed to take
Summary of Evidence

The accused declines to cross-examine the witness.

The accused was questioned as follows.

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

The accused makes a statement as follows:

"You read my name as THOMPSON, H. T. My name is THOMPSON, H. J. I am the person referred to in the certificate of arrest." H J Thompson

B-43294 Pte THOMPSON, H. J.

The accused does not call any witnesses for the defence.

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

In The Field
3 Jan 45.

(B. L. Elliott) Lieutenant
Officer detailed to take
Summary of Evidence.

Ex D

"This is Exhibit "A" referred to in the Summary of Evidence in the case of B-43294 Pte Herbert James THOMPSON taken before me this 3rd day of January 1945. [signature] Lt (R.L. ELLIOTT) LIEUT. SIGNATURE OF OFFR TAKING SUMMARY.

Last Order No. 32 12 NOV 44 — 9 CANADIAN BASE REINFORCEMENT BATTALION — Part II Orders issued by CANADIAN SECTION GHQ 2nd ECHELON 21 ARMY GROUP — NO. 33 19 NOV 44

"B" - OTHER RANKS

5 ABSENT WITHOUT LEAVE

(a) AWL from 1400 hrs 15 OCT 44 Still absent 1400 hrs 6 NOV 44 (22nd day)

G18417 Pte MALLET F J
B43294 Pte THOMPSON H J

(sgd) (G.R.S. FOSTER) Lieutenant
for Officer IC
CANADIAN SECTION GHQ 2nd ECHELON
21 ARMY GROUP

Certified a true extract from the original Part II Order No. 33 9 CANADIAN BASE REINFORCEMENT BATTALION.

.....
(C.L.Nelson)Capt & Adjt
9 Bn, 2 C.B.R.Gp.

This is Exhibit "B" referred to in the Summary of Evidence in the case of B 43294 Pte Herbert James THOMPSON taken before me this 3rd day of Jan 1945.

(B.L. Elliott) Lieut
Signature of Officer taking Summary

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163(1) (JJ)

I certify that No. B43294 Rank Pte Name THOMPSON H. J.
of 600 Coy. 13 Bn. C.B. R.A. Sp. 11 Gds Amn (unit) was arrested at [illegible] (place)
at 1200 hrs on 27.12.44 (date). He was dressed in uniform ~~plain clothes~~.

Date 27.12.44

Signature of Provost Marshal, APM or other officer into whose custody the above-named person was taken on arrest.

Capt.,
(H. JEFFERY)
O.C. 242 H.Q. PROVOST COMPANY, C.M.P.

LIST OF EXHIBITS

in the case of

B-43294 Pte Herbert James THOMPSON, RCASC, P.E.,9 Bn,
2 Cdn Base Rft Gp.

FOR PROSECUTION

1) (Documentary), certified true extract from the original Part II Order No. 33 9 Canadian Base Reinforcement Battalion.

2) (Documentary), Certificate of Arrest in accordance with Army Act, Section 163 (1) (jj).

FOR DEFENCE

N I L

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-43294	Lte	HerbertJames THOMSON,	9 Bn, 2 C.B.R.Gp.

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

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

For Fom Zing ____ times.

For Overstaie ____ times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet ____

Date of last entry in Field Conduct Sheet ____

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

*Strike out if not applicable.

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

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

5. The present age of the accused is 28 yrs 11 mos

6. The date of his attestation is 29 Aug 40

~~7. The service which the accused is allowed to reckon is ____~~

7. The service which the accused is allowed to reckon is 4 yrs 129 days

8. The accused is in possession of‡ CBSM & Clasp

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

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

Date of Promotion.

~~In the substantive rank of ____~~

~~In the war substantive rank of ____~~

~~In the acting rank of ____~~

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

(21114) W1.8470-668 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22459) W1.23258/187a 60,000 9/42 " "

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

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

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

Signed this 28 day of January 1945

(C.L.Nelson)Capt & Adjt
9 Bn, 2 C.B.R.Gp.

4

SCHEDULE.

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

Accused B 43294 Pte THOMPSON H.J. RCASC, 2 CBR Bn.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(10	guilty	guilty	
2nd				
3rd				
4th				
5th				
6th				

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

At present under sentence for ..... beginning on (date) ..... (1)

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

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court :

To undergo detention for a period of fifteen months.

(Sgd) ..... 8 Jan 45 (Sgd) (AE Kelsey) Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed. To be promulgated on Bn. parade.

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

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

Date 10 Jan 45 (Sgd) (GSM Gostling) Brig

Commanding 2 Cdn Base Rft Gp.

Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B 43294 Pte Thompson H.J. RCASC 9 C.B.R. Bn.	10 Jan 45	Promulgated on parade. (CL Nelson) Capt & Adjt 9 CBR Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4P-103

FIELD GENERAL COURT-MARTIAL

CPA86 (To Insts of AFA81 4/38B) 4/38B

Convened by Order of Brig GSM Gostling Comd 2 CBRG dated 6 Jan 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 43294	Pte	certified true copy [illegible] Major DJA Cdn Sec G HQ 2 Cdn Inf Div Army Cs	Herbert James	Thompson	RCASC 9 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 8 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

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

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

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

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

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

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

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

President	Major	AE Kelsey	CIC 20 Cdn Spec Emp Coy
Member	Capt	HW Stevenson	CIC 12 CBR Bn
Member	Capt	SL McDonald	RCE 9 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	CJ Walker	CAC 9 CBR Bn
Defending Offr	Lieut	RK Potts	CAC 9 CBR Bn.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B 43294 Pte THOMPSON H.J. before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 60(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy extract of Conduct Sheet~~(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G ~~and Ex ..... respectively~~.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 43. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 43294 Pte Herbert James THOMPSON, RCASC 9 CER Bn. a soldier of the Cdn Army Overseas is charged with:-

First Charge WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1400 hrs 15 Oct 44 until apprehended at approx 1200 hrs 27 Dec 44. (ABsent: 72 days 22hr.

In the Field
3 Jan 45

(RH Rick) Lt Col
Comd 9 Bn, 2 CER Gp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
6 Jan 45

(GSN Gostling) Brig
Comd 2 Cdn Base Rft Gp.

The ADJA

Capt SL McDonald 9 CER Bn detailed as a waiting member of the FGCM sat as a member of the court as the Lieut to be detailed by OC of 11 CER Bn failed to appear.

8 Jan 45

(AE Kelsey) Major
President of FGCM.

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 43294	Pte		Herbert James	THOMPSON	RCASC 9 CBR Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	AE Kelsey		CIC, OC 20 Cdn Spec Emp Coy.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn.		
Lieut	to be detailed by OC 11 CBR Bn.		

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 9 CBR Bn.		

~~JUDGE-ADVOCATE.~~

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

On Active Service in the Fd

in BELGIUM (Country.)

Dat 6 Jan 45

(GSN Gostling) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 2 Cdn Base Rft Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER CERTIFICATE

I certify that I have this day examined B 43294 Pte Thompson H.J. and in my opinion he is fit to undergo trial by Court Martial.

(JW Martin) Capt MO RCAMC
9 C B R Bn.

Field
8 Jan 45

TRIAL OF D43294 Pte Thompson H.J.

The accused does not wish to make any statement.

Witness as to Character: Capt HKD Heming on being duly sworn states:-

Pte Thompson joined my Coy P.E. in England in May or June 1944 and came to France wotj my P.E. to serve with us until the commencement of his AWL. During the time he was with us he worked hard under difficult circumstances and did not commi any crimes. In my opinion Pte Thompson is a man who could be lead astray by a stranger character,

Cross-Examination

Q. What do you mean by working hard. Did he work harder thatn required by normal duty?

A. No Pte Thompson did his duty as a Coy Cook under adverse conditions without complaint.

Q. Would you say he worked harder than anyone else?

A, I wouldn't say that. He carried out his duties satisfactorily.

PLEA FOR MITIGAYION OF SENTENCE IN THE CASE OF
Pte Thompson H.J. B 43294.

The a/m soldier has served with the Cdn Army for mearly 4½ yrs. During this time he has had a clean crime sheet, which would prove that he has always done his duty as a soldier. He has been employed as a cook for a considerable length of time and has always proved satisfactory to hes comds up to the time he was sent to Ostend. where he came under command of a mew messing officer. From then on he could-n't seem to please the messing officer in any way.

Owing to the trying nature of a job as cook coupled with his inability to get along in his new situation and having been away from this job for 24 hrs on a pass he went AWL. Once started he became frightened of the consequences of returning and in due course was apprehended.

(RK Potts)Lt., CAC,
9 Bn, 2 CBRGpe
Defending Officer.

SUMMARY OF EVIDENCE

in the case of

43294 Pte Herbert James THOMPSON, RCASC, P.E. 9 CBR Bn, a soldier of the Cdn Army Overseas, is charged with:-

1. WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
AA Sec 15 (1)

The commanding Officer directs thay the evidence be taken on oath.

First Witness Certified true ~~xxxx~~ extract from the original Part II Order No. 33, 9 Cdn Base Rft Bn., produced as documentary evidence, was read over to the accused, marked Exhibit A, signed my me and attached hereto.

(BL Elliot) Lieut
Offr detailed to
take the summary,

The accused declines to cross-examine the witness.

Second Witness Certificate of arrest in accordance with AA Sec 163 (1) (jj), produced as documentary evidence, was read over to the accused, marked Exhibit B, signed by me and attached hereto.

(BL Elliot) Lieut
Offr detailed to
take the summary.

The accused declines to cross-examine the witness.

The accused was questioned as follows.

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

The accused makes a statement as follows.

You read my name as Thompson HT. My name is Thompson H.J. I am the person referred to in the certificate of arrest.

(B 43294 PteTompsonH.J.)

The accused does not call any witnesses for the defence.

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

In the Field
3 Jan 45.

(BL Elliot) Lieut
Offr detailed to
take the summary.

This is Exhibit A referred to in the Summary of Evidence.

9 Canadian Base Reinforcement Battalion
Part II Orders issued by
Canadian Section GHQ 2nd Echelon 21 Army Group.

Last Order No 32 12 Nov 44

No 33 19 Nov 44

"B" OTHER RANKS

5 ABSENT WITHOUT LEAVE

(a) AWL from 1400 hrs 15 Oct 44 Still absent 1400 hrs 6 Nov 44 (22nd day)
C18417 Pte Mallet F.J.
B43294 Pte Thompson H.J.

(sgd) (G.R.S. Foster) Lieut
for Officer IC

Exhibit B referred to in the Summary of Evidence.

CERTIFICATE OF ARREST IN ACCORDANCE WITH AA Sec 163(1)(ii)

I certify that B 43294 Pte Thompson of 60 Coy., 13 CBRGp. 1st Cdn Army was arrested at Lille at 1200hrs on 27 Dec 44. He was dressed in uniform.

(H. Jeffrey) Capt
OC 242 HQ Pro Coy, CMP.

27 Dec 44

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 43294	Pte	Herbert James, Thompson, 9 [illegible],	2 CMR Gp.

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

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

For No MFM 6 available ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

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

*Strike out if not applicable.

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

~~beginning on the~~ ..... ~~day of~~ .....

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

5. The present age of the accused is 28 yrs, 11months

6. The date of his attestation ~~calling up for military service~~ is 29 Aug 40

7. The service which the accused is allowed to reckon is 4 yrs, 129 days.

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

8. The accused is in possession of† C.V.S.M. and Clasp

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

Date of Promotion.

~~In the substantive rank of~~ .....

~~In the war substantive rank of~~ .....

~~In the acting rank of~~ .....

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

(*28072) WL30721/3701 2M.000 9.44 A.& E.W.Ltd. Gp.698

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

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

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

Signed this 8th day of January 45

(C.L. Nelson) Capt & Adjt
9 Bn, 2 CBR Gp.

SCHEDULE.

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

Accused B 43294 Pte THOMPSON H.J. RCASC, 2 CBR Bn.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(10	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

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

At present under sentence for ..... beginning on (date) .....(1)

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

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court :

To undergo detention for a period of fifteen months.

(Sgd) ..... Judge-Advocate, if any. 8 Jan 45 Date awarded. (Sgd) (AE Kelsey) Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed. To be promulgated on Bn. parade.

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

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

(Sgd) (GSN Gostling) Brig

Date 10 Jan 45 Commanding 2 Cdn Base Rft Gp. Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B 43294 Pte Thompson H.J. RCASC 9 C.B.R. Bn.	10 Jan 45	Promulgated on parade. (CL Nelson) Capt & Adjt 9 CBR Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

48-103

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & B/1608 (6144) 4/38B

Convened by Order of Brig GSN Gostling Comd 2 CBRG dated 6 Jan 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 43294	Pte	Herbert James	Thompson	RCASC 2 CBR Bn

certified true copy
[illegible]
D J F
Cdn Sec G.H.Q. 2 Echelon C.M.F.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 8 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

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

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

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

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer ? Ans .....~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

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

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Major	AE Kelsey	CIC 20 Cdn Spec Emp Coy
Member	Capt	HW Stevenson	CIC 12 CBR Bn
Member	Capt	SL McDonald	RCE 9 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	CJ Walker	CAC 9 CBR Bn
Defending Offr	Lieut	RH Potts	CAC 9 CBR Bn.

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

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

A8. The accused B 43294 Pte THOMPSON H.J. before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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

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

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

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheets~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G ~~and Ex~~ respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 43294 Pte Herbert James THOMPSON, RCASC 9 CBR Bn. a soldier of the Cdn Army Overseas is charged with:-

First Charge WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1400 hrs 15 Oct 44 until apprehended at approx 1200 hrs 27 Dec 44. (ABsent: 72 days 22hr.

In the Field
3 Jan 45

(RH Rick) Lt Col
Comd 9 Bn, 2 CBR Gp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
6 Jan 45

(GSN Gostling) Brig
Comd 2 Cdn Base Rft Gp.

The ADJA

Capt SL McDonald 9 CBR Bn detailed as a waiting member of the FGCM sat as a member of the court as the Lieut to be detailed by OC of 11 CBR Bn failed to appear.

8 Jan 45

(AE Kelsey) Major
President of FGCM.

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 43294	Pte		Herbert James	THOMPSON	RCASC 9 CBR Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	AE Kelsey	CIC, OC 20 Cdn Spec Emp Coy.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn.	
Lieut	to be detailed by OC 11 CBR Bn.	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 9 CBR Bn.	

~~JUDGE-ADVOCATE.~~

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

On Active Service in the Fd

in BELGIUM (Country.) (GSN Gostling) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 6 Jan 45 Commanding 2 Cdn Base Rft Gp.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

MEDICAL OFFICER CERTIFICATE

I certify that I have this day examined B 43294 Pte Thompson H.J. and in my opinion he is fit to undergo trial by Court Martial.

Field
8 Jan 45

(JW Martin) Capt MO RCAMC
9 C B R Bn.

TRIAL OF D43294 Pte Thompson H.J.

The accused does not wish to make any statement.

Witness as to Character:Capt HKD Heming on being duly sworn states:-

Pte Thompson joined my Coy P.E. in England in May or June 1944 and came to France with my P.E. to serve with us until the commencement of his AWL. During the time he was with us he worked hard under difficult circumstances and did not commit any crimes. In my opinion Pte Thompson is a man who could be lead astray by a stranger character.

Cross-Examination

Q. What do you mean by working hard. Did he work harder than required by normal duty?

A. No Pte Thompson did his duty as a Coy Cook under adverse conditions without complaint.

Q. Would you say he worked harder than anyone else?

A. I wouldn't say that. He carried out his duties satisfactorily.

PLEA FOR MITIGAYION OF SENTENCE IN THE CASE OF
Pte Thompson H.J. B 43294.

The a/m soldier has served with the Cdn Army for mearly 4½ yrs. During this time he has had a clean crime sheet, which would prove that he has always done his duty as a soldier. He has been employed as a cook for a considerable length of time and has always proved satisfactory to his comds up to the time he was sent to Ostend, where he came under command of a new messing officer. From then on he couldn't seem to please the messing officer in any way.

Owing to the trying nature of a job as cook coupled with his inability to get along in his new situation and having been away from this job for 24 hrs on a pass he went AWL. Once started he became frightened of the consequences of returning and in due course was apprehended.

(RK Potts)Lt., CAC,
9 Bn, 2 CBRGp.
Defending Officer.

SUMMARY OF EVIDENCE

in the case of

B43294 Pte Herbert James THOMPSON, RCASC, P.E. 9 CBR Bn, a soldier of the Cdn Army Overseas, is charged with:-

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

The commanding Officer directs thay the evidence be taken on oath.

First Witness Certified true xxxx extract from the original Part II Order No. 33, 9 Cdn Base Rft Bn., produced as documentary evidence, was read over to the accused, marked Exhibit A, signed my me and attached hereto.

(RL Elliot) Lieut
Offr detailed to
take the summary.

The accused declines to cross-examine the witness.

Second Witness Certificate of arrest in accordance with AA Sec 163 (1) (jj), produced as documentary evidence, was read over to the accused, marked Exhibit B, signed by me and attached hereto.

(BL Elliot) Lieut
Offr detailed to
take the summary.

The accused declines to cross-examine the witness.

The accused was questioned as follows.

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

The accused makes a statement as follows.

You read my name as Thompson HT. My name is Thompson H.J. I am the person referred to in the certificate of arrest.

(B 43294 PteTompsonH.J.)

The accused does not call any witnesses for the defence.

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

In the Field
3 Jan 45.

(BL Elliot) Lieut
Offr detailed to
take the summary.

This is Exhibit A referred to in the Summary of Evidence.

9 Canadian Base Reinforcement Battalion
Part II Orders issued by
Canadian Section GHQ 2nd Echelon 21 Army Group.

Last Orier No 32 12 Nov 44

No 33
19 Nov 44

"B" OTHER RANKS

5 ABSENT WITHOUT LEAVE

(a) AWL from 1400 hrs 15 Oct 44 Still absent 1400 hrs 6 Nov 44 (22nd day)
G18417 Pte Mallet F.J.
B43294 Pte Thompson H.J.

(sgd) (G.R.S. Foster) Lieut
for Officer IC

Exhibit B referred to in the Summary of Evidence.

CERTIFICATE OF ARREST IN ACCORDANCE WITH AA Sec 163(1)(ii)

I certify that B 43294 Pte Thompson of 60 Coy., 13 CBRGp. 1st Cdn Army was arrested at Lille at 1200hrs on 27 Dec 44. He was dressed in uniform.

27 Dec 44

(H. Jeffrey) Capt
OC 242 HQ Pro Coy, CMP.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 43294	Pte	Herbert James, Thompson,	9 Bn, 2 CLR Gp.

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

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

For No MFM 6 available ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

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

*Strike out if not applicable.

*3. The ~~accused at the present time is under sentence to~~ .....

~~beginning on the~~ ..... ~~days.~~

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

5. The present age of the accused is 28 yrs, 11 months.

6. The date of his ~~enlistment~~ attestation ~~calling up for military service~~ is 29 Aug 40

7. The service which the accused is allowed to reckon is 4 yrs, 129 days.

‡State the military decoration (if any) held by accused.

8. The accused is in possession of‡ C.V.S.M. and Clasp

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

Date of Promotion.

~~In the substantive rank of~~ .....

~~In the war substantive rank~~ of .....

~~In the acting rank~~ of .....

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

(*28072) W1.30721/8701 2M.600 8/44 A.& E.W.Ltd. Gp.698

SQ-136

Pt Thompson N.O.

RECORDED AT CMHQ IN AB 160.

CFA96 (To replace AFA81, 40/P & R/1 & 2, 41/P & R/1 & 2, 42/P & R/1 & 2, 43/P & R/1 & 2, 44/P & R/1 & 2, 45/P & R/1 & 2) 44/38B

FIELD GENERAL COURT-MARTIAL

9 AUG 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig. W. N. BOSTOCK Comd A TPS AREA FIRST CDN ARMY dated 29 JUNE 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
51920	A ~~CAPT~~ PTE	HAROLD OSBORNE	THOMPSON	FIRST CDN ARMY LEAVE TRANSIT CAMP

PROCEEDINGS REVIEWED
J Rudiquelled Capt
10 Aug 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) HOLLAND on (date(s)) JULY 12, 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1108B hours trial commences.

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

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

A5. President ~~(or JA)~~ to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

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

Ans NO (2)

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

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

President	MAJOR	K. J. CREBER	85 CDN BRIDGE COY
Member	CAPT	H. Q. LYON	1 CDN ORD MAINT COY RCOC
Member	CAPT	G. RIVA	4 CDN BASE REP BN
~~Judge Advocate~~			
Prosecutor	CAPT	H. TAMBLIN	1 C.L.T.C.
Defending Offr	CAPT	J. H. LABRIE	1 C.L.T.C.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A-51290 LTE H. O. THOMPSON before arraignment make(s) (no) ..... plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

VOL. III C-44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex E, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (the) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~his~~ (no) opening address.(1)

(1. RP 39(B), 60(A)(B), 90, 92(C)(D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D)(E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the SECOND CHARGE charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the SECOND CHARGE charge(~~s~~ ~~and allowed on the~~ ~~charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I WILL GIVE EVIDENCE AS A WITNESS Do you intend to call witnesses on your behalf? Ans NO ~~Are they witnesses as to character only? Ans~~

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4 RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A) See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and on mitigation of punishment?(1) Ans YES IN MITIGATION ONLY (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: KF 51290 A-51920 PTE HAROLD OSBORNE THOMPSON

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.-19	GUILTY	GUILTY	
2nd	A.A.-8(1)	NOT GUILTY	NOT GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~.....~~ beginning on (date) N/K (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 38 days, of which NIL days were spent in hospital. (2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Awarded 28 days field punishment and to forfeit all ordinary pay for a period of 28 days.

(Sgd) ~~Judge Advocate, if any~~ 19th July 12, 1945 (Sgd) [illegible] Maj President. (RP 45, 50.)

Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirmg Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed.

~~I direct that~~ the accused be ~~not~~ committed to prison or detention barracks until further order. (1)

(1. AA 57A. Delete if not used.)

Date 16.7.45 (Sgd) [illegible] Brigadier

Commanding ..... Confirming Officer.

COMD. [illegible] FIRST CDN. ARMY

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K51920 - Pte Harold Osborne Thompson	19 July 45	[illegible] Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

EX "A"

ACCUSED ELECTS TO BE TRIED BY COURT MARTIAL

CHARGE SHEET

The accused, K-51920 Pte Harold Osborne THOMPSON (CIC) on strength of First Cdn Leave Transit Camp, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
A. A. Sec 19

WHEN ON ACTIVE SERVICE, DRUNKENESS,

in that he

whilst in the field at Nijmegen, Holland on the 4 Jun 45 at approx 2250 hrs was drunk.

SECOND CHARGE
A. A. Sec 8 (1)

WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE

in the/he

whilst in the field at Nijmegen Holland, struck with his fist in the face 6399757 Cpl Huggett C. H. (CMP) who at the time had ordered the accused to be placed in close arrest.

In the field
19 Jun 45

(T. P. Gilday) Lt-Col.,
Camp Commandant
First Cdn Leave Transit Camp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
29 Jun 45

(W N Bostock) Brig
Comd A Tps Area, First Cdn Army

EX "B"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-51920	Pte		Harold Osborne	THOMPSON	First Cdn Army Leave Transit Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 29 Jun 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	W J CREBER	85 Cdn Br Coy RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G RIVA	4 Cdn Base Rft Bn
Capt	H Q LYON	1 Cdn Yrd Maint Coy RCOC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D W MCKINNEY	HQ Army Tps Area

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 29 Jun 45

(Signed personally. RP 105 fn 2.)
(W N Bostock)
Brigadier (Rank.)
Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/F & S/1697 (6145)

(See overleaf for oaths and notes for use on trial.)

Ex "C"

Date 12 - July - 43

I hereby certify that I have this day examined,

No K31920 Rank Pte Name Thompson H.O.,

and in my opinion he is fit to undergo trial by court martial.

Signed P T Carter Capt

M.O.

'RECORD FORM 'C'

EX "D"

RECORD OF PROCEEDINGS - WHERE GENERAL COURT MARTIAL
In the case of [illegible] the [illegible] R.C.

FIRST WITNESS for the PROSECUTION

4542776 Pte FLANAGAN L. 74th Coy C.M.P., sworn states:-

" I am Pte Flanagan L. 4542776 . On the night of the 4th of June 45. I was on duty at [illegible] of 74th Coy, C.M.P. I was called out on duty on the streets of [illegible] where Pte [illegible] had been struck by a soldier. Four or five soldiers went out to the place where the incident occured and there I saw the soldier Pte Thompson, the accused, whom I now recognise in this Court.
We alited from the jeep and Cpl Huggett and myself approached Thompson. Cpl Huggett asked him what his trouble was; he said " i [illegible] I then asked Pte Thompson why blood was coming from his nose. He said " it is nothing to do with you cocksucking bastards". Cpl Huggett said "you must come with us" Pte Thompson pushed away. Cpl Huggett made a move towards him. Pte Thompson struck a blow to the Cpl. I moved towards Pte Thompson and fell over his legs and Pte Thompson also fell over. I was on my feet before Pte Thompson and got hold of him. Cpl Huggett struck the accused with a truncheon. The accused said 'you have struck me with something, you lousy cocksucking bastards". With the assistance of Pte Greenwood we lifted Pte Thompson into the jeep. The accused was still struggling. Cpl Fenwick then came to the jeep with the coat of the Accused. Cpl Fenwick said "there was a German pistol in the pocket of the jacket ". We all got in the jeep and drove back to the town guardroom. With the assistance of Pte Greenwood I carried Pte Thompson to a bed in the guardroom. He was mumbling words and it was very hard for him to breathe owing to blood around his nose. I washed his face and his hands, put him in a comfortable position and with that left him in charge of the Cpl of the guardroom. I arrived on the scene of the incident between ten and eleven in the evening. It was dusk and visibility was good up to fifty yards."

CROSS EXAMINED by Defence — Yes in my opinion Pte Thompson was drunk.

I found Thompson untidy and bleeding and there was evidence that a fight had took place.

Next morning I did not see the prisoner but understand he was alright.

EXAMINED by the COURT — I saw the accused strike at the Cpl but I did not see the blow land.

A.R. 83 (b) complied with.

SECOND WITNESS for the PROSECUTION

186069 L/Cpl FENWICK C.W., 74th Coy, C.M.P. sworn states:

" I am L/Cpl Fenwick C.W., 186069 on strength of 74th Coy C.M.P. T.C. I was on patrol with Cpl Huggett and Pte Flanagan when I saw Pte Thompson staggering along the pavement. Cpl Huggett got out of our jeep and approached Pte Thompson. With Pte Flanagan. I sat in the jeep to see if any assistance was needed. I saw the accused whom I now recognise in this Court staggering backwards with

cont'd-------

SECOND WITNESS for the PROSECUTION (Contd)

with blood coming from his nose and mouth. When I got out of the jeep. I got at the back of the accused when I saw his coat laying ten yards away in a doorway. I picked the coat up and by the time I got to the jeep the accused was already in the jeep. We proceed to the guardroom where he was sentenced and put to bed."

EXAM by the Court: I did not witness any exchange of blows.

R.P. 83 (3) complied with.

PARA D-4 Defending officer submits that the evidence for the prosecution does not establish a prima facie case against the accused on the second charge.

ARGUMENT of DEFENDING OFFICER

The evidence given does not prove that Cpl Huggett was struck with the accused fists in his face. I ask the Court to withdraw this second charge and find Pte Thompson not guilty of striking his superior officer.

DEFENCE PROCEEDINGS

FIRST WITNESS FOR THE DEFENCE

K-51920 Pte Thompson M.C., 1 C.L.T.C. sworn states:

I am Pte Thompson M.C., on the night of June the 4th I was drinking with some friends of mine. We were in [illegible] on a street corner. It was kind of a dark alley. I do not know the name of the street. I do not remember when my friends left. The last I can remember I was standing on that corner. When I awoke up in the morning in the English guardroom my nose was twisted and had been bleeding. In the afternoon I was brought to the guardroom of 1 C.L.T.C. I have never intended to or have struck an officer or NCO of my unit during the time I have been in the army.

I was seventeen when I joined the army.

I have volunteered for the Far East.

CROSS EXAMINED
by the PROSECUTION None

R.P. 83 (3) complied with

D-6

Closing address

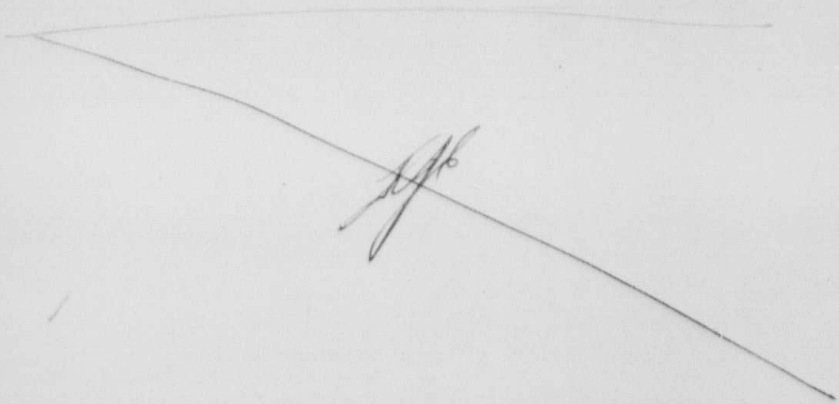
K. 51920 Pte Thompson H.O.

Pte Thompson has pleaded guilty on the 1st Charge.
The 2nd Charge, he didnt know what happened, but he was in a guard room the next morning with some wounds in his face.
For all crime we must regard the intention of it" Is the intention exist on this Offence - "No" He was filling high, and after a small brawl. I presume with some other soldiers having suffered in the fight, he is mad for the one who struck him, he had thrown away his blouse and everything is red
The 3 M.Ps came along, it's dusk, all start an argument, Pte Thompson try to get away and the Coporal was the victime not of a fight, but the move of Pte Thompson when he asked them to leave him alone.

I suggest the court to look at the M. Mil-L. Ch. III para 48 and Ch. VII para 9 regarding the responsabilities at this particular moment

He was struck by the M.P.s-
it is proved-
Pte Thompson must be find not guilty on this charge

Henri Labrie
C/Sgt
Def. Off.
12 July 45



RECORD FORM

PLEA OF MITIGATION
in the Case of

E-3 K-51920 Pte THOMPSON H.O.
(Seaforth Highlrs.)

Gentlemen of the Court:-

Pte Thompson volunteered 1st time at 17 years old in June 43

He has been discharged when the army found out he was underage.

He reenlisted two months later in July 44 and after having completed his trainning he was in U.K. feb 45 and in N.W. Europe march 45-

Now he is a man of 19 years old fully trainned with only small offences up to this misconduct due to his 1st drunkness party - He is too young for being a drunken man.

His cardcter is definitly good. he is young - "A" Category and last may he volunteered for the FAR EAST - So he is the type of man we need in the Cnd army

I bring to the attention of the Court

that he has presently spend 38 days waiting for trial, so he has lost all this too.

Gentlemen your sentence will affect his military ~~carrer~~ live, his rehabitation grant and also his civilian live.

I ask you to be lenient, considering his good will, his age and also the time he has been close arrest he sincerely regret his fault.

Yours Fabris

C/Sgt

Def. Off.

12 July 45

EX "E"

Summary of Evidence in the case of K-51920 Pte Thompson H.O. on strength of 1 Cdn Leave Transit Camp.

CHARGES

FIRST CHARGE A.A. Sec 19 — WHEN ON ACTIVE SERVICE, DRUNKENESS, in that he whilst in the field at Nijmegen, Holland on the 4 Jun 45 at approx 2250 hrs was drunk.

SECOND CHARGE A.A. Sec 8 (1) — WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE, in that he, whilst in the field at Nijmegen Holland, struck with his fist in the face 6399757 Cpl Huggett C.H. (CMP) who at the time had ordered the accused to be placed in close arrest.

THIRD CHARGE A.A. Sec 11 — WHEN ON ACTIVE SERVICE, NEGLECTING TO OBEY FIRST CDN ARMY ROUTINE ORDERS, In that he whilst in the field at Nijmegen Holland on the 4 Jun 45 at approx 2250 hrs was found to be in possession of a loaded DREYSE pistol, the same being contrary to 1 Cdn Army Routine Orders No. 911 dated 31 May 45.

By direction of Lt-Col., T. P. Gilday DSO, Camp Commandant, evidence to be taken on oath.

FIRST WITNESS (For the prosecution) — 4542776 Pte Flanagan L. on strength of 74th Coy C.M.P. having been duly sworn states:-

On the night of 4th Jun 45 I was on duty at Coy HQ when the jeep patrol reported trouble. The patrol reported a drunken soldier had struck the pte in charge of the jeep on a street in Nijmegen. Five men and myself were detailed to the place where the trouble had occurred. We saw accused Pte Thompson there. We all got out of the jeep and the Cpl in charge Cpl Huggett, proceded towards the accused and asked him would he kindly step in the car. He replied "No. I'm not going with you Cock-Sucking Limy Bastards" The accused was drunk. Cpl Huggett called for me to assist him. When I got by the side of Cpl Huggett I asked the accused why theye was blood coming from his mouth he replied "Its nothing to do with you". Cpl Huggett asked him where his battledress blouse was and was told that it was in a Cafe down the road. L/Cpl Fenwick went to the Cafe and got the blouse. Cpl Huggett asked accused to get into the jeep and accused resisted and struck Cpl Huggett. I then moved towards accused but slipped by his foot on the ground and he went to the ground also. I got up and with the assistance of Cpl Huggett we got the accused into the jeep and took him to the town Guard Room. Accused was still conscious and swearing. When we got him inside we washed his face and hands with cold water and covered him up with blankets. The accused want to sleep. When we brought accused back in the jeep Cple Fenwick kept the Battle Dress Bouse and on return to our HQ showed me a pistol which had been in the B.D. Blouse. The accused later admitted he had been carrying it and that it was his.

No cfoss examination.

Flanagan L. Pte

4542776 Pte Flanagan L.

SECOND WITNESS For the Prosecution

1569859 Pte Pheasant J.(C. M. P.) Nijmegen, having been duly sworn states:-

On the night of 4 Jun 45, while on patrol on Molan Straat Nijmegan, I was approached by an English soldier who told me there was a bunch of Canadian soldiers looking for trouble on a street corner. He said they had called him a Limey Bastard and he asked me to check them up. I met Pte Thompson the accused and he asked me what I wanted. Pte Thompson had been drinking and wanted to fight. I told him I was on duty and he told me to"Fuck Off" I left and returned to Coy HQ where I reported the trouble. Cpl Huggett detailed a patrol and we returned to Molan Straat and found Pte Thompson bleeding and in a drunken condition. Cpl Huggett asked Thompson to get into the jeep. Thompson said "Put me in the jeep" and struck Cpl Huggett. Then we all grabbed a hold of him and put him in the jeep and drove to the town guard room. When we were putting Pte Thompson in the jeep some one shouted he has a revolver. Cpl Fenwick found the revolver in Pte Thompson's tunic. When we picked up Pte Thompson he was very drunk.

No cross examination.

Pheasant J. Pte
1569859 Pte Pheasant J.

THIRD WITNESS For the Prosecution

186069 L/Cpl Fenwick C. H.(C.M.F.) Nijmegen, having been duly sworn states:-

On the night of 4 Jun 45 I was on patrol in Molan Straat in the jeep with Cpl Huggett and pte Flanagan when I saw a soldier staggering along the pavement. On approaching the soldier, I saw that he was bleeding from the nose and mouth. Cpl Huggett and Pte Flanagan tried to persuade the soldier to get into the jeep. He refused and whilst staggering back he struck Cpl Huggett and also used obscene language. The accused was not wearing a B.D. blouse or hat and a civilian told me that the accused battle dress blouse was in a shop doorway almost 10 yeards away. I went to get the had and coat and the soldier was put in the jeep. We took him to our guard room. When the guard commander searched Pte Thompson's clothes in my presence,we discovered that his name was Pte Thompson. In his battle dress blouse there was a loaded revolver. The accused was drunk.

No cross examination.

C. Fenwick L/Cpl.
186069 L/Cpl Fenwick C.H.

FOURTH WITNESS For the Prosecution

6399757 Cpl Huggett W. J.(C.M.F.) Nijmegen, having been duly sworn states:-

On the night of Jun 4th 1945, I was on duty at Coy HQ 74 Coy C.M.P.) Nijmegen. The patrol reported in at 2245 hrs that they suspected trouble at Molan Straat and that there were five soldiers under the influence of drink. They asked if we could send out extra men to deal with this and I immediately detailed L/Cpl Fenwick and Pte Flanigan to accompany me to Molan Straat. We were driving up Molan Straat in the jeep when the Provost had seen the five soldiers and we found Pte Thompson H. O., the accused. He was the only one of the five that had remained. He had been previously recognized as being with the five who were all under the influence of some intoxicant. We pulled up and I spoke to him. He was uder the influence of drink and he didn't seem to know what I was saying or what he himself was saying. His face was covered in blood and he was bleeding from his nose and mouth.

I ordered him to be put under arrest and he began to hit out at anyone who went near him. Myself and Pte Flanagan closed with him and Pte Thompson struck me with his fist. With difficulty we got him in the jeep and took him to the town guard room where we handed him over to the corporal in charge. The prisoner's clothes were searched and all his possessions were taken off of him and L/Cpl Fenwick handed me a loaded enemy DREYSE Pistol which was in Thompson's inside pocket. The next morning Pte Thompson admitted before me that the pistol was his. The guard on duty cleaned up Pte Thompson and put him to bed as soon as we passed him over to them.

No cross examination.

W Huggett, Cpl
6399757 Cpl Huggett W. J.

Question to the accused:- (Defence)

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer - Yes Sir I Do.

The accused, having been duly sworn states:-
On the night of Jun the 4th I was drinking Cognac with friends. Then we went out on the street and I meet some yanky soldiers. One of them gave me a drink of something that tasted like gin or alcohol. After that I don't remember anything.

W O Thompson.
K-51920 Pte Thompson W. O.

I certify that the foregoing Summary of Evidence consisting of three typewritten pages was taken down by me in the presence of the accused and that R. P. 4 (c) (d) (e) (f) and (g) have been complied with.

J W Brown Lt
(J. W. Brown) Lieut.
Officer detailed to take Summary of Evidence.

In the Field
8 Jun 45.

LIST OF WITNESSES FOR THE PROSECUTION

First Witness: 4542776 Pte Flanagan L.
74th Coy C.M.P. Nijmegen

Second Witness: 1569859 Pte Pheasant J.
74th Coy C. M. P. Nijmegen

Third Witness: 186069 L/Cpl Fenwick C.H.
74th Coy C.M.P. Nijmegen

Fouth Witness: 6399757 Cpl Huggett W. J.
74th Coy C.M.P. Nijmegen

LIST OF WITNESSES FOR THE DEFENCE

N I L

LIST OF EXHIBITS

N I L

REQUEST FOR A DEFENDING OFFICER

I, K-51920 Pte Thompson H.O. in the event of a Court Martial, pending against me, do hereby request that an officer be appointed to defend me.

H O Thompson
K-51920 Pte Thompson H.O.

Witness: W D Moore

RECEIPT FOR SUMMARY OF EVIDENCE AND CHARGE SHEET

I, K-51920 Pte Thompson H.O. do hereby acknowledge receipt of a true copy of the Summary of Evidence and charge sheet.

H O Thompson
(K-51920 Pte Thompson H.O.)

Witness: W D Moore

In the Field

19 Jun 45

EX "F".

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-51920	Pte	Thompson H. O.	1 C.L.T.C. (CIC)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	A. A. Sec 15 (1) Five times	Five times
For	times	times
For	times	times
For	times	times
For	times	times

[redacted]

or

[redacted]

2. The accused has not been previously convicted, *or*

[redacted]

3. The accused is not under sentence at the present time, [redacted] N/A beginning on the day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 14 36 days in military custody, making a total of 38 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] is 19 years 1 month

6. The date of his [redacted] attestation specified in his record of service [redacted] is 15 Jul 44 (Second Enl)

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM + clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(*25600) Wt.24598/1780 20,000 10/43 A.& E.W.Ltd. Gp.698
(26906) Wt.52934/1499 12,000 2/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K-51920 Rank Pte Name Thompson of 1 C.L.T.C. (CRG.)iment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N I L		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~19~~ 12 th day of ~~Jun~~ July 1945

(G. E. Martin) Capt & Adjt.,

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years ..... / A

In the rank of ..... years, ...

(INSTRUCTION.—If any matter in any of the above five paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

EX "G"

MFM 6 (APD 122) 40-2[illegible]-130 (3488)

No K-51920 Name Thompson H. C. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 15 Jul 44 | Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk N A | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc AJS Lewis 2 Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto Ont	24 Jul 44			AWL from 1830 hrs 24 Jul 44 to V/s at 1900 hrs 26/7/44 A.A.Sec 15(1) 2 dys.	CSM Stansfield L/Cpl Moase HG	3 dys CB	27/7/44	Lieut FH Knight	Forfeits 3 dys pay
Simcoe ont	4/9/44			AA Sec 15(1) AWL from 0600 hrs 4/9/44 to 2130 hrs 15/9/44 (11 dys 15 hrs 30m) Docy		7 dys C.B. 7 dys pay	18 Sep 44	Major JM Hunter	Forf 12 dys & 7 dys
Simcoe Ont	19/9/44			A.A. Sec 15(1) AWL from 0930 hrs 19/9/44 to 1015 hrs 25 Sep 44) (6 dys 45 mins)	L/Cpl Milne Documentary	14 days C.B.	27/9/44	Major Hunter	Forf 7 dys pay
Simcoe Ont	29/9/44			AA Sec 15(1) AWL from 1200 hrs 29 Sep44 to 2235 hrs 29 Sep 44 (10 hrs 35 Mins)	L/Cpl Milne Documentary	168 hrs Detn	4/10/44	Major A. Aitken	Forf 1 dys pay
Field	19/5/45			W.O.A.S. Sec 15 (1) AWL from 0800 hrs 19 May 45 until 1300 hrs 21/5/45 Docy	SSM Shewry	Forfs 2 dys pay 14 Days C.B.			Forf 7 dys pay

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

19 Jun 45 (G.E.Martin) Capt & Adjt 1 C. L. T. C.

(PTO)

76T.

Ble. Thompson, J.

Correspondence to be PINNED here.

767

"O"

Army Form A.3.

for Burgess Major President

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 25th day of November, 1942. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Div

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial to a reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint~~

*~~(1. Three Officers to form the Court.~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely:~~

* Omit if not applicable.

Proceedings Reviewed A Murray Capt Asst Judge Advocate General (JAG) CMHQ 10 Dec 42

25

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.J.Burgess	3 Cdn Div Sigs

Members.

Rank.	Name.	Regiment.
Lieut	G.R.O'Handley	C.H. of C. (MG)
Lieut	R. Heatrick	R.C.O.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R.F.L.Keller (R.F.L.Keller) Major-Gen

Commanding 3 Cdn Div

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C/11587 Pte John THOMPSON 3 Cdn Div Ord W.S.	Army Act Sec 40 RoB	Not Guilty RoB	Not Guilty of the charge RoB	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) (R.F.L.Keller) Major-Gen
Commanding 3 Cdn Div
Convening Officer (*c*)

(Signed) RoBurgess (R.J.Burgess) Major
3 Cdn Div Sigs
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

(49)

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25 RoB day of Nov 42 RoB, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~ RoB
*(4. The officers under instruction)

RoB ~~were~~ duly sworn. RoB

Signed this 27 day of Nov 1942

RoBurgess major
3 Cdn Div Sigs
President of the Court Martial.

* Omit if not applicable.

* See footnote (*b*) on page 762 A.M.I. 1929.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ RoB

~~Signed this~~ RoB ~~day of~~ RoB ~~19~~ RoB

~~*President of the Court Martial.*~~ RoB

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 ,

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W3, 47797/1937 35 M. 3/41 KJL/5265(2) Gp. 698/2

B2 (27)

Accused elects trial by Court Martial

CHARGE SHEET

The accused, No. C 11897 PRIVATE JOHN THOMPSON, 3rd Canadian Divisional Ordnance Workshop, R.C.O.C. a soldier of the Canadian Army (Overseas), being on active service, is charged with:-

First Charge CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

AA 40

in the field while on duty in Group 2 Workshop on 19 November 1942, engaged in a scuffle and argument with an N.C.O., K73165 Private (Acting Lance Corporal) BRASH, A.

Dated in the field this 21st day of November, 1942.

W D Gilbert
(W.D. GILBERT) Major,
A/Officer Commanding,
3rd. Cdn. Div. Ord. W/S.,
R.C.O.C. C.A. (O).

RT

To be tried by Field General Court Martial

28 Nov 42

F.E.N. Feller Maj Gen
GOC 3 Cdn Div

Robertson Brig
President

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined C 11887 Private JOHN THOMPSON of 3rd Canadian Divisional Ordnance Workshop, R.C.O.C. C.A.(O), and in my opinion he is [redacted] fit to undergo trial by Court Martial.

T.C. Fisher Maj
Medical Officer,
23rd Cdn. Fd. Amb.,
R.C.A.M.C. C.A.(O)

In the field
25 day of November 1942.

RAB

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined C 11887 Private JOHN THOMPSON of 3rd Canadian Divisional Ordnance Workshop, R.C.O.C. C.A.(O), and in my opinion he is fit to undergo trial by Court Martial.

In the field
26 day of November 1942.

Medical Officer,
23rd Cdn. Fd. Amb.,
R.C.A.M.C. C.A.(O)

RAB

A

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at In the Field
on the 25 day of November 1942 by order of
Major General R. L. L. Keller Commanding 3 Cdn. Div.
dated the 25 day of November 1942

President.
Major R. J. Burfoot
3 Cdn. Div. Sigs.

Members.
Lieut. G. R. O'Handley C.H. of C. (R.C.)
Lieut. L. Hetrick R.C.A.C.

Trial of* C 11887 Private John Thompson 3 Cdn. Div. Sigs. ~~Judge Advocate~~ R.C.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ R.C.
~~to serve owing to~~ R.C.
~~, waiting member takes his place as a member of the Court.~~ R.C.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt. G. Rocheneau de La Sablonie R.C.A.C.

Counsel‡ or defending officer† Lt. E. H. Wallace R.C.O.C.

At 1445 o'clock the Trial commences.

The order convening the Court is read, and is marked "O" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* ~~Here~~ insert No., Rank, ~~full~~ Name, Regiment, and Appointment (if any).
† Here state ~~Rank and~~ Name, and Regiment (if any).
‡ Qualification to be stated. R.C.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

(4)

B

The President, and R&B members ~~and judge-advocate~~ R&B are duly sworn.

The following officers R&B under instruction ~~are~~ to R&B duly sworn.

Capt George L. Tripp 1st Bn C. A. of O. (A.G.)

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~[first]~~ R&B charge against you, which you have heard read?

Question to the accused. 2

Not Guilty

Answer. 2

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ R&B

Question. R&B

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ R&B

Question. R&B

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ R&B

Question. R&B

Answer.

~~The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 25 (B) are here complied with.~~ R&B R&B

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty

*Instruction. (See R. P. 39 (A))
Question. 3

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. 3

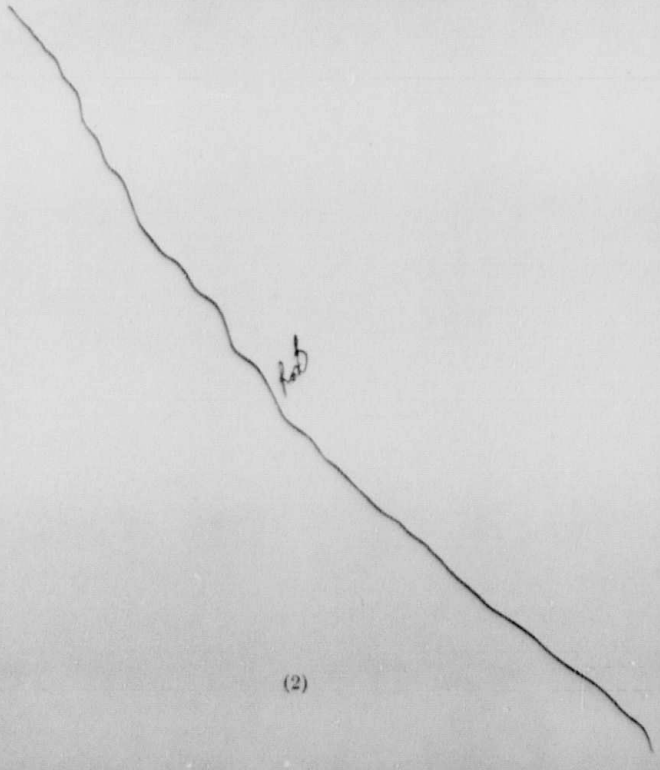
No

The prosecutor makes an opening address [hands in a written address, which is read, marked "P", signed by the President, and attached to the proceedings].

The prosecutor proceeds to call witnesses.

First witness for prosecution.

~~being duly sworn, is examined by the prosecutor~~



FIRST WITNESS FOR PROSECUTION

B 23216 Sgt. A.V. Waespi.
2 Cdn. Div. Grd. W/S. A.C.C.S.

Having been duly sworn states :-

"at approximately 1600 hrs on 19 Nov 42, I showed L/Cpl. A. Brash the recoil system of a 25 pdr when I was finished I gave instructions to L/Cpl. A. Brash to file a funnel down. He then walked up to his work bench, which at the time was occupied by Pte. John Thompson, the accused.

"L/Cpl Brash proceeded to order Thompson off the bench, so that he might do the filing job. Pte. Thompson replied by telling L/Cpl. Brash to "go fuck himself" L/Cpl. Brash replied that Pte Thompson could do the same. Then Pte. Thompson hit Brash on the shoulder. At this moment I interfered and had Pte. Thompson up for Orderly Room."

The first Witness is examined by the prosecutor as follows:-

Prosecutor - Q4. Were there many men in the shop at the time the incident occured?
Witness - A.4. Not many, a blacksmith was hammering at a distance of approximately 50 feet.

Q.5. Was the light in the shop good?
A.5. A light from the workshops lorry was good. The remainder was poor.
Q6. How far was L/Cpl Brash from the accused when he addressed him?
A6. Approximately 2 feet.

(4)

Q.7. Did the accused recognize L/Cpl. Brash?

A.7. Yes.

Q.8. In the scuffle following the argument, did the accused strike L/Cpl. Brash?

A.8. Yes, quite severely.

Q.9. Did you know that Brash was an acting L/Cpl.?

A.9. Yes.

Q.10. Was he wearing his stripe?

A.10. Yes.

Cross Examination by Defending Officer.

Q.11. Sgt. Wapie you have just finished providing your evidence. Before going to the wise where Pte. Thompson was living did you notice any others not being used?

A.11. Yes, one pair.

Q.12. What is the total number in the shop?

A.12. Four.

Q.13. Why did you deliberately choose one to use in preference to those not in use?

A.13. Not deliberately. Each man has a wise allotted to him.

Q.14 Had the accused at that time a wise allotted to him?

A.14. Yes, he had one allotted to him.

Q.15. In the shop when the men are not busy, have you noticed any "playing about"?

A.15. I have.

Q.16 You testified as to obscene language from the accused?

A.16. Yes.

Q.17. The term used has often been applied in a similar manner as "buzz off" etc, have you not heard it so used?

A.17. Yes. I have.

Q.18 Did you hear L/Cpl Brash call the accused any name before, or while carrying out the order?

A.18. No.

Q.19. With a blacksmith hammering how would there not be much noise?

A.19. This depends on the work, when hammering hot iron, the noise is light, and when hammering sheet metal, the noise would be heavy.

Q.20. Have you at any time in your position as N.C.O noticed any unfriendliness between the accused and L/Cpl. Brash?

A.20. No Sir, I was quite surprised when the accident occured.

Q.21. Did you hear L/Cpl. Brash say that he did not want to bother with Orderly Room procedure etc?

A.21. No.

Prosecution declines to Re-Examine.

R.P. 83(B) Complied with.

SECOND WITNESS FOR PROSECUTION.

(11)

L.78165 L/Cpl. A. Brash.

Having been duly sworn States:-

"I was at the far end of the garage with Sgt. Waespi where he was showing me a new plug. It was put into a recuperator. He then asked me to file down a fork. We then approached the vice, which I was in the habit of working at.
Pte Thompson was working at the vice and I asked him to move, he told me to "go fuck myself" and I told him "same to you".
He struck out and hit me on the shoulder, and Sgt Waespi intervened.

The second witness is examined by the prosecutor as follows:-

Q.22. Did the accused strike you on the shoulder?
A.22. On the left shoulder.
Q.23. How long have you been a L/Cpl.
A.23. Since 21 Sep. 42.
Q.24. What is a "scabherd"?
A.24. I understand them to be people who take strikers' jobs. I usually have understood the term to be known as "scab"
Q.25. Did you notice, while moving across the shop, any vacant vises?
A.25. No
Q.26. Do you know the accused pretty well?
A.26. Yes.

(12)

Q.27. Are you good friends?
A.27. Yes.
Q.28. Have you kidded or chaffed each other?
A.28. We have kidded the same as anybody else would.
Q.29. In your estimation does the accused turn out a good bit of work?
A29. I don't know, that doesn't come under me.
Q.30. Do you think the accused would be the type of man who would deliberately tell people to go fuck themselves?
A.30. I do not know.
Q.31. Remember shortly after the scuffle going to the accused and asking for a light for a cigarette?
A.31. Yes.
Q.32 Did he give you a light?
A.32. Yes
Q.33. Did you feel as if there was animosity on the part of the accused when asking for a light?
A.33. No.
Q.34. On asking the accused for a light do you remember asking him to talk things over?
A.34 No.
Q.35. Did you mention suggesting seeing Capt. Bromage and having things fixed up?
A35. I did not mention his name.

Defence Officer declines to Cross Examine

R.P. 83 (B) Complied with.

(13)

THIRD WITNESS FOR PROSECUTION:-

H58601 Pte. A.M. Marks.
3 Cdn Div. Grd w/s. R.C.O.C.

Having been duly sworn states:-

I saw Pte. Thompson working in L/Cpl. Brash's mess. I heard a few words between them, which I thought at the time were only in fun until I saw Pte. Thompson take a pass at L/Cpl Brash. As near as I could tell, the blow landed on L/Cpl. Brash's shoulder. Then I saw Sgt Mazepi take hold of Pte Thompson and told him that he was going to peg him for striking an N.C.O.

Prosecutor declines further Examination.

Cross Examination by defending Officer.

D.O. Q.36. Do you work in the same shop as L/Cpl Brash?

3rd Wit. A.36. Yes.

Q.37. How many mess are there in that shop?

A.37. There are four mess in my section.

Q.38. Do you remember if any of these mess were empty at the time of the scuffle?

A.38. There were three of the four mess exhibits no one was near at that particular time.

Q.39. How far were you away from the when the blow, which was supposed to have taken place, landed?

(21)

A.39. Right to ten feet

Q.40. Were you looking directly at the accused?

A.40. Yes.

Q.41. Were you in a position to see what happened?

A.41. Yes.

Q.42. Did you hear Sgt Wallace tell Pte Thompson that he was going to "peg him" for striking an N.C.O.?

A.42. Yes.

Q.43. Did you hear the accused tell L/Cpl Brank to go fuck himself?

A.43. I didn't Sir.

Q.44. Have you worked long with the accused?

A.44. Six weeks.

Q.45. In that six weeks do you recall him using that language to any person?

A.45. I couldn't definitely say that.

Q.46. Have you seen anybody indulge in friendly wrestling while in the shop?

A.46. Yes Sir, Lots of it.

Prosecution declines to Re-Examine the Witness.

Questions by the Court.

Q.47. Did you think that there was anything serious taking place at that time?

A.47. No.

Q.48. Was it the custom in the section for men to use one another's vises?

A.48. Not without permission

Q.49. From whom?

A.49. From NCO. or person operating that particular vise.

(15)

D

The prosecution is closed.

Defence

5D *Question to the accused.* Do you apply to give evidence yourself as a witness? Yes RoB

5D *Answer.* Yes

5E *Question.* Do you intend to call any other witness in your defence?

5E *Answer.* Yes

5F *Question.* Is he a witness as to character only? 5F *Answer.* NO

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence?~~ RoB

Answer. ~~The accused in his defence says:~~ RoB

~~[Hands in a written address which is read, marked~~ RoB ~~signed by the President and attached to the proceedings.]~~ RoB

RoB

---

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court *above*.)

D2

Instruction.
The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

FIRST WITNESS FOR DEFENCE

(17)
to Burgoyne
Inquest

2 16704 Pte F.H. Grimmer
3 Coy Lincs Yeo W/S R.C.O.C.

Having been duly sworn states:-

Q52. Have you worked in the same shop as the accused?

A52. Yes

Q54. Have you seen any evidence of fighting pushing and wrestling about going on in the shop?

A54. Yes

Q55. How many vices are in your Section?

A55. Four.

Q56 Were you in the shop at the time of the alleged struggle?

A56 Yes

Q.57. Could you tell the Court if there were any empty vices present at that time.

A.57. There were two empty vices.

Q.58. Is it the custom when a man needs to work on a vice to proceed to work on any one

A.58. Yes.

Q.59. Is it necessary to obtain permission of the owner of the vice in order to use it?

A.59 Up until to-day, I didn't know anybody owned them.

(12)

Q.60. Have you known the Accused to use language such as "Go Fuck yourself"?

A.60. No. I can't say I have.

Q.61. What kind of a worker is he?

A.61. Very conscientious.

Q.62. To your knowledge were the Accused and Capt Brock friends?

A.62. Yes.

Cross Examination by Prosecution:-

Q.63. Did you see the Accused strike Capt Brock?

A.63. It just looked like kidding to me.

Defence Officer declines to Re Examine

R.P. 83 (B) Complied with.

SECOND WITNESS FOR DEFENCE

(19) Redmond Pte

H58529 Pte. J. Gregory.
3 Cdn Hvy Ard. W/S. R.C.O.C.

Having been duly sworn states:—

By:

Q.64. Do you work in the same section of the shop as the accused?

A.64. Yes.

Q.65. Would you state slowly what happened on 19 Nov 42 at approximately 1600 hours in your shop.

A.65. Pte. Thompson was transferred about a week ago from the machinery lorry into the shop as a fitter. I happened to be at one end of the benches with him at that particular time and we were discussing the fact that there did not seem to be sufficient light at the place where he was fitting. A door next to the blacksmith shop about 20 feet away. Meanwhile the accused moved to another vice, where no one was working. Sgt Brank usually worked at that particular vice, and he came in later to do some work there. The two men commenced to hold a conversation, but there did not seem to be any trouble, suddenly Sgt Brank came in between them.

Q.66. Have you seen any sign of bad feeling between Pte Thompson, and Lt Cpl. Brank?

ALL. No, they were always good friends.

(20)

Q 67. Have you ever heard the accused use the Statement "Go fuck yourself"?

A 67. Yes. Only in fun.

Cross Examination by Prosecuting Officer

Q 68. What job was the accused working on at this particular time you speak of?

A 68. It was for a gun.

Q 69. Was it a big job?

A 69. No, a small job.

Defence Officer declines to Re-Examine.

R.P. 83 (B) Complied with.

THIRD WITNESS FOR DEFENCE

(21)

K/7005 Pte Gnr G.M.S. J. Forside
2 Cdn Hvy. Fd. Wks. R.C.O.C. CA(O)

Having been duly sworn states :-

Q.70. Are you in charge of a Gun shop at which accused used to work?

A.70. Yes.

Q.71. Were you present at the Workshops on 19 Nov 42 at 1600 hrs.

A.71. I was in the Orderly Room adjoining the W/S.

Q.72. Will you tell me what kind of a worker Pte Thompson is?

A.72. A pretty fair worker.

Q.73. Can you recall seeing any friendly scuffling taking place about the shop?

A.73. Yes.

Prosecution declines to Cross Examine

R.P. 83 (B) Complied with.

EVIDENCE of ACCUSED ON OATH

(27)

C. 557 Pte. John Thompson,

Being duly sworn states:—

I was doing some work for myself at the time. I didn't have a vise as we were never allotted one. Out of my own kit I took a small pin vise which I placed on the work table. At the time I was using my own vise as it was my own work. After working a few minutes a job came in, and was presented to me by C.M.S. Goode. In that work, was two or three articles some of which I had finished. In this particular job there was a stud broken off. It had to be extracted and threaded. I worked for a few minutes with the job and had it all completed with the exception of new threads.

I had to use a "8" tap which was quite small. I was using it in my own pin vise. On account of the tap being small, I had to move from this small vise to another one. The reason for this, was because I was afraid of breaking a tap. I went over to the vise that Capt B. rash usually worked on. I had only

(24)

resumed my work, when Capt Brash arrived and we had the usual fooling whit we always had. I was anxious to have this job done and asked him to be quiet and when he kept on fooling, I pushed him by the shoulder

Cross-Examination by Prosecutor:-

Q.74. Why did you strike Capt. Brash?
A.74. Because I wanted to get my job done, I pushed him out of the way.
Q.75 Did you know that Brash was a Capt?
A.75. yes

Defending Officer declines to Re-Examine.

Court proceeds to examine the accused:-

Question by the Court: Q.76. Did you intentionally push Capt. Brash?
A.76. No Sir.

R.P. 83(B) Complied with.

Court adjourned at 1740 hrs. 25 Nov. 42
Court re-opens at 0945 hrs. 26 Nov 42
Closing address of defending officer read by him marked "Q" and attached to proceedings.
Closing address of prosecuting officer read by him marked "R" & attached to proceedings.

Defence Summing up.

1. In this brief summary at the close of the trial by Field General Court Martial of C 11887 Private John Thompson held in the Field on the 25th - 26th November 1942, the Defence respectfully takes this opportunity of bringing the facts before the Court.

The accused is charged under Section 40 of the Army Act- "Conduct to the prejudice of good order and Military discipline" in that he did engage in a scuffle and Argument with an N.C.O. K 73165 Pte. (Acting Lance Corporal) Brash A.

In all the evidence brought before the Court by the Prosecution and by the Defence - The Defence has shown that "Friendly" scuffles are not uncommon in the workshop - For that matter the N.C.O. who instigated the charges, 823216 Sgt Waespi, A.V. in cross examination by the Defence, stated that there "Friendly" scuffles did and do take place, also that a good deal of obscene language is used by the troops also in a friendly manner.

All witnesses have testified that the accused and L/Cpl Brash were the best of friends and all witnesses, with the exception of Sgt Waespi and L/Cpl Brash showed expressed extreme surprise that this scuffle had been taken as serious

Pte Thompson

R. Burger Sept President (33)

There appears to be a difference of testimony with regard to the number of empty vices in the shop at the time of the alleged Scuffle

1st Witness Sgt Waespi, Stated, that there was only One empty vice

2nd witness. L/Cpl Brack — Did not know how many empty vices

3rd Witness Pte Marko — Thought there were 2 vices empty.

Defence Witnesses

1st Pte. Grimmer Stated 2 vices were empty

2nd Pte Gregory Stated 2 vices empty

It is pointed out that there certainly were 2 empty vices and the Defence contends that, had L/Cpl Brack had any intention of using a vice he would have used one of the empty ones, instead, in a friendly manner he decided to "joke" along the accused by telling him to remove his work. The result of this "joking" was a friendly push and a statement to "leave me alone" [illegible] from the accused - This friendly push and Statement were witnessed by Sgt Waespi who, Mistaking this push and Statement for an act of violence placed the accused under arrest. L/Cpl Brack, in spite of his friendship with the accused was placed in the unfortunate position of taking the a party to Sgt. Waespi's charge of the accused.

(35)

The defence contends that, had Sgt Wacspi taken the time to inquire into the circumstances surrounding the alleged scuffle he would have found that this was merely a ~~once~~ repetition of the friendly scuffling that he himself admits goes on between the men in the shop, and that there was in fact, no reason for placing a charge against the accused.

As to the wording of the second part of the charge, no evidence whatsoever has been placed before the Court to indicate that the accused became engaged in an argument with an N.C.O.

The fact that the accused elected to make a statement in his defence, under oath, thereby leaving himself open to cross-examination, clearly indicates that he too felt the whole affair was nothing more than the usual friendly pushing.

On the strength of the evidence placed before the Court, the defence respectfully asks the Court to return a finding of Not Guilty.

"R" (37)

IN REPLY PLEASE QUOTE

CANADA

Department of National Defence

NO.

194

CASE OF C11887 PTE JOHN THOMPSON

CLOSING ADDRESS BY PROSECUTION

"Gentlemen, I submit, on behalf of the prosecution, that the charge against the accused has been proved.

"If I may be permitted to break down the charge into its essential elements it will be found that there are two.

1. That the accused did engage in an argument in which he told his superior officer, A/L/Cpl. Brash, to go and fuck himself.
   The witnesses for the Prosecution have testified that such words were used and witnesses for the Defence corroborated by stating that such language was common occurence in the workshop. ~~of the common~~
   ~~Is there one Defence agree that foul language between men and N.C.O.s should be tolerated~~?

2. That the accused did engage in a scuffle with A/L/Cpl. Brash, in which he did strike him in the shoulder with his fist, knowing that A/L/Cpl Brash was his superior officer.
   I claim that the evidence given by the prosecution is more reliable than that of the defence, for this reason: The three witnesses for the prosecution were much closer to the scene of action itself than any of the defence witnesses. The three witnesses have testified in each case that a scuffle did take place in which the accused struck A/L/Cpl. Brash in the shoulder.
   In Cross examination, the accused agreed that he gave his superior officer a "push".

"I claim that each of these two essential elements has been proved.

"This case could have been tried under the more severe charge of striking his superior officer being in the execution of his office, but instead, the lesser charge was chosen.

"I submit, While everything possible has been done for the defence of the accused, that the prosecution case against the accused has been established."

In the Field
26 Nov. 42.

Capt.

M.F.H. 239
1000M—9-40 (7252)
H.Q. 1772-39-194

(24)

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused C 11887 Pte Thompson, 3d Can Div Ordnance Workshop, R.C.O.C. Not Guilty of the charge.
The finding is announced in open court and accused dismissed

For Summary Proceedings see Standard

1b

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

1b

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

"P" (29)

IN REPLY PLEASE QUOTE

Department of National Defence NO.

CANADA 194

OPENING ADDRESS BY PROSECUTOR - IN CASE AGAINST

C11887 PTE. JOHN THOMPSON

"Gentlemen, I shall endeavour to prove through witnesses, the following narrative of events which have led to the preferment of the charge against the accused.

"On Nov 19, 1942 at about 1600 hrs. at the Gun Shop of No.2 Group, 3rd Cdn Div Ordnance Workshop RCOC, Sgt. Waespi had been giving some instructions to A/L/Cpl. Brash about a new plug to pack in a recuperator. Sgt. Waespi then asked A/L/Cpl. Brash to file down a ferrule for him.

"A/L/Cpl. Brash has a bench and vise at which he is in the habit of working, so he walked over to his vise and found the accused working on it. A/L/Cpl. Brash asked the Accused to remove his work from the vise. The accused refused, using obscene language, and struck A/L/Cpl. Brash in the shoulder with his fist. At that moment Sgt. Waespi interfered, and warned the Accused for Orderly Room.

"The accused has elected to be tried by Court Martial instead of being dealt with summarily by his Commanding Officer.

R. Mackenzie de Lotbinière
Capt.

25 Nov 42.
Field.

for Brig. [illegible]
Comdt

M.F.M. 239
[illegible]
H.Q. 1772-39-194

(37)

Unit Headquarters,
In the Field.
21 November 1942.

3rd C.A.D.L.A. DIVISIONAL ORDNANCE WORKSHOP
A.P.O.3.

C.A.(C).

SUMMARY OF EVIDENCE
In the case of

6 11887 Private JOHN THOMPSON,

Conducted by Major W.D. GILBERT

Evidence was taken in the presence of the accused, who had his rights explained to him.

The Officer Commanding directs that all evidence be taken on oath.

W D Gilbert

(W.D. GILBERT) Major,
A/Officer Commanding,
3rd Cdn. Div. Ord. W/S.,
A.P.O.3. C.A.(C)

A.A.D

Robertson
President

(41)

Unit Headquarters,
In the Field,
21 November, 1944.

SUMMARY OF EVIDENCE--911867 PRIVATE THOMPSON, JOHN

FIRST WITNESS 823816 Sgt. Waespi, A.V. of the 3rd Gdn. Div. Ordnance Workshop, R.C.O.C., being duly sworn states:-

"On November 19, 1944 at or about 1600 hours I showed L/Cpl. Brash part of a new recuperator system. After I was finished with these instructions I asked him to file down a furl for me. We walked up to his working place which, at the present time, Pte. Thompson had occupied. L/Cpl. Brash asked Pte. Thompson to move his work out of the vice. For an answer L/Cpl. Brash got 'go fuck yourself'. L/Cpl. Brash replied for him to do the same to himself. Right after that Pte. Thompson struck L/Cpl. Brash in the shoulder with his file. At that moment I interfered and warned Pte. Thompson for Orderly Room."

Sgt Waespi A.V.
B23816

(Signed) Sgt. Waespi, A.V.,
3rd Can. Div. Ordnance Workshop,
R.C.O.C. C.A.(C).

The accused declines to question the witness.

W D Gilbert
(Signed) Major,
Officer Commanding,
3rd Can. Div. Ord. Workshop,
R.C.O.C. C.A.(C).
Officer taking Summary of Evidence.

RAB

Unit Headquarters,
In the Field.
21 November 1941.

SUMMARY OF EVIDENCE -- Gilbert PRIVATE THOMPSON, John

SECOND WITNESS

K78166 L/Cpl. Brash, A. of the 3rd Gdn. Div. Ordnance Workshop, R.C.O.C., being duly sworn states:-

"I was at the far end of the garage with Sgt. Waespi where he was showing me a new plug to be put into a re-cuperator. He then asked me to file down a furi. We then approached the vice which I was in the habit of working at. Pte. Thompson was working at the vice and I asked him to move. He told me to 'go fuck myself', and I told him 'same to you'. He struck out and hit me on the shoulder and Sgt. Waespi intervened."

Alf Brash

(Signed) L/Cpl. Brash, A.
3rd Gdn. Div. Ordnance Workshop,
R.C.O.C. G...(O).

The accused declines to question the witness.

(Signed) W D Gilbert Major,
A/Officer Commanding,
3rd Gdn. Div. Ord. Workshop,
R.C.O.C. G...(O).
Officer taking Summary of Evidence.

(41)

Unit Headquarters,
In the Field.
21 November, 1942.

SUMMARY OF EVIDENCE -- 311887 PRIVATE THOMPSON, JOHN

T.E.D.
WITNESS

H88601 Pte. Marko, A.M. of the 3rd Gdn. Div. Ordnance Workshop, R.E.M.E., being duly sworn states:-

"I saw Pte. Thompson working in L/Cpl. Brash's vice. I heard a few words between them which I thought at the time were only in fun until I saw Pte. Thompson take a pass at L/Cpl. Brash. As near as I could tell, the blow landed on L/Cpl. Brash's shoulder. Then I saw Sgt. Wasmi take hold of Pte. Thompson and told him that he was going to put him for striking an N.C.O."

A M Marko

(Signed) Pte. Marko, A.M.
3rd Gdn. Div. Ordnance Workshop,
R.E.M.E. ...(C)

The accused declines to question the witness.

W D Gatten

(Signed) ..... Major,
A/Officer Commanding,
3rd Gdn. Div. Ord. Workshop,
R.E.M.E. ...(C)
Officer taking Summary of Evidence.

A.F.

(47)

SUMMARY OF EVIDENCE -- 2 11687 Private JOHN WILSON

"The warning as laid down under R.P.4(E) was then read and explained to the accused."

The accused was then asked if he wished to make a statement or give evidence on oath

Answer by the accused "No, sir."

Rules of Procedure 4 (c), (d), (e), (f), (g), have been complied with.

Dated in the field this 21st day of November 1942.

W.O. Gilbert
(W.O. GILBERT) Major,
A/Officer Commanding,
3rd Can. Div. Grd. R/S.,
A.P.O.3.
C.A.(G)

MAB

5 R - 118

Pl. Thompson, J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-53341 Pte John THOMPSON - CIC - 11 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 9(2)	NOT GUILTY	GUILTY	
2nd AA Sec 15(1)	"	"	
3rd AA Sec 40	"	"	
4th AA Sec 9(2)	"	"	
5th AA Sec 15(1)	"	"	
6th AA Sec 40	"	"	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of One Hundred and Twenty (120) Days.

AUG 3 - 1945

(Sgd) ..... Judge-Advocate, if any. Date awarded. ..... President. (RP 48, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I withhold the confirmation of the sentence (finding or sentence) awaiting further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) R Blackader Brig

Date 6 Aug 45 Commanding D Gp Can Sig Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-53341 Pte John Thompson	7 Aug 45	Comd Offr 11 Cnd Repat Depot

11 CRD Pt II D.O. No. 14 d/10 Aug 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 21 AUG 1945 CMHQ

RECORDED AT CMHQ IN AB 160

5R-118

FIELD GENERAL COURT-MARTIAL

CPA96 (To item 10 of AFA81) 40-1-P.M.B.-1698-4/45(1)

4/38B

Convened by order of Brigadier K G Blackader Comd D Gp CRU dated 2 Aug 45

ACCUSED.

(Particulars of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank as substantive, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Substt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-53341	Pte	John	THOMPSON	CIC 11 Cdn Repat Dep

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to Cpl J F Bourgeault as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ C RU
Member	CAPT	F M BURTT	10 C REP D
Member	LIEUT	A G McKAY	10 C REP D
~~Judge Advocate~~	Capt from 4 CITR being unable to attend waiting member takes his place		
Prosecutor	LIEUT	E S LE MOINE	11 C REP D
Defending Offr	LIEUT	J P HARRIS	11 C REP D

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3; MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO-SIR.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Give evidence Do you intend to call witnesses on your behalf ?

Ans Yes Sir Are they witnesses as to character only ? Ans NO-SIR

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)

~~(1). The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)

(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Full Character. NOTE-ATT

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Plead for light NOTE-ATT(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B. 55341, Private John THOMPSON, R.C.E.M.E., 11 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:

First CHARGE Sec.9(2) Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he, in the field, about 1940 hrs 21st July, 1945, when on duty as a 5 Canadian Infantry Training Regiment driver of W.D. Vehicle No. CM 4231543 and when personally ordered by No. K. 15529, Sergeant Cooper, F.J., 11 Canadian Repatriation Depot, then on duty as a 5 Canadian Infantry Training Regiment transport sergeant to leave the said vehicle where it then was did not do so turning his back immediately on the said sergeant, jumping into and driving the said vehicle away at high speed and saying "I am going to have some beer now".

Second CHARGE Sec.15(1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the field, absented himself without leave from 5 Canadian Infantry Training Regiment from 1940 hrs 21st July, 1945 until his return at 2300 hrs 21st July, 1945.

Total absence 3 hours and 20 minutes.

Third CHARGE Sec. 40 Army Act.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he, in the field, between 1940 hrs 21st July, 1945 and 2300 hrs 21st July, 1945, did improperly and without authority use W.D. Vehicle No. CM 4231543.

Fourth CHARGE Sec.9(2) Army Act.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he, in the field, about 2320 hrs 21st July, 1945 when on duty as a 5 Canadian Infantry Training Regiment driver of W.D. Vehicle No. CM 4231543 and when personally ordered by No. K. 15529, Sergeant Cooper, F.J., 11 Canadian Repatriation Depot, then on duty as a 5 Canadian Infantry Training Regiment transport sergeant to give the keys of said vehicle to the said sergeant did not do so saying "No I won't give you the keys".

Fifth CHARGE Sec.15(1) Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the field, absented himself without leave from 5 Canadian Infantry Training Regiment

from 2320 hrs 21st July, 1945 until his return at 2345 hrs 22nd July, 1945.

Total absence 1 day and 25 minutes.

Sixth CHARGE Sec. 40 Army Act.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he, in the field, between 2320 hrs 21st July, 1945 and 2345 hrs 22nd July, 1945 did improperly and without authority use W.D. Vehicle No. CM 4231543.

J.D. Forin Col

(J.D. FORIN) Colonel
Officer Commanding
11 Canadian Repatriation Depot

In the Field,
31 July, 1945.

To be tried by Field General Court Martial.

K.G. Blackader

(K.G Blackader) Brig
Comd
D Gp Cdn Rft Units

IN THE FIELD
2 Aug 45

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA3)
40/PAS/1697 (2563)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-53341	Pte		John	THOMPSON	CIC 11 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Aug 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior authority~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Tribunal possessing, for the reasons stated~~ attached hereto.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Officer whose name is hereto~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

LT COL (*Rank.*)	D L REDMAN, VD (*Must be named. RP 106.*)	HQ CRU (*Unit.*)

MEMBERS.

Captain	to be detailed by Comd	4 CITR
Lieutenant (*Rank.*)	to be detailed by Comd (*Named or detailed. RP 106.*)	10 Cdn Repat Dep (*Unit.*)

WAITING MEMBER.

Captain (*Rank.*)	to be detailed by Comd (*Named or detailed, if any. RP 106.*)	10 Cdn Repat Dep (*Unit.*)

~~JUDGE ADVOCATE~~

(*Rank.*)	(*Must be named, if any. RP 106.*)	(*Unit.*)

On Active Service in the Fd

in England (*Country.*)

Date 2 Aug 45

K G Blackader
(*Signed personally. RP 105 fn 2.*)
(K G Blackader)
Commanding D Gp Cdn Rft Units
Convening Officer.

Brigadier (*Rank.*)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL OFFICER'S CERTIFICATE

August 3rd, 1945.

I certify that No. B. 53341, Private John THOMPSON, RCEME, 11 Canadian Repatraition Depot is in F/I state of health and is F/I to undergo trial by Court Martial.

.....Capt.
RCAMC att'd 11 C'n Repat Depot

TRIAL OF

B-53341 PTE THOMPSON J CIC - 11 CDN REPAT DEP

PROSECUTION

FIRST WITNESS

K-15529, SGT COOPER FJ, 11 CDN REPAT DEP, sworn, states:-

Q. Will you tell the Court exactly what happened on the night of 21 Jul 45?

A. I was Tpt Sgt for 5 CITR. I had been put on duty as Sgt for the Officers' Mess dance for 5 CITR. I had taken a convoy of vehicles to Chapplewood Manor, Sussex, and parked the vehicles in the parking lot. The vehicles were there for the convenience of the dance and all the vehicles were checked in the lot to see that they were all there. A check of the personnel was made at the parking to see that all were present. That was at approx 10 minutes after we came in. There was one vehicle driven by the accused, whom I recognize in this Court as being Pte Thompson, vehicle No. CM 4231543 (Jeep 543) which had to go for a tire repair, as stated by the accused. I didn't check to see whether the tire needed the repair or not; I took his word for it. In that time the vehicle went away and returned to the square in front of the Officers' Mess and not to the parking lot.

THE PROSECUTOR SHOWED THE WITNESS A SKETCH OF THIS AREA AND THE WITNESS SAID THAT IT WAS APPROX CORRECT; THE DEF OFFR SAID THAT HE HAD NO OBJECTION TO IT.

(THE SKETCH IS MARKED EX 1 BY THE COURT)

The vehicle was parked approx 50 feet across from where I was despatching and where I had made my HQ. He accused had been over talking to me in a sober manner; he seemed to be fairly sober; he probably had had a drink; I said to him that he was to have no beer and that he was to leave the vehicle where it was; I was busy getting the vehicles and the officers away into the dance as the persons came in from the vehicles. The accused walked towards the vehicle which I estimated to be 50 feet away stating that he was going to have a drink of beer. He had been forewarned not to drink and got into the vehicle and smartly turned on the ignition key and drove towards the clock tower at 1930 hrs; it could have been a little later; he could have been probably 10 minutes later. With that, I sent the DR who was on duty, Pte Stevenson, to see which way he had gone and to see if he could turn him about but it is winding through there and he lost track of him before he got on his vehicle. There was nothing else that I could do but to wait until the vehicle returned and when it returned at 2300 hours that same evening, I was there, Sir. When I saw the vehicle come in, I walked over to the vehicle which driven by the accused and asked for the keys, the ignition keys that would be. I was refused the keys; I then made it an order and said, "Give me the keys, Thompson" and I held my hand in a manner to receive them. I was refused again. I then lifted the hood of the jeep, No 543, and removed the high tension wire lead which runs from the coil to the distributor; when I did that, there was a remark passed by the accused, "I suppose you think that you are smart by doing so". I asked him for the keys and he said that he wouldn't give me the keys. I returned to my duty and I left the accused by the vehicle. He still had the keys. I had immobilized the vehicle. I was back on

duty at 2310-15 hrs and resumed my duties. While carrying on, Sgt Boyd who was assisting me found it necessary to use his jeep and he went over to start it and found that the vehicle would not start, that was at approx 2315 hrs; that was Jeep No 402; with that Sgt Boyd came over to me and we went to check the parking lot and found that Jeep No 543 was missing from the parking lot, and that would be around 2320 hrs. I didn't see the accused. I looked for him. I sent a Sgt to look for him through the Nutley Area. He also looked through the camp. The trip was taken by Sgt Boyd in Jeep 402 and with that all trips were completed as the dance finished I should say at 0300 hrs on 22 Jul 45. With that we returned to camp and made a check of the vehicle parking lot first; jeep 543 was missing; with that we checked the quarters and the driver of jeep 543, the accused, was not present; I made a report into the Tpt Officer, and we notified the RP on the gate to hold Jeep 543 and the driver when it would come in. The jeep returned at approx 2300 hrs on Sun night which would be 22 Jul. I was not present at the time. I examined the speedometer and it shoed approx 190 miles driven that was not authorized.

Q. When the accused first came to the vehicle park in front of the officers' mess, were you alone?
A. Pte Stevenson and Sgt Boyd were in the immediate vicinity.

Q. Did you hear Boyd talk to the accused?
A. Yes, he told him to lay off the beer.

Q. Did Sgt Boyd hear you talk to the accused?
A. Yes, Sir, he was close enough to hear him and me.

Q. Did he hear you when you asked for thekeys?
A. Yes, he must have he was close enough to hear that.

CROSS-EXAMINED

Q. When the accused was in the vehicle park in the first instance you said that he had been drinking, did you think then that he was in a condition to be left with a vehicle?
Yes, Sir, definitely

Q. Did you say that Pte Stevenson followed the accused on his MC?
A. Yes, Sir, and he reported to me that he went as far as the road that leads on to the Nutley Road; it would be probably ¼ a city block, which would be from 500 to 600 feet, where the road goes into a "T" road.

Q. The second time, you saw the accused at 2300 hrs how was he?
A. He had just come in. I should say his condition was sober, more so than he had beer. I don't know was his capacity is but I would say that he was sober and he answered me in a normal manner.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B)

SECOND WITNESS

B-127620 Sgt BOYD, GE, 11 Cdn Repat Dep, sworn, states:-

Q. Will you tell the Court what happened on thenight of 21 Jul 45?
A. Sgt Cooper and myself had been detailed as Tpt Sgt for 5 CITR Officers' Dance. We had left our lines at 1830 hrs and got over to Depot Bn Officers' Mess. We put the vehicles in the parking lot marked "B" on Ex 1. Sgt Cooper and I proceeded to the Officers' Mess where our duty would be for the evening. A short time later, an officer came down and told me that the accused

had returned to tpt to fix a tire that had gone soft. He returned shortly with a S/Sgt in the vehicle who wished to go somewhere and I pointed out that it was impossible for him to go; he got out; the accused seemed to have a little trouble or difficulty with the vehicle and I felt that he had been drinking. He was not drunk by all means. I then told him to lay off the beer as he had a trip in ½ an hour. To that he said something about getting more beer. Sgt Cooper told him that he was not to have any more beer as he was on duty. At that moment, I went over to an officer who wanted to know something about something. The accused drove off. He returned about 2300 hrs; in the meantime, I had taken a vehicle which I had there and had taken the accused's trip which he had missed. The DR came down and reported that the accused had reported his car; Sgt Cooper and I went up and found the accused opposite his vehicle; Sgt Cooper asked him for the keys; the accused seemed to be evasive; Sgt Cooper ordered him to give him the keys; the accused still didn't give him the keys; it was an Officers' Mess Dance, we didn't wish to cause any commotion, so Cooper just removed the high tension wire from the vehicle. About ½ an hour later, I found it necessary to use the vehicle that I had; it didn't start; I found that the hight tension wire on my vehicle had been removed; I told this to Sgt Cooper; I want up to the vehicle park and we (Sgt Cooper and I) found the accused's vehicle to be missing at 2330-45.

Q. Could the high tension wire from your vehicle have been put in another vehicle such as a jeep?
A. Yes, Sir.

Q. And it would work?
A. Yes, Sir.

Q. Had the accused made any remark when Sgt Cooper removed the high tension wire from his vehicle?
A. Yes, Sir, I believe he said something to the effect that we were being smart. He said this in a hostile manner and defiant. We found his car to be missing from the parking lot. We finished at about 0330 hrs on 22 July 45 and returned to our lines. We checked the vehicles at the vehicle lot and Jeep 543, the accused's vehicle, was missing. We checked the quarters where the accused was living, and he was not there. We simply reported the vehicle and the man to be missing.

Q. Do you know when the vehicle returned?
A. No, Sir.

Q. Did you check the mileage later?
A. Yes, Sir, we found about 190 miles for which we couldn't account for according to the authorized trips or journeys on the work tickets.

CROSS-EXAMINED

Q. You say the accused had been drinking some beverage before he reported to the parking lot at 1940 hrs?
A. Yes, Sir.

Q. Did you think that he was in a fit condition to handle a vehicle that night?
A. I would say that he was quite capable.

Q. No steps were taken at that time to prevent him from going out and getting any more drinks?
A. We considered that when we told him to leave the vehicle there that it was sufficient. He hadn't been drinking to any extent to lose his sense of responsibility.

Q. After he left in the jeep did anyone follow him?
A. Yes, Sir, I believe Pte Stevenson did, but it is very difficult to try to follow a jeep because of the winding road there.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

THIRD WITNESS

A-105625 PTE STEVENSON GA, 11 CDN REPAT DEP, sworn, states:-

Q. Will you tell the Court what you know about 21 Jul at night?
A. I was DR for the Officers' mess dance at 5 CIDB and saw Jeep 543 go into the camp at about 1940 hrs, driven by the accused whom I recognize in this Court as being Pte Thompson. I heard Sgt Cooper warn the accused three times to leave the jeep there. He wouldn't leave the jeep there; he got near the jeep and went out. He came back later at about 2359 hrs laterand on the way out I followed his jeepto the clock tower and I turned right and he turned left. I did that as I was going for my truck. I followed the accused the first time at 1940 hrs. I rode up to the clock tower and went towards the Nutley Rd where I couldn't see the accused's jeep any more. I couldn't see just waht way he turned then.

NO CROSS-EXAMINATION

FOURTH WITNESS

D-157965 CPL KENNIE W, 11 CDN REPAT DEP, sworn, states:-

Q. What is your duty at 11 CDN REPAT DEP?
A. RP.

Q. Were you on duty around 2345 hrs on 22 Jul 45?
A. Yes, Sir.

Q. Will you tell the Court what you know about the accused and what occured that night?
A. I was on the main gate at Pippingford Park, Sussex at 2345 hrs on 22 Jul 45, the accused, whom I recognize in this Court, drove W.D. Vehicle No. CM 4231543 in. I immediately put him under close arrest. He was sober, Sir.

NO CROSS-EXAMINATION

THE PROSECUTION IS CLOSED

- DEFENCE -

FIRST WITNESS

The accused, sworn, states:-

At about 1630 hrs on 21 Jul I was warned to go to a dance. I had been drinking at noon. After that I got beer till 1500 hrs that day. Everything seemed hazy to me by then. I just remembered about half of things after that. I had no work to do that afternoon until the dance. I got some spirits too. I remember being in the NAAFI that night. It seemed as though all the drivers were in there drinking thatnight. After that things were pretty vague to me. On Sun morning I was at 13 Brigade where I had been the previous morning; I just stayed under cover until I kind of pulled myself together and drove back in the evening. About the mileage on that speedometer, I don't think that I ever turned in my bookin on 21 Jul. I only got a recreational ticket. I drove this jeep all the time

I think I covered over 100 mi with Major Wilson on the morning of 21 Jul; of course, I went to 13 Brigade and back; also from there I took him to Sheffield Park which is about 8 mi from RHQ; also I returned to RHQ in between around 12 o'clock on 21 Jul. I should judge that this trip covered about 100, and I don't think that the work ticket gave credit to such a trip.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B)

SECOND WITNESS

C-58194, Pte LEBEL, M, No 11 REPAT DEP, sworn, states:-

Q. Do you recognize the accused?
A. Yes, Sir.

Q. When did you see him on the night of 21?
A. At approx 2210 hrs in front of the Officers' Mess in 5 CIDB where there was a dance.

Q. What was his conditon?
A. At the time he came in with thejeep, he tried to start the jeep three times; three times, the amount of time required to pull away too; he couldn't have been normal.

Q. Have you known him for a long time?
A. Since Jan 45.

Q. Have you seen him in that condition before?
A. Not that I can recall, Sir.

NO CROSS-EXAMINATION

THIRD WITNESS

Capt D.P. INGRAM, 11 CDN REPAT DEP, sworn, states:-

I arrived to 5 CITR in Dec 44 to be Tpt Offr, at which time the accused was driving in the section. At that time he was driving a 800 cwt vehicle. He had done very good. Reports from the NCOs were that he was efficient and a good driver. He was given a stn wagon and drove for the MIR more or less on his own. At no time did I have to doubt his efficiency until the time of this charge. I didn't see him that night.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

NO CROSS-EXAMINATION

DEFENCE IS CLOSED

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

We have the accused, it's happened before, where a man amasses a number of charges all in one evening where he could have been spared of all of them and could have been charged with a much minor offence, that of being drunk. He was in charge of public property; he was out on duty where he was driving officers and civilians and his two senior NCOs knowing that he had been drinking were still willing to permit him to drive a vehicle and felt that hewas quite capable of doing so. It is my contention that in a case like that, he should have been placed into protective custody not only for his own sake but for the sake of anyone who might have been with him. The accused had been drinking. No man can drink for a long time and again in the evening without becoming inebriated. Is the accused guilty of a crime he does not recall doing? The NCOs must have been worried about his condition or they wouldn't have sent out a DR after him to see where he was going or how he was going there. We have evidence as to his character, given by his unit tpt offr, for whom he has been working since last Dec and his evidence was in the accused's favour. We have another witness who knows the accused for a few months who has never seen the accused in that condition before that night and who claims the accused must have certainly under the influence of liquor at that time. In conclusion, the Court has had evidence presented to show that the man did do certain things but I hope the Court will take into consideration that the man being drunk cannot be charged with intentionally doing a crime as he didn't know what he was doing; he couldn't do it intentionally or deliberately.

(STATEMENT BY THE PROS OFFR ON THE OFFR ATTACHED TO THIS FOLIO)

The evidence produced by the various witnesses clearly justifies the charges laid against the accused Mr Thompson but there is some doubt as to the account deliberately throwing the deceased having worked with him for the past few months I am fairly certain Mr Mr Thompson although he was intoxicated, his perception was certainly affected so that he did not realize the seriousness of the act that he was doing at the time.

[illegible]

Plea in mitigation, in the case of
B 53341 Pte John Thompson

Pte Thompson enlisted at the age of 40, ~~then~~ an age usually considered too great for army employment. He enlisted in Oct, 1941 with the R.C.O.C. and arrived in England in Aug 1942. Served with R.C.O.C. until R.C.E.M.E was established and at that time he became a member of R.C.E.M.E

Pte Thompsons personal life has been very unsettled, and has caused him a great deal of worry. He is married to an American citizen who wishes to obtain a divorce, but cannot do so because of a ruling which prevents divorce proceedings being instituted against a member of the armed forces. He also has an association in this country and has a child as a result of this association. He intends to marry the woman just as soon as the divorce can be arranged, but in the meantime his mind is in a turmoil and he doesnt appear to be completely responsible. The only way in which he can get straightened away is by getting a discharge, and in view of the accused's age, and record and circumstances I strongly recommend that the court be as lenient as possible and that Pte Thompson be given an opportunity to re-establish himself. He intends to reside in the county and has a position waiting for him.

J.C. Harris Lt

E-3

SUMMARY OF EVIDENCE

In the case of No. B. 53341, Private John THOMPSON, R.C.E.M.E., 11 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on Oath.

FIRST WITNESS: No. K. 15529, Sgt. COOPER, F.J., 11 Canadian Repatriation Depot having been duly sworn states:

On the evening of 21st July, 1945, there was an Officers' dance at 5 C.I.D.B., Chapplewood Manor, Sussex. No. B. 127620, Sgt. Boyd, G.E. and I were on duty as transport sergeants. No. B. 53341, Pte. Thompson, J., then of 5 C.I.T.R. now of 11 Can. Repat. Depot, whom I recognize and identify as the accused, was on duty there as a driver of W.D. Vehicle No. CM 4231543 (Jeep 543). I now identify trace shown to me as a very rough sketch of the Area of 5 C.I.D.B. Officers' Mess.

(The trace is shown to the accused, marked Exhibit "A" and attached hereto).

About 1930 hrs that evening I heard Sgt. Boyd give an order to the accused personally in the following words "You lay off the beer. You will leave on a trip at 2030 hrs". The accused, who had been drinking alcoholic beverages but was not drunk, immediately replied to Sgt. Boyd in a defiant and offensive manner "I am going to get some beer now". I then gave an order to the accused personally in the following words "You are not to have any beer: you are on duty: you will leave the vehicle where it is". The accused immediately replied to me in a defiant manner "I am going to have some beer now". Saying this he turned his back on me and suddenly jumped into Jeep 543 and drove it away at high speed before I could stop him. This was about 1940 hrs that evening. About three hrs later at about 2300 hrs the accused returned to Area "A" on Exhibit "A" with Jeep 543. I then asked the accused where he had driven the Jeep 543. The accused replied to me "Out". The accused appeared to have been drinking still more alcoholic beverages but he was not drunk. I then gave an order to the accused personally in the following words "Give me the keys for the vehicle. That is an order Thompson". The accused immediately replied to me "No, I won't give you the keys". I immediately lifted the engine hood and removed from Jeep 543 and placed in my pocket the high tension lead wire from the coil to the distributor. The accused in an insolent manner remarked to me "I suppose you think you are being smart". Sgt. Boyd and I returned to the front of the Officers' Mess by way of the clock tower "C" on Exhibit "A". In Area "A" on Exhibit "A" at about 2315 hrs Sgt. Boyd tried without success to start his W.D. Vehicle No. CM 4230402. The high tension lead wire from the coil to the distributor had been removed by someone between 2300 and 2315 hrs that evening. At 0400 hrs 22 July 45 in company with Sgt. Boyd I checked the vehicle park in transport lines, Pippingford Park, where the Jeep 543 should then have been. It was missing. We then checked the living quarters where the accused should then have been and found the accused to be absent. The accused had no permission to be absent nor was

he away on duty from 1940 hrs till 2300 hrs 21 Jul 45 or from 2320 hrs 21 Jul 45 till 2345 hrs 22 Jul 45. The mileage indicator on Jeep 543 at 1630 hrs 21 Jul 45 read 12330 miles and at 2345 hrs 22 Jul 45 read 12526 miles, a difference of 196 miles of which only 6 miles are properly accounted for.

F. J. Cooper Sgt.

The accused declined to cross-examine this witness.

SECOND WITNESS: No. B. 127620, Sgt. BOYD, G.E., 11 Canadian Repatriation Depot, having been duly sworn states:

On the evening of 21 July, 1945, No. K. 15529, Sgt. Cooper, F.J. and I were on duty as transport sergeants at 5 C.I.D.B. Officers' Mess Dance (Area "A" on Exhibit "A"). The accused, whom I recognize as No. B. 53341, Pte. Thompson, J., then of 5 C.I.T.R. now of 11 Can. Repat. Depot, was on duty there as a driver of W.D. Vehicle No. CM 4231543 (Jeep 543). About 1940 hrs that evening I gave an order to the accused personally in the following words "You lay off the beer. You will leave on a trip at 2030 hrs". The accused immediately replied to me in a defiant and offensive manner "I am going to get some beer now". The accused had been drinking alcoholic beverages but was not drunk. Sgt. Cooper then gave an order to the accused personally in the following words "You are not to have any beer: you are on duty: you will leave the vehicle (meaning Jeep 543) where it is". The accused immediately replied to Sgt. Cooper in a defiant manner "I am going to have some beer now". Saying this the accused turned his back on Sgt. Cooper and suddenly jumped into Jeep 543 and drove it away at high speed. No. A. 105625, Pte. Stevenson, G.A., a dispatch rider, followed the accused to Point "C" on Exhibit "A" on a motorcycle. This was about 1940 hrs that evening. About 2300 hrs that evening the accused returned alone in Jeep 543 to Area "B" on Exhibit "A". Sgt. Cooper and I immediately walked over to the accused. Sgt. Cooper then asked the accused where he had been with the Jeep 543. The accused replied to Sgt. Cooper "Out". Sgt. Cooper then gave the accused personally an order in the following terms "Give me the keys". The accused did not obey the order though he was given ample time to do so. Sgt. Cooper removed and placed in his pocket the high tension lead wire from the coil to the distributor. The accused then said to Sgt. Cooper in a very insolent and defiant manner "I suppose you think you are being smart". Sgt. Cooper and I returned to the Officers' Mess via the clock tower "C" on Exhibit "A". About 2345 hrs that evening I tried to start my W.D. Vehicle No. CM 4230402 but found that the high tension lead wire from the coil to distributor had been taken away at sometime after 2300 hrs that evening. In company with No. C. 21517, Cpl. LeBreton, W., I went immediately to Area "B" on Exhibit "A". Neither the accused nor Jeep 543 was there. No other jeep in the area was short its high tension lead wire from the coil to the distributor. At 0400 hrs 22 July in

company with Sgt. Cooper I checked the vehicle park in transport lines, Pippingford Park, where the Jeep 543 should then have been. It was missing. We then checked the living quarters where the accused should then have been and found the accused to be absent. The accused had no permission to be absent nor was he away on duty from 1940 hrs till 2300 hrs 21 July, 1945 or from 2320 hrs 21 July, 1945 till 2345 hrs 22 July, 1945. The mileage indicator on Jeep 543 at 1830 hrs 21 July, 1945 read 12330 miles and at 2345 hrs 22 July, 1945 read 12526 miles, a difference of 196 miles of which only 6 miles are properly accounted for.

R. Boyd. Sgt.

The accused declined to cross-examine this witness.

THIRD WITNESS: No. A. 105625, Private STEVENSON, G.A., 11 Canadian Repatriation Depot having been duly sworn states:

While I was on duty as motorcycle dispatch rider about 1940 hrs 21 July, 1945 at 5 C.I.D.B. Officers' Mess, the accused, whom I recognize and identify as No. B. 53341, Pte. Thompson, J. drove W.D. Vehicle No. CM 4231543 (Jeep 543) to Area "A" on Exhibit "A" and stopped. No. K. 15529, Sgt. Cooper, F.J. warned him three times not to drive the vehicle away. Suddenly the accused jumped into Jeep 543 and drove away via Point "C" on Exhibit "A" at a speed of about 25 miles per hour. I followed on my motorcycle to Point "C" on Exhibit "A" and saw the accused's Jeep 543 go out the main gate of the camp area and turn to the left on the Chelwood Gate - Nutley Highway. I next saw the accused about 2300 hrs that day in Area "B" on Exhibit "A". He was sitting alone in Jeep 543. I then heard Sgt. Cooper demand from the accused the keys of Jeep 543 and heard the accused refuse to give them to Sgt. Cooper. I returned to Area "A" on Exhibit "A". About 2345 hrs that evening No. B. 127620, Sgt. Boyd's Jeep 402 would not start because the high tension lead wire from coil to distributor had been removed by someone in the preceding 45 minutes.

G A Stevenson Pte.

The accused declined to cross-examine this witness.

FOURTH WITNESS: No. D. 157965, Cpl. RENNIE, W., 11 Canadian Repatriation Depot having been duly sworn states:

While I was on duty at the main gate at Pippingford Park, Sussex at 2345 hrs 22 Jul 45, the accused, whom I recognize and identify as No. B. 53341, Pte. Thompson, J. drove into the 9 C.I.T.B. Camp Area in W.D. Vehicle No. CM 4231543 (Jeep 543) alone. I placed him under arrest. He was sober.

W. Rennie Cpl.

The accused declined to cross-examine this witness.

Question to the accused:--

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by accused:--

I have nothing to say.

The accused declined to call any witnesses for the defence.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with and that the foregoing summary of evidence consisting of 4 pages was taken down by me in the presence of the accused on the 30th July, 1945.

L.J. McCormick, Lt.

L.J. McCormick, Lt. 11 Canadian Repatriation Depot, Officer detailed to take the summary of evidence.

In the Field,
31 July, 1945.

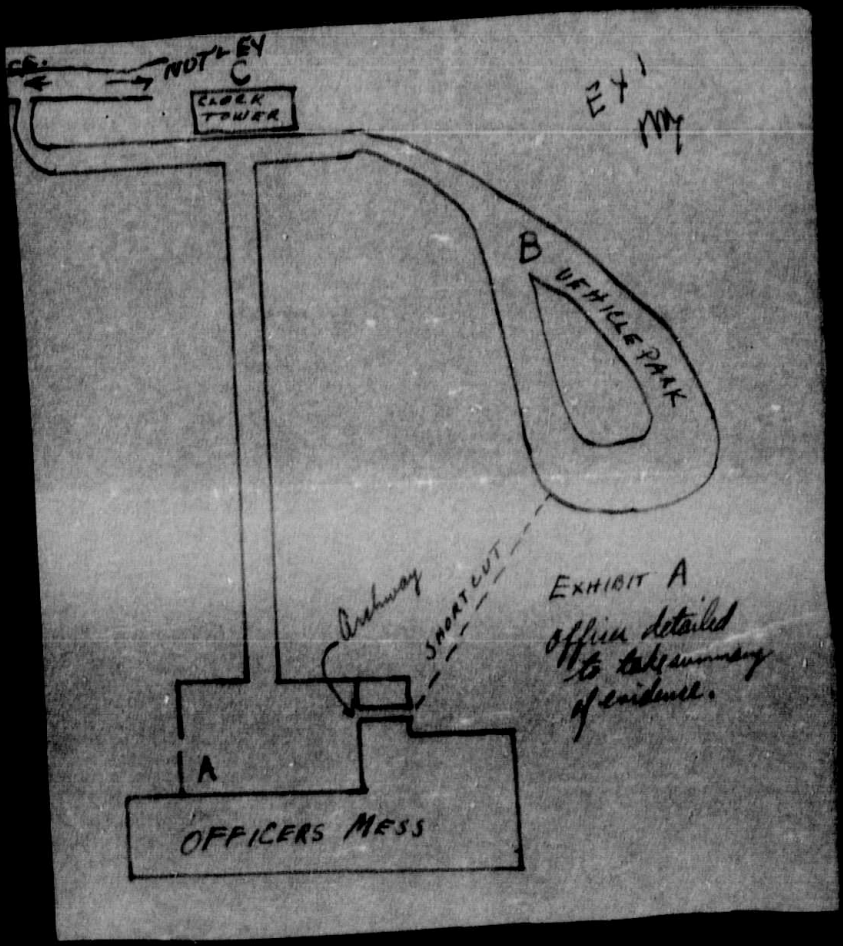


EXHIBIT A

Office detailed to take summary of evidence.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B. 53341	Private	John THOMPSON	RCEME, 11 Cdn. Repat. Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Absence without leave	11 times.
For	Absent from Parade	1 times.
For	Conduct to the prejudice, etc.	2 times.
For		times.

Date of first entry in Field Conduct Sheet 17 Apr. 40

Date of last entry in Field Conduct Sheet 13 Apr. 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. NIL

*Strike out if not applicable.

~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5 day of Aug 1945.

Major
Regt'l Assistant ... 11 Can Repat Depo
Offr having custody of original rec.

No. B53341 Name Thompson J | Sqn., Battery, or Company | Corps R.C.E.M.E. | Date of enlistment 9 Oct 41 | G.C. Badges | Tradesmen's Rates of Pay | M.F.M. 6 (A.F.B.122) 7503M—12-42 (7527) H.Q. 1772-39-1683

19 March 42 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. Two | Signature O.C. Company, etc. RW Beck Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield	17-4-42	Pte		A.A.Sec.15(1)A.W.L.2200hrs17-4-42 2100hrs18-4-42 Absent 23 hrs.	Documentary	7 days C.B.	20-4-42	Capt.G.L. Williams	Forf. 1 days Pay
Barriefield	15-5-42	Pte		Absent from Parade	Sgt Hellyer	7 days C.B.	18-5-42	Capt.W.E. Scott	
Barriefield	18-6-43	Pte		A.A.Sec.11(1) AWL 2200hrs18-6-42 to 0055hrs 19-6-43 Absent 2hrs55min.	Documentary	7 days C.B.	19-6-43	Capt. D.F. Adams	
Brixham	30-1-43	Pte		A.A.Sec.40 Neg.to the Prej.failed to parade for piquet duty	CSM McGowan Cpl Letourney	5 days pay	1-2-43	Lt.-Col J.R. Calkin	
1 CORU	28-3-43	Pte		AA.Sec.15(1)AWL 1400hrs28-3-43 to 1330hrs 30-3-43 Absent1day23hrs30min	Documentary	2 days pay	31-3-43	Maj.G.L. Williams	Forf.2 days Pay
Field	20-5-43	Pte		AA Sec.15(1) AWL 0800hrs20-5-43 to 2200hrs23May43.Absent3days14hrs	Cpl Hooper	4 days pay	24-5-43	Major G.L. Williams	Forf. 4 days Pay
Field	21-6-43	Pte		AA Sec.15(1)AWOL from 1500 hrs 21-6-43to 1000hrs 22-6-43 Absent 10 hours.	Documentary Cpl Dunaway	1 days pay 4 days C.B.	23-6-43	Major A.T. Field	A.F.1 days pay

(P.T.O.)

Place	Date of offence	Rank	Cause of detention	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-7-43	Pte		A.A.Sect.15(1)AWOL from 1700 hrs 15 July 43 to 0900 hrs 19-7-43 Time absent 3 days 16 hrs	Cpl. Dunaway	4 days pay	20-7-43	Major H.B. McAdam	A.F.4 days pay
Field	29 Nov	Pte		AA Sect 15 (1) AWL from 1500 hrs 29 Nov 43 to 1030 hrs 30 Nov 43 Time absent 19 hrs 30 min	Documentary	5 days F.P.	30 Nov 43	Col.Secord	AF 1 days pay
Field	17 Jan 44	Pte		AA Sec 15(1) AWL from 1500 hrs 17 Jan 44 to 0900 hrs 19 Jan 44.Absent 1 day 18 hrs	Documentary	2 days pay	19 Jan 44	Col,Secord	AF 2 days pay
Bordon Hants	31Jan 44	Pte		(1) A.A. Section 40 disobeyed a Lawful command (2) A.A. Sec. 15 (1) A.W.L. Total time absent 20hrs.15min.	Sgt. Matthews Sgt. Wall	7 days F.P.	1 Feb 44	Col G.A. Secord	A.F. 7 days pay
					Sgt. Matthews Sgt. Wall	admonished	1 Feb44	Col G.A. Secord	A.F. 1 days pay
Bordon Hants	28 Mar 44	Pte		AA Sec 15(1) AWL from 2230 hrs 28 Mar 44 to 0600 hrs 30 Mar 44.Time Absent 7 hrs 30 min.	L/C Stairs Cpl. Hoy	14 days F.P.	30 Mar 44	Col.Secord	A.F. 14 days pay

to page two

No. Name Sqn., Battery, or Company } Corps page two Date of enlistment } G.C. Badges } Tradesmen's Rates of Pay } M.F.M. 6 (A.F.B.122) 7950M—12-43 (5497) H.Q. 1773-39-1532

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon, Hants	13 Apr 44	Pte		4A Sec 15(1) AWL from 2359 hrs 13 April 44 to 0810 hrs 18 Apr 44. Total time absent 8 hrs 11 min	DOCUMENTARY	28 DAYS F.P. with pay	18 Apr 44	Col Secord	AF 5 days pay

Certified that this and the preceding sheet is a true copy of M.F.M. 6 as of

.....MAJOR&ADJUTANT

Officer having charge of Regtl Records.

(P.T.O.)

I, No. B. 53341, Private John THOMPSON, 11 Canadian Repatriation Depot, acknowledge that I have this day at 1700 hours been served with the following documents free of charge; (a) Copy of Summary of Evidence and (b) Copy of Charge Sheet both in connection with my forthcoming trial by Field-General Court Martial.

In the Field,
31 July 1945.

John Thompson Pte

I, No. B. 53341, Private John THOMPSON, 11 Canadian Repatriation Depot, acknowledge that I have been informed that the convening officer may appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at my trial by Field-General Court Martial and I have been advised of my rights to retain counsel. I do not intend to retain the services of counsel but desire to have a defending officer assigned to represent me at my said trial. I desire the services of J.P. HARRIS Lieut if he is available for this purpose. I waive the 7 days notice mentioned in Rule of Procedure 89 (B).

In the Field,
31 July 1945.

John Thompson Pte.

LIST OF EXHIBITS

See Summary of Evidence

LIST OF WITNESSES

For the Prosecution - See Summary of Evidence

For the Defence - NIL

STATE OF TRAINING OF ACCUSED

No. B. 53341, Private John THOMPSON, 11 Canadian Repatriation Depot is a fully trained soldier.

MEDICAL CATEGORY OF ACCUSED

No. B. 53341, Private John THOMPSON, 11 Canadian Repatriation Depot is 01, 1111111 Pulhems.

1399 6 | Pte Thompson. J
1410 6 | " Roberts, DR

16 Jan. 42 original proceedings to A.G.'s a.

B-94670 Pte. Thompson, J.
B-86048 Pte. Roberts, D.R.
No.1 Cdn Gen Hldg Unit.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 6th day of August, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[illegible]—

*(1. [illegible])

*(2. [illegible])

*(3. [illegible])

[illegible]

* Omit if not applicable.

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Lt-Col	O.H. Barrett	No.1 M.T.V.R.D., RCASC

Members.

Rank.	Name.	Regiment.
Captain	J.M. Burgess	Lorne Scots
Lieutenant	F.H. Hindle	No.1 Cdn Arty Hldg Unit
Lieutenant	E.E. Culley	No.1 Cdn Arty Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-94670 PTE. THOMPSON, J. B-88048 PTE. ROBERTS, D.R. No.1 Cdn Gen Hldg Unit.	First Charge A.A. sec 18(4)	guilty	guilty	I hereby confirm the findings and sentences of the Court but in the case of Pte. Roberts commute the sentence to 12 months detention D.M.M. Sclanders Brig.
	Second Charge A.A. sec 18(4)	guilty	guilty	
	Third Charge A.A. sec 18(4)	guilty	guilty	
	Fourth Charge A.A. sec 18(4)	guilty	guilty	
	Fifth Charge A.A. sec 18(4)	guilty	guilty	
	Sixth Charge A.A. sec 40	guilty	guilty Pte Roberts:- 12 years ~~imprisonment with hard labour~~ detention Pte. Thompson- 12 months detention	
	See charge sheet attached..			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— Not Applicable

(Signed) D.M.M. Sclanders Brigadier (Signed) J.B. Bassett Lt Col

Commanding Cdn Base Units, Cdn Army. *President.*
Convening Officer (e)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of August 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 14th day of August 1941.

J.B. Bassett Lt Col
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 26th day of August 1941.

D.M.M. Sclanders Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of B 94670 Pte Thompson J.

(*a*) (Dated) 1/2 Sept. 41 (Signed) Hamilton Bailey Lt Col

Promulgated and extracts taken in the case of B 88048. Pte Roberts. D.R.

(Dated) 1/2 Sept. 41 (Signed) ~~Hamilton Bailey Lt Col~~
Off. in-C. Records Can. Base Units.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41752) Wt. 40113—895 200 m 7/40 P. St. C. Ltd.

CHARGE SHEET

The accused, B-94670 Private Thompson, John, and B88048 Private Roberts, Douglas Roy, soldiers of the Canadian Army (Overseas) are charged jointly with:

FIRST CHARGE
SEC. 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they, at South Louisburg Barracks, Bordon, Hants., on the night of the 28th - 29th June 1941, stole a revolver, the property of Captain F.E. Farlinger, No 1 Canadian General Holding Unit, a person subject to military law.

SECOND CHARGE
SEC. 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they, at South Louisburg Barracks, Bordon, Hants., on the night of the 28th - 29th June 1941 stole a radio, the property of Captain M.G. Stratton, R.C.A.M.C. No. 1 Canadian General Holding Unit, a person subject to military law.

THIRD CHARGE
SEC. 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they, at South Louisburg Barracks, Bordon, Hants., on the night of 28th - 29th June 1941, stole a camera and a flashlight, the property of Captain C.W. McCormack, R.C.A.M.C., No 1 Canadian Artillery Holding Unit, a person subject to military law.

FOURTH CHARGE
SEC. 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they, at South Louisburg Barracks, Bordon, Hants., on the night of the 28th - 29th June 1941, stole a quantity of cigarettes, the property of Captain G.A. Buchanan, C.D.C., No. 1 Canadian General Holding Unit, a person subject to military law.

FIFTH CHARGE
SEC. 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they, at South Louisburg Barracks, Bordon, Hants., on the night of the 28th - 29th June 1941, stole 1x75 cigarettes, the property of W.C. Hodkinson "B" Group H.Q. Canadian Holding Units, a person subject to military law.

SIXTH CHARGE
SEC 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that they, on or about Sunday the 29th day of June 1941, did sell a quantity of cigarettes to some person or persons unknown, such cigarettes being a part of a consignment of gift cigarettes, sent to a Canadian Soldier Overseas, and entered into this country duty free, for personal use and not for re-sale.

(R.W. Frost) Lt. Col.
O.C. No 1 Cdn Gen Hold Unit
Canadian Army (Overseas)

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Bordon, Hants.,
19 July 1941.

Bordon, Hants
This 6th day of Aug 41.

President

No. S-94670 Pte. J. THOMPSON, and No. B-88048 Pte. D.R. ROBERTS, No. 1 Canadian General Holding Unit, tried by Field General Court Martial at BORDON, Hants. on the 14th day of August, 1941.

The order convening the Court, the charge sheet, summary of evidence and medical certificates are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:-	Capt. W.B. Keith,	No. 1 C.G.H.U.
Defending Officer:-	Capt. N.N. Wardlaw,	No. 1 C.G.H.U.

At 1100 hrs the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. BOTH ACCUSED: No, sir.

The president and members are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to No. B-66944, Sgt. T. Pyburn, R.Regt.C., acting as shorthand writer?
A2. BOTH ACCUSED: No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the president and annexed to the proceedings.

The accused are arraigned upon each charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the first charge against you, which you have heard read?
A3. BOTH ACCUSED: Guilty, sir.
Q4. Are you guilty or not guilty of the second charge against you, which you have heard read?
A4. BOTH ACCUSED: Guilty, sir.
Q5. Are you guilty or not guilty of the third charge against you, which you have heard read?
A5. BOTH ACCUSED: Guilty, sir.
Q6. Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6. BOTH ACCUSED: Guilty, sir.
Q7. Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7. BOTH ACCUSED: Guilty, sir.
Q8. Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A8. BOTH ACCUSED: Guilty, sir.

The accused both having pleaded Guilty to all six charges, the provisions of R.P. 35(B) are here complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q9. Do the accused wish to make any statement in mitigation of punishment?

DEFENDING OFFICER: Yes, sir. The statement is simply to the effect that these offences were committed while the accused were under the influence of liquor to such an extent they did not appreciate the offences they were committing. Furthermore, sir, with respect to the accused Roberts, he has a clean record, this is the first time I believe he has been in trouble, and Thompson, I think, has some minor charges on his sheet, but nothing covering any offence similar to this. Otherwise the whole gist of the question is the fact that they were under the influence of liquor when the crimes were committed.

Q10. Do you wish to give evidence yourself or to call any witnesses as to character?
A10. DEFENCE: Yes, sir - Sgt. MacFarlane.

1st witness for the defence) No. B-81685, SGT. J. MacFARLANE, No. 1 Canadian General Holding Unit, being duly sworn, is examined by the defending officer:-

Q11. You are No. B81685, Sgt J. MacFarlane of No. 1 CGHU?
A11. Yes, sir.
Q12. Do you know the accused Roberts?
A12. Yes, sir.
Q13. How long have you known him?
A13. Quite some time; I don't know exactly, sir, but over six months.
Q14. During that time how often have you seen him?
A14. Quite often; I could not say definitely but quite often; well, in our unit I would see him mostly every day.
Q15. Could I say for a period of six months you have seen him nearly every day?
A15. Yes, and for a time I saw him every day; he was with my regimental police.
Q16. What would you say as to his character and reputation during that period of time?
A16. He was all right with me; he was a very good worker and was always tidy; I had no fault to find with him at all. He was taken away off the RPs. to go on a course.
Q17. Was he ever in any trouble?
A17. Not that I know of, sir.

Prosecutor declines to cross-examine this witness.

Q18. THE COURT: Any other witnesses?
A18. DEFENCE: I would like to produce Pte Thompson's paybook.
THE COURT: Well now, we can't receive any evidence. If you wish to refer to the paybook in the course of your address I am quite prepared to listen to it. I want to give the accused every chance of making whatever statement they wish, but we cannot receive evidence at this stage. You understand technically we cannot receive evidence now.
DEFENCE: I was treating this as being part of the statement, sir.
THE COURT: Then you may be permitted to continue with your statement.
DEFENCE: It may not be the proper time to produce it, but I wanted to refer to it and show his record as shown by his paybook; I thought that was in order, but I may be wrong, sir.
THE COURT: Would you like to be sworn as a witness for character and produce it as something being read from the official paybook? You can get it in as evidence if you wish to be sworn, if you wish to be sworn as a witness as to character and produce the book as the evidence you wish to introduce. Have you any objection to that, Capt. Keith?
PROSECUTOR: None whatever, sir.

2nd witness for the defence) The Defending Officer, Capt. N.N. WARDLAW, No. 1 Canadian General Holding Unit, being duly sworn, states:-

I produce as a witness for character of No. B94670 Pte Thompson J. his paybook. On p.11 of the paybook I read the following: "From Jun

40 to 5 Apr 41, Driver. Remarks and signature of O.C. Coy - Excellent. Signed, R.H. Noble, Captain."

Now I should like to call some witnesses, sir, to prove the condition the accused men were in the night of the offence and the day following but if the court is satisfied as to their condition I will not call them.

THE COURT: If you wish to call any witnesses as to the facts, that question was asked you previously. You cannot call any witnesses now as to the facts.

DEFENCE: I think this is really not evidence as to the facts. The facts are indisputed.

THE COURT: And they are all contained within the summary so far as the court is concerned, and the accused stand or fall on the summary, and the only way in which the defence can produce witnesses as to the facts is by pleading Not Guilty, which was carefully explained to the accused at the beginning of the trial.

DEFENCE: I am not disputing the guilt or innocence of the accused, but I want to produce to the court evidence of the condition these accused men were in when the offences were committed. I take it that is not evidence as to the guilt or innocence of the accused, but evidence which might be used in mitigation of sentence.

THE COURT: The only evidence which can be adduced in mitigation of punishment is the statement which might be made by the accused or on behalf of the accused, which you have already made - the witnesses as to character.

DEFENCE: Then sir, under sec 35, I may have misunderstood you, but as I understood it you said if there was any question as to the statement or any evidence which could be produced to corroborate it, that could be produced before the court.

THE COURT: There is no such statement contained in 35(B), unless you wish to point it out to the court. Under Note 5 you will see at the foot of the page:-

> "It must be recollected that there is nothing untrue in an accused person pleading not guilty, even though he committed the offence: his plea merely amounts to a claim, which he is entitled to make, that the charge against him shall be formally proved. And, indeed, where the accused, while admitting the offence, wishes to show that it was committed in circumstances of great provocation, he must plead 'not guilty' if he desires to prove the existence of such provocation out of the mouth of the witnesses for the prosecution who would not be called to give evidence if he pleaded guilty."

It then refers to 37(F):-

> "When the accused states anything in mitigation of punishment which in the opinion of the court requires to be proved, and would, if proved, affect the amount of punishment, the court may permit the accused to call witnesses to prove the same."

Therefore you may call your witnesses.

DEFENCE: That is what I had in mind, sir.

(Page 4 follows)

3rd witness) for the defence) No. C-4663, PTE. A.A. ROBBINS, No. 1 Canadian General Holding Unit, being duly sworn, is examined by the defending officer:-

Q19. You are No. C4663, Pte A.A. Robbins of No. 1 CGHU?
A19. Yes, sir.
Q20. What is your status in the unit?
A20. I am a member of the Regimental Police, No. 1 C.G.H.U.
Q21. Do you remember Sat evening, 29 Jun last, when certain articles were missing from the officers' quarters?
A21. Wasn't it the 28th?
Q22. The 28th or 29th?
A22. The night of the 28th; I remember the stuff was reported missing the next morning.
Q23. The night of the 28th - it was the 29th when it was reported missing?
A23. On the morning of the 29 Jun it was reported missing.
Q24. On the 28 Jun did you see the accused, Thompson and Roberts?
A24. Yes sir, at about 2300 hrs I was on a tour of duty and inspected all the camps to see the lights were out, and I ran along Pte Roberts and Pte Thompson. Pte Thompson was sitting on the ground, and he was drunk. Pte Roberts was trying to get him up on his feet. They were not making any noise and I thought the best thing to do would be to take them to their hut, which I did. I helped Thompson to his feet and helped the two of them to their hut.
Q25. Why did you help them to their hut?
A25. I didn't want them out, but they were not causing any trouble.
Q26. I mean, why did you consider it necessary to help them?
A26. For the simple reason they were too drunk to navigate themselves.
Q27. Why did you come to that conclusion?
A27. Pte Roberts was trying to help Pte Thompson to his feet and he fell down, he was so drunk, and I figured they couldn't get to their hut.
Q28. Did you smell anything?
A28. I could smell liquor on their breath.
Q29. And it was your conclusion they were too drunk to get to their hut?
A29. Yes, sir.
Q30. What time did you take them there?
A30. It would be either 2300 hrs or a few mins after that.
Q31. Did you see them again that night or the next day?
A31. I don't remember seeing them again until they were brought to the detention.
Q32. And that was on the following Mon, was it?
A32. Yes, sir.

Prosecutor declines to cross-examine this witness.

4th witness) for the defence) No. B-84370, SGT. J.M. HOOD, No. 1 Canadian General Holding Unit, being duly sworn, is examined by the defending officer:-

Q33. You are No. B84370, Sgt J.M. Hood, No. 1 C.G.H.U.?
A33. Yes, sir.
Q34. Stationed at Louisburg Bks?
A34. Yes, sir.
Q35. Do you remember seeing the accused Thompson and Roberts on 28 Jun 41?
A35. Yes, sir.
Q36. What time?
A36. Approximately 2200 hrs.
Q37. What was their condition at that time?
A37. They were drunk.
Q38. Why do you say they were drunk?
A38. I know Pte Roberts personally, and he was drunk.
Q39. What led you to come to the conclusion he was drunk?
A39. He had been drinking all night, I imagine, and he didn't know where he was or what he was doing, and the R.P. came along, so I left him in his hands.
Q40. Did you smell anything?
A40. Yes, sir.

Q41. What did you smell?
A41. Intoxicating liquor.
Q42. Which one of them did you smell it on?
A42. Mostly on Pte Roberts.
Q43. Did you smell it off Pte Thompson, too?
A43. Pte Roberts was holding him up.
Q44. Did you see them again after 2200 hrs?
A44. No sir, I went directly to my quarters.

Prosecutor declines to cross-examine this witness.

5th witness for the defence) No. C-11580, PTE. D. ROSSI, 1st Corps Petrol Park, Royal Canadian Army Service Corps, No. 1 Canadian General Holding Unit, being duly sworn, is examined by the defending officer:-

Q45. You are No. C11580, Pte D. Rossie, 1 Corps Petrol Pk, RCASC, attached to No. 1 C.G.H.U.?
A45. Yes, sir.
Q46. On Sun 29 Jun 41 where were you?
A46. I was in The Soldiers' Club, in Bordon.
Q47. Did you see the accused Thompson and Roberts?
A47. Yes, sir.
Q48. At what time?
A48. Sunday afternoon, about one o'clock.
Q49. And what condition were they in then?
A49. They were pretty drunk, sir.
Q50. Do you know how much liquor had been consumed by Thompson and Roberts?
A50. Well sir, we were drinking beer, and after the club closed we had some whisky, two bottles of whisky, and a bottle of gin and some wine.
Q51. When were they drinking the beer?
A51. Sunday afternoon.
Q52. Starting at what time?
A52. I don't know exactly what time, but I met them at one o'clock.
Q53. Did you start to drink then or later on?
A53. I drank with them; it was one o'clock.
Q54. Do you know how much beer was drunk?
A54. I figure we had eight or nine pints of beer.
Q55. Divided between you?
A55. No - that is nine beers apiece.
Q56. After that what did you have?
A56. Two bottles of whisky and a bottle of gin and some wine; I don't know how many bottles of wine.
Q57. When were the bottles of whisky and gin consumed?
A57. After the club closed.
Q58. How long did it take to drink that?
A58. I don't remember, sir.
Q59. Did Thompson and Roberts drink as much as you did?
A59. Yes, sir.
Q60. But you don't remember how long it took to empty the bottles?
A60. No, sir.
Q61. I shouldn't think you would.

THE COURT: I think it is up the court to decide that.

Q62. DEFENCE: Now I understand from your statement taken on the summary of evidence you went to London and ---

THE COURT: Has this anything to do with the sobriety or drunkenness of the accused?

DEFENCE: Yes, sir.
Q63. You went to London with the two accused?
A63. Yes, sir.

Q64. What time did you arrive there?
A64. I can't remember the time, but I think about half past eight or nine o'clock.
Q65. In what condition were you when you arrived in London?
A65. We were pretty drunk, sir, all of us.
Q66. Do you remember the next morning what condition you were in, that is, on the Monday morning?
A66. We were pretty sick.
Q67. Did you have anything more to drink on the Monday?
A67. Yes, sir.
Q68. Did Roberts and Thompson have more drink on Monday?
A68. Thompson was not with me on the Monday, but Roberts was.
Q69. Were you still drinking on the Monday?
A69. Yes, sir.
Q70. How much did you have to drink on the Monday?
A70. We had about six beers apiece on the Monday.
Q71. At what time?
A71. I couldn't say exactly, but I suppose about eleven o'clock.
Q72. What time did you get up on Monday?
A72. About half past seven.
Q73. Was Roberts sick?
A73. We were both sick, sir.

Prosecutor declines to cross-examine this witness.

CLOSING ADDRESS OF THE DEFENDING OFFICER

That is the end of the evidence, sir. I have only this to say on behalf of the accused, that they are ready and willing to make restitution for any loss that has been sustained. I understand that the bulk of the articles taken have been returned. There is a matter however of £1/- which was paid to Pte. Nock and the accused are ready and willing to repay that; and they are also ready and willing to make any possible resitution with reference to the cigarettes.

My further submissions are simply references to matters laid down in the M.M.L. I would first refer you to para 48 of Ch. III:-

"Drunkenness often has to be considered by courts-martial not as an offence itself, but in relation to greater offences, which it accompanies. It is a principle of English law that drunkenness is no excuse for crime. But where intention is of the essence of the offence, drunkenness may justify a court-martial in awarding a less punishment than the offence would otherwise have deserved, or reduce the offence to one of a less serious character. Thus, if an ordinary steady respectful man commits himself when drunk by the use of insubordinate language, it may be clear that he did not really intend to be insubordinate; and though the offence cannot be passed over, yet a more lenient punishment will meet the justice of the case than if the same man had used the same language deliberately when sober."

I don't think the rest of the para really relevant to the facts in this case.

I should also like to draw the court's attention to paras 78 and 80 and 81 of Ch V:- Para 78 deals with the matter of discipline and I don't know that it is necessary that I should read it to the court. However, para 80 says:-

"The court must pay special regard to the question whether the offences of which the accused has been found guilty were committed with or without premeditation and with or without provocation."

I don't know that that is relevant. Then para 81 says:-

Q64. What time did you arrive there?
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"The court must pay special regard to the question whether the offences of which the accused has been found guilty were committed with or without premeditation and with or without provocation."

I don't know that that is relevant. Then para 81 says:-

"Again, due regard should be paid by the court to previous convictions. A habitual offender deserves far more severe punishment than an infrequent offender, and a first offender should always, if possible, be treated leniently."

I should also like to point out to the court that both these accused have been in detention since the 3 or 4 Jul 41, and I would submit that, as I think the summary of evidence shows and as the evidence submitted shows, when the offences were committed the accused were undoubtedly under the influence of liquor, and I think it is only fair to state that this was the cause of the crime. If these men had previously been guilty of a number of petty offences relating to stealing or offences of that sort, then it would be a different matter, but this is the first time they have been charged with any offence of a like nature.

That is all I have to say, except I submit to the court that the punishment which might be imposed might be detention and not imprisonment. I think the court is empowered with the discretion to impose a sentence of detention rather than imprisonment where there are mitigating circumstances. That is all I have to say, sir.

The Prosecutor, CAPT. W.B. KEITH, No. 1 Canadian General Holding Unit, being duly sworn, is examined by the Court:-

Q74. Have you any evidence to produce as to the character and particulars of service of the accused?

A74. Yes, sir. In the case of both No. B94670 Pte Thompson J. and No. B86048, Pte Roberts D.R. I produce certified copies of MFK-6 and AF B296 in both cases, statement as to character and particulars of service of both accused. I might explain the reason for the discrepancy in the time spent in detention awaiting trial: both men were convicted by their C.O. of being AWL, and the portion of the time they have been in detention was actually serving the sentenced awarded by the C.O. In one case the award was less than the other.

The above statements are read, signed by the President, and annexed to the proceedings.

Q75. Are the accused the persons named in the statements which you have heard read?

A75. Yes, sir.

Q76. Have you compared the contents of the above statements with the regimental books?

A76. Yes, sir.

Q77. Are they true extracts from the regimental books, and are the statements of entries in the conduct sheets a fair and true summary of those entries?

A77. Yes, sir.

Prosecutor declines to cross-examine this witness.

DEFENCE: I might point out, sir, that those awards for being AWL arise from the same set of circumstances.

THE COURT: That is understood. I must congratulate the defending officer on the defence he has presented in this connection, particularly in view of the fact that all the evidence for the accused men is that of character and of their condition at the time the crime was committed.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

NO. 1 CANADIAN GENERAL HOLDING UNIT
CANADIAN ARMY (OVERSEAS)

Summary of Evidence in the case of B-94670, Pte Thompson J., R.C.O.C., No. 1 Canadian General Holding Unit and B-89048, Pte Roberts D.R., R.C.O.C., No. 1 Canadian General Holding Unit.

FIRST WITNESS - Capt. H.G. Stratton, R.C.A.M.C. No. 1 Canadian General Holding Unit, having been duly sworn states:-

I am a Captain in the R.C.A.M.C. on the strength of the No. 1 Canadian General Holding Unit stationed at Bordon.

Exhibit B, I identify as my radio by the make and by repairs made to it on the outer case by the dentist.

On Saturday 28 Jun 41 the radio was on my chest of drawers about 2030 hrs. when I was preparing to go out. When I returned about 0130 hrs. 29 Jun 41 the batman told me that there had been some one in the room and a search showed the radio to be gone. I next saw the radio on Saturday 5 Jul 41 when it was returned to me in the orderly room by Capt. Keith, adjutant.

(H.G. STRATTON) Capt.

The accused declined to cross-examine this witness

SECOND WITNESS - Capt. F.E. Farlinger, R.C.A.P.C., No. 1 Canadian General Holding Unit, having been duly sworn, states:-

I am attached to No. 1 Canadian General Holding Unit as paymaster. Exhibit A is a revolver, Smith and Weston .455 serial 47634 on charge to me from the quartermaster stores.

SECOND WITNESS (continued)

It was removed from my quarters during the night of 28-29 Jun 41, sometime between approximately 2200 hrs. 28 Jun 41 and 0200 hrs. on 29 Jun 41. I next saw it when it was given to me by Capt. W.B. Keith, Adjutant, No. 1 Canadian General Holding Unit on or about Wed. 2 Jul 41 having been recovered by No. 7 Provost Co. Mr. Supeene of No. 7 Provost Co. having called by telephone the afternoon of 1 Jul 41 to report that the revolver had been located. I attended an inspection of Pte Thompson's kit with Cpl. Hewlett. Cpl. Hewlett making the actual inspection. Nothing belonging to me was found.

(F.E. FARLINGER) Capt.

The accused decline to cross examine this witness.

THIRD WITNESS - Captain C.W. McCormack, R.C.A.M.C., No. 1 Canadian Artillery Holding Unit, having been duly sworn, states:-

I am Captain C.W. McCormack, R.C.A.M.C. at present attached to No. 1 Canadian Artillery Holding Unit. I was previously attached to No. 1 Canadian General Holding Unit being transferred 30 Jun 41.

I identify Exhibit D and Exhibit F as my property. The flashlight, Exhibit F, was in my room at No. 49 Cottsmore, and the Kodak, Exhibit D, was in the pocket of my trench-coat also in my room, on Monday 21 Jun 41; this was the last time I recall seeing them. I searched on5Jul41 (Saturday) when I could not find them. I reported the loss to Captain

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THIRD WITNESS (continued)

Keith, adjutant, No. 1 Canadian General Holding Unit.

(C.W. McCormack) Capt.

The accused decline to cross examine this witness.

FOURTH WITNESS - Captain G.A. Buchanan, C.D.C., No. 1 Canadian General Holding Unit, having been duly sworn, states:-

I am Captain G.A. Buchanan of the Canadian Dental Corps living at Grafton quarters No. 1. Between 2145 hrs. Saturday 28 Jun 41 and 0200 hrs. Sunday 29 Jun 41 at least 600 MacDonald's Exports Cigarettes were stolen from my quarters.

(G.A. Buchanan) Capt.

The accused decline to cross-examine this witness

FIFTH WITNESS - W.C. Hodkinson, educational advisor, B Group, having been duly sworn, states:-

I am W. C. Hodkinson, educational advisor, B. Group H.Q. (Holding Units) on the night in question, Saturday evening 28 Jun 41, there was a mess dance which I attended. Shortly after lunch at the dance, I can't fix the time, I decided I needed cigarettes and drove down to the quarters, 43 Cottsmore. In the left hand side of my wardrobe I had a parcel of 1000 duty free cigarettes unopened. The sender of these was my wife and her name and address was on the carton. There was also a carton of 300. This duty free gift cigarette

FIFTH WITNESS (continued)

carton was open and less one package which I had used. The sender inthis case was Sir Sam Steele Branch, Canadian Legion, Winnipeg. The address was affixed on this carton too. These two parcels had been left on the floor of the wardrobe with a pair of new bed sheets on top of them. On opening the wardrobe at the time mentioned the sheets were there, the cigarettes were not. A further search of the room disclosed the loss of a small, black, vulcanite, leaver-type vest pocket, flashlight. Later after the d ance Mr. Fordyce accompanied me to my quarters and verified the loss. I do not find my flashlight among the exhibits.

Note:- two flashlights only have at this time been entered as exhibits, being exhibits E & F.

(Wilfred C. Hodkinson)

The accused decline to cross examine this witness.

SIXTH WITNESS - Lieut. O.E. Supeene, No. 7 Provost Co. Canadian Provost Corps, having been duly sworn states:-

I am stationed at Bordon. I first became connected with this case Monday 30 Jun 41. On 4 Jul 41 I had accused Pte. J. Thompson brought to my office in connection with the case of theft from officers quarters No. 1 Canadian General Holding Unit, I told him that in all probability a charge of theft would be laid against him and that any statement he might make in answer to questions would be taken down in writing and he would be asked tosignthe same. Also that he should clearly understand that he does not have

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SIXTH WITNESS (continued)

to make a statement, but that if he did, that it would be used at his trial. He replied that he understood. I then took the statement which is marked "Exhibit W"

On1Jul 41 I had the accused, Pte Roberts D.R. brought to my office in connection with the case. I gave him the usual cautioning after which he made a statement. On 2 Jul 41 I had the accused, Pte. Roberts, again brought to my office. I cautioned him and told him that I wanted further information in the matter, that he had not told the whole truth. I told him that any statement he might make in answer to questions or otherwise, would be taken down in writing and that he would be requested to sign the same, that he should clearly understand he did not have to make any statement but that any statement he might make would be used at his trial. He then said "forget about the first statement, I will make a new one" or words to that effect. I then took down the the following statement which is marked "Exhibit Y" (witness here read the statement). On 4 Jul 41 I had accused, Pte Roberts brought to my office again after I had taken a statement from the accused Pte. Thompson, in this connection. I repeated the warning I had given him before taking the previous statement. I told him that he had not as yet told the whole truth and asked him if he wanted to do so now. I then took down the following statement which is marked "Exhibit Z" (witness here read the statement.)

I received the radio, camera, revolver and three flashlights from several persons, that is to say:

RADIO - I recognize "Exhibit B" as the radio which I received from Cpl. Hewlett of No. 7 Provost Co.

H.S. F.L.

SIXTH WITNESS (continued)

CAMERA - I identify "Exhibit D" as the camera I received from Cpl. Hewlett.

REVOLVER - I recognize "Exhibit A" as the revolver I received from Cpl. Allen, No. 6 Provost Co. London. Revolver is numbered 47634.

FLASHLIGHTS - I identify Exhibit E and Exhibit F as flashlights having been recovered in London as a result of information received from the accused Pte. Thompson.

(O.C. Supesne) Lt.

Accused decline to cross-examine this witness.

SEVENTH WITNESS - No. 404316 S/Sgt. A. Sanderson, Royal Engineers, attached to the Railway Transport Officer, Movement Control, Aldershot Area, having been duly sworn, states.

I am attached to the R.T.C., Movement Control, Aldershot Area. I do not recognize the accused. (Indicating Pte Thompson J.)

I recognize the accused (indicating Pte. Roberts D.R.) as the soldier I saw at Bordon station on Sunday 29 Jun 41 with a revolver in his hand. I would not recognize the revolver.

(A. Sanderson) S/Sgt.

Accused decline to cross-examine this witness.

EIGHTH WITNESS - B-94306 Pte W.J. Conlan, R.C.O.C., No. 1 Canadian General Holding Unit having been duly sworn, states:-

I am Pte W. J. Conlan, R.C.O.C.

EIGHTH WITNESS - (continued)

No. 1 Canadian General Holding Unit.

I saw Pte. Thompson and Pte. Roberts, the accused in the soldier's club on Saturday 28 Jun 41 between 1900 hrs. and 2000 hrs. Both were drunk. I am in the same hut as they are. I had Sunday morning off and was sleeping in the hut. I was awakened by the commotion, which was raised when Pte Thompsons kit was searched. When I was going for duty approximately 1130 hrs. Sunday I met Pte Thompson outside the hut and asked him why they had searched his kit. He replied, "Buggard if I know", I didn't see them again until I was off duty which was approximately 1300 hrs. I went into the Soldiers Club and found Pte. Roberts and Pte. Thompson sitting at a table with twowmen, I did not know. I joined them. Beers were coming quite fast. Pte Thompson had his dog there. He looked at his dog and said "Youre the Son-of-a-Bitch that put the finger on me I ought to scuttle you." I asked Pte Roberts what Pte Thompson was talking about and Pte Roberts replied it was about some stuff that had been taken from the Officer's quarters. I asked him what was taken. He said a gun, a camera and some cigarettes. That was all the information I got. Pte Thompson sold three packages of cigarettes in my presence - one package of Buckingham and two packages of Sweet Caporals. These sales were made while we were sitting at the table to passersby, strangers to all of us.

W.J.C.
(W.J. CONLAN)

Pte. Roberts D.R.

1. Question. Were you present when the

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EIGHTH WITNESS - (continued)

crap game was going on Saturday night.

Answer: No.

Pte. Thompson J.

2. Question: Did you stay at our table at the soldier's club until the club closed.

Answer: Yes.

Pte. Roberts D.B.

3. Question: In what condition were we all when w e left the club.

Answer: Drunk

NINTH WITNESS - C-11580, Pte. Rossi,D., No. 1 Canadian General Holding Unit having been duly sworn, states:

I am Pte. Rossi, D., C-11580, R.C.A.S.C., No. 1 Canadian General Holding Unit.

I met Pte Roberts and Pte Thompson, the accused in the soldier's club Sunday afternoon approximately 1300 hrs. From the club we went to Bordon station at about 1430 hrs. I do not recall what happened at the station. We got on the train about 1800 hrs. and we changed trains at Bently. We had a few drinks in Bently and then went on to London, arriving there 2030 hrs. or 2100 hrs. approximately. We went for something to eat to the Union Jack Club. After we had something to eat Pte Roberts and I went for a wash. When we came back Pte Thompson was not where we had left him and I did not see him again. Pte Roberts and I got a bed. We got up in the morning and went for a wash and Pte Roberts had a gun which he took and hid in the lavatory on top of a flushing box. We then walked out of the Union Jack and headed for Bordon camp. We arrived Bordon camp Monday night about 1600 or 1900 hrs.

The gun Pte Roberts had was, I believe, like

NINTH WITNESS (continued)

Exhibit A, but I cannot identify Exhibit A as the gun.

I recognize Exhibit B as a radio I saw in Bentley in the possession of Pte Thompson. I recognize Exhibit D as a camera I saw in Bentley in the possession of Pte Thompson. I didn't see these articles again.

I saw the gun first either before getting on the train at Bordon or while waiting for the London train at Bentley. It was in the possession of Pte Thompson when I first saw it. I did not see it again until getting up Monday morning at the Union Jack club.

D R

(D. Rossi)

Pte. Roberts D.R.

1. Question: Do you recall drinking one bottle of gin and two bottles of whiskey with Pte Thompson and myself and two or three others Sunday afternoon 29 Jun 41 between the time we left the Soldier's club and our arrival at Bordon station.

Answer: Yes

2. Question: What was our condition on leaving Bordon.

Answer: We were in pretty bad condition. We were drunk.

Pte. Thompson J.

3. Question: Would you say you were drunk yourself.

Answer: I wasn't very sober after drinking about ten pints of beer and two bottles of whiskey.

TENTH WITNESS - Captain W.B. Keith, Adjutant, No. 1 Canadian General Holding Unit having been duly sworn, states:

I am Captain W.B. Keith, Adjutant, No. 1 Canadian General Holding Unit, stationed at

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TENTH WITNESS (continued)

Louisburg South Barracks Bordon Hants.

I recognize Exhibits A, B, D, E, F, as articles which were handed to me by Lieut Supeene R.C.M.P. when recovered from various places in Bentley and London. These are all articles, which previously were reported, to me as stolen from the Officer's quarters of this unit.

I recognize "Exhibit C" as statement of Cpl. A.R. Allen C.M.H.Q. Special Investigation Dept. which was received in my orderly room 8th Jul 41.

W.B. Keith

(W.B. KEITH) Capt.
Adjt. No. 1 Cdn Gen Hold Unit
Canadian Army (Overseas)

The accused, Pte Thompson and Pte Roberts decline to cross-examine this witness.

ELEVENTH WITNESS

Reg.No.316470, Tpr.Nock E.,Att.R.T.O. Bordon Station, having been duly sworn, states;

I am trooper E.Nock, belonging to the Royal Scots Greys and am attached to the Railway Transport office, Bordon Station. Bordon, Hants.

I recognize the accused (Pte.Thompson J.). I met the Canadian soldier on the Sunday night (a fortnight ago) June 29th. I met him in the Railway Arms Hotel. I called for a drink and he did too. He asked me if I would like to buy a camera and a radio. I asked him whose they were and he said his own. He said he was broke. It being his own property I was entitled to buy it. I asked him what he wanted for it and he said a pound. I gave him the pound and took possession of the two articles.

I recognize exhibit "D" as the camera I bought from the soldier. I recognize exhibit "B" as the small portable radio I bought from the soldier (Pte.Thompson). I did not see Pte.Thompson in possession of Exhibit "A".

The accused decline to cross examine the witness.

E Nock Tpr.
(E.Nock)

CANADIAN PROVOST CORPS. C.I.B. #/1

"Exhibit C"
#52

To;
D.P.M.
C.M.H.Q.
London.

Re; Reg. No. B-880648 Pte. ROBERTS, D.R. - #1 C.H.U.
THEFT OF REVOLVER.

1. With reference to the above, I beg to report that at 1100 hrs, 1 July 41, I received a telephone communication from #7 Provost Coy., regarding the theft of Capt. FARLINGER's service revolver, Smith and Wesson .455 Cal. Serial No. 47634, alleged to have been stolen by Pte. Roberts. As the result, I proceeded to the Union Jack Club, in LONDON, where a search of the washroom was made, resulting in the above described revolver being found, on top of the water tank, in the washroom on the 4th floor.

2. As I had certain enquiries, and investigations, in the BONDON area, I took the above exhibit to BONDON, and handed same over to the 2nd I/C, #7 Provost Corps, receiving receipt for same, which is attached hereto.

3. Charges, in connection with the above named are being preferred by #7 Provost Coy.

CONCLUDED.

(Signed) "A.R. ALLEN" Cpl.
C-41972 A.R. Allen (CMHQ)
Special Investigation Dept.

LONDON.
2 July 41.

II

O.C.,
#1 Gen. Holding Unit.

Forwarded for your information.
(Signed) "A.D. Cameron"
(A.D. Cameron) Lt. Col.
D.P.M.
Canadian Military Headquarters.

3 July 41.

III

12 July 41.

I certify that in my opinion the evidence of C-41972 Cpl. A.R. Allen, C.M.H.Q., Special Investigation Dept., cannot be readily procured , that I have read the written statement of his evidence over to the accused in accordance with R.P. 4 (G) and I include it in the summary of evidence.

(W.T. Egener) Lt.
#1 Cdn. Gen. Holding Unit
Canadian Army (Overseas)

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After having being duly warned in accordance with R.P.A (E), the accused declined to make a statement.

Certified that R.P.A (C), (D) & (E), have been complied with.

Taken at BORDON, Hants, in the presence and within the hearing of the accused.

Signed at BORDON, Hants, the 12th day of July, 1941.

A Copy of original summary.

F.T. Egener Lieut

(F.T.Egener) Lieut.

NO I CANADIAN GENERAL HOLDING UNIT
CANADIAN ARMY

14/12 Aug 41.

B-88084 PTE. ROBERTS, D.R.

The m/n man has been examined by me this date and found FIT to stand trial by Court Martial.

D.R. Sutherland Capt.
(D.R. Sutherland) Capt.
M.O. No.1 Cdn Gen H.U.

NO I CANADIAN GENERAL HOLDING UNIT
CANADIAN ARMY

1-4 ~~12~~ Aug. 41.
~~13~~ URL

B-94610 PTE. THOMPSON, J.

The m/n man has been examined by me this date and found FIT to stand trial by Court Martial.

D.R. Sutherland Capt.
(D.R. Sutherland) Capt.
M.O. No.1 Cdn Gen H.U.

CANADIAN PROVOST CORPS. S.I.D. R/1

To;
D.P.M.
C.M.H.Q.
London.

Re; Reg. No. B 88048 Pte. ROBERTS, D.R. - No.1 G.H.U.
THEFT OF REVOLVER.

1. With reference to the above, I beg to report that at 11 00 hrs. 1 July 41, I received a telephone communication from No.7 Provost Coy.,regarding the theft of Capt. FARLINGIE's service revolver, Smith and Wesson .455 Cal. Ser. No. 47634, alleged to have been stolen by Pte. ROBERTS. As the result, I proceeded to the Union Jack Club,in LONDON, where a search of the washroom was made,resulting in the above described revolver being found,on top of the water tank,in the washroom on the 4th. floor.

2 As I had certain enquiries,and investigations,in the BORDON area, I took the above exhibit to BORDON,and handed same over to the 2nd. I/C, No. 7 Provost Corps,receiving receipt for same ,which is attached hereto.

3. Charges,in connection with the above named are being preferred by No. 7 Provost Coy.

CONCLUDED.

LONDON.
2 July 41.

A.R. Allen. Cpl.
C 41972 A.R. Allen.(CMHQ)
Special Investigation Dept.

II

O.C.,
#1 Gen Holding Unit.

No. 1 General Holding Unit RECEIVED 0700 JUL 5 1941 ORDERLY ROOM Canadian Active Service Force

Forwarded for your information.

A D Cameron

3 Jul 41. (A.D.Cameron) Lt-Col
D.P.M.
Canadian Military Headquarters.

12/7/41
I certify that in my opinion the evidence of C41972 A.R. Allen C.M.H.Q. Special Investigation Dept, cannot be readily procured, that I have read the written statement of his evidence, ~~and~~ as the accused ~~made~~ in accordance with R.P.(C) and I include it in the summary of evidence. F.G. Egener, Lt., #1 Can. Gen Holding Unit, Canadian Army (Overseas)

Exhibit "W" F.T.S.

Statement of B94670 Pte.Thompson J.
.J.C.S. No.1 T.H. Unit.

4 July 1941

"On Saturday 28 June 1941 B88046 Pte.Roberts D.R. and I were drinking in the Soldiers Club at Bordon with some of the fellows. I overheard someone saying that there was a dance in the officers mess. We stayed in the club until closing time (2130 hrs). When we left the club a bunch of us started a "crap" game in front of it. We played until it was too dark to see. A Pte. Smitherman suggested we go to his room in one of the married quarters to continue the game. Roberts and I must have broke away from the others because we landed up at the officers quarters (Grafton Lodge) by ourselves. We went into the lodge and up the stairs. We went through some of the rooms and picked up about 1500 cigarettes, a portable radio, a camera, a revolver and three flashlights. We took all this stuff to our quarters. We sleep in the one hut. Later we hid this stuff in the woods behind the shooting range (Louisburg South). A policeman came and searched my kit but as we had hidden the stuff he found nothing and I told him that I had been in my quarters since 2200 hrs. I was pretty drunk but I had some sense left. I remember being in the officers quarters and picking all this stuff up and taking it to our quarters. It must have been the liquor we drank that made us do this. Pte.Roberts was pretty drunk too.

On Sunday 29 June 1941 in the afternoon Roberts and I had quite a few beers and when we ran short of money we went to the spot where we had hidden the stolen stuff and picked up the

Exhbit "G"

cigarettes. We sold them to different soldiers in the Soldiers club. I do not know how much money I received for the cigarettes nor how much Roberts got. We were selling them at one shilling per packet. We sold all that we had taken. Several of us chipped in to buy some liquor. The money was given to a Sergeant, Whom I do not know, and he bought one bottle of gin and five bottles of whiskey. We drank this and then, Roberts, Cpl. Rossi and myself left to go to London. Roberts and I went to our hiding place and picked up the revolver, radio, camera and flashlight as we intended to sell them. Roberts was carrying the radio and camera. The flashlights were in my respirator haversack. I sold the radio and camera to a British soldier in the "pub" at Bentley for one pound.

In London we ended up at the Union Jack Club. We went into the dining room to have something to eat. Rossi and Roberts said they were going to have a wash before eating. They left their respirators with me. I fell asleep in the doorway to the dining room and did not see them again. I waited for them until noon on Monday 30 June 1941 then asked the storekeeper of the small badge store on the opposite of the road from the Union Jack Club if he would take care of the two respirators for me. He accepted them. I also left the flashlights with him. I did not sell these articles. I returned to my unit at 0205 hrs this date.

O.C.Supeene Lt. Signed (J.Thompson.)

"Exhibit Y"
F.T.M.

Statement of B96048 Pte.Roberts. D.R. R.C.S.C. No.CCHU

2 July,1941

I remember being in the soldiers club at Bordon on Saturday night 28 June 1941 until about 2300 hrs. closing time. I had been drinking heavy since about 1.30 that day. From the club I went to the front of it with Curly (Pte.Thompson J.B94670) and several others where we got into a dice game. We played until it got too dark to see. I can remember getting up from the game and walking away with Pte.Thompson J.and others but from there on the effects of the liquor I had drank must have hit me so as to leave my mind a blank. I cannot remember anything more that night.

The next day - Sunday - 29 June 1941 - I helped to drink a bottle of gin and two bottles of whiskey. I do not know who got them or where they came from. It was about 3.30 or 4 o'clock in the afternoon when we finished these bottles.Pte.Thompson J.and Cpl. Roosi D. (C11580) were drinking with me.

At about 5.20 that same afternoon Pte.Thompson and Cpl.Roosi and I went to Bordon Station from where we took the train to Wimbledon. We went to London from there.

Just before leaving the camp Thompson left us saying "I'll be back in a minute". When he returned he was carrying a small radio in a blue zipper cover and a 455 Smith & Wesson revolver. I did not ask him where this stuff came from because I knew that some stuff had been taken from the officers quarters and figured that this was some of it. Thompson handed me the revolver and I carried it to London where I hid it over a flush tank in a sleep quarter toilet.

Thompson said he would try to sell the radio and camera. I do not know where the camera came from. He went into the R.T.O.'s office at Bordon station to try and sell them, but did not do so.

He sold the radio and camera in the Hotel at Bentley. He was going to sell the revolver in London. I did not get any of the money Thompson received for the radio and camera.

In London we went to the Union Jack Club and went into the dining room. Cpl.Moosi and I told Thompson we would have a wash and when we returned Thompson was gone and so were our respirators and steel helmets.

It is possible that I was with Pte.Thompson when the revolver and radio were stolen but I have absolutely no recollection of it.

Signed "D.R.Roberts"

Witness - H.R.Hewlett.

Lt.O.C.Supeene.

Exhibit "Z"

F.T.S.

Further statement from 388048 Pte.Roberts
S.N. H.G.C.S. No.1 Gun.G.H.Q.

4 July 1941

I can now remember being in the officers quarters on the night of 28 June 1941, because I fell down the stairs getting out. Pte.Thompson J. and I were in those quarters but I do not know why we wandered in there. I can remember that we took from several rooms about 1400 or 1500 cigarettes, a portable radio , a camera, three flashlights and a revolver. We took this stuff to our quarters and later hid it in the bush at the rear of the shooting gallery.

On the afternoon of Sunday 29 June 1941 Pte.Thompson and I went and got and brought them to the soldiers club where they were sold.

Signed 388048 R.Roberts"

Witness - H.R.Hewlett
Lt.C.C.Supeene.

After having being duly warned in accordance with R.P.4 (E), the accused declined to make a statement.

Certified that R.P.4 (C), (D) & (E) & (F) have been complied with.

Taken at BORDON, Hants, in the presence and within the hearing of the accused.

Signed at BORDON, Hants, the 12th day of July, 1941.

F.T. Egener, Lieut.

(F.T. Egener) Lieut.

Description of Court by which tried, or status of Officer dispensing, of the charge or dispensing with Trial	Date and place of Trial, or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of August 1941

D.R. Roberts Capt + Adjt
No. 1 Can. General Holding Unit

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-88048, Pte. Roberts, D.R. of the No. 1 Cdn. General HoldingUnit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be accessed to the proceedings.

†See Para. 601, K.R. 1929.

*The numbers herein stated should correspond with the number of entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	four times	four times.
For An Act to the prejudice, etc.	one times	two times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A.

or,

~~There are no entries in the Conduct sheets of the accused.~~

~~2. The accused has not been previously convicted.~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W1 43849/864 30,000 2/42 W. S. Ltd. 51-9054

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for ____ beginning on the ____ day of ____~~

4. The accused has been in confinement, awaiting trial on the present charges

for NIL days in Civil Custody,

and 40 days in Military Custody.

Total 40 days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation~~ paper is 27 yrs.

6. The date of his ~~attestation~~ specified in his ~~attestation~~ paper is 10 Nov 39

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of ____ years' service.~~

9. ~~The accused is entitled to reckon ____ years' service for the purpose of determining his pension, &c.~~

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~(or is in possession of or entitled to)~~

~~11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of ____~~

~~12. *(In the case of an officer.)* The accused holds in the army the rank of ____, dated ____, and in his ~~regiment (or corps or department)~~ the rank of ____ dated ____~~

~~13. The accused has served as a non-commissioned officer continuously without reduction, to the present date,~~

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ____, signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B550948 Pte ROBERTS, D.R. of the No. 1 Con. General Holding Unit.

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
Field Court	29 Feb. 40	Assault	28 days Detention.	

(Continued overleaf.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy 15 July 41

(W.A. Cooke) Lieut.
Officer i/c Records
No.1 (Can) General Holding Unit.

Certified True Copy.

No. B-880[illegible] Name Roberts, D.R. Sqn. Battery, or Company | Corps R.C.O.C. | Date of enlistment | G.C. Badges | Service or Proficiency Pay |

M.F.M. 6 (A.F.B. 122) 10M—8-39 (1793) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						7 days C.B.	3-3-41	R.H.Perry	Forfeits 1 days pay.
Bordon	28/2/41	Pte		A.W.L. from 1900 hrs. 28/2/41 to 0430 hrs 1/3/41 (Absent 16 hrs 30 minutes)					
Bordon	29-6-41	Pte		A.A.15(1) AWL 0900hrs 29-6-41 to CSW Diplock 72 hrs Det. 1800hrs 30-6-41 Total 33 hrs			2-7-41	RW Frost Lt/ Col.	2 days pay.
England	29-8-40	Pte		Civil Conviction of Assault		35 days pay.	29-8-40		
"	22-7-40	Pte		A.A.Sec 40 & 88		10 days Det	22-7-40		10 days pay
"	4-10-40	Pte		A.A.Sec 40		21 days Det.	4-10-40		21 days pay
"	29-10-40	Pte		AWL A.A. Sec. 15 (1)		120 hrs Det.	29-10-40		6 days pay
"	3-1-41	Pte		AWL A.A. Sec. 15 (1)		7 days C.B.	3-1-41		1 days pay

(P.T.O.)

(P.T.O.)

Description of Court by which Trial was held, or name of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or of summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of [illegible] 1943

W. B. Keith Capt & Adjt
No 1 Cdn. General Holding Unit.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-94670, Pte. Thompson, J. of the No. 1 Cdn. General Holding Unit.

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced to Court with this statement but are not to be referred to the proceedings.

†See Para. 604, K.R., 1940.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	one	times	one	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, NIL

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions† of the accused by a court martial or a civil~~ court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 23 of the Army Act, are set out in the Schedule ~~annexed~~ to this statement.

Wt. 42845/001 50,000 2/40 W. S. Ltd. 21—6204

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~
~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges for NIL days in Civil Custody,

and 20 days in Military Custody.

Total 20 days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is ~~18 yrs 6 mths~~

6. The date of his ~~enlistment~~ attestation specified in his ~~enlistment~~ attestation paper is 16 Jan 40

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is—~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~
~~years' service.~~

9. ~~The accused is entitled to reckon~~ ~~years' service for the purpose of determining his pension, &c.~~

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~or is in possession of or entitled to—~~

~~11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of~~

~~12. *(In the case of an officer.)* The accused holds in the army the rank of~~
~~, dated , and in his regiment (or corps or department) the rank of~~
~~, dated~~

~~13. The accused has served as a non-commissioned officer continuously without reduction, to the present date,~~

Date of Promotion.

In the rank of years.

In the rank of years.

~~In the rank of years.~~

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B 94670, Pte THOMPSON, J. of the No. 1 Conv. General Holding Unit

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

DEX

(Continued overleaf.

SUPPLEMENTARY.

No. B94670 Name Pte. Thompson J. Sqn., Battery, or Company RECC Corps RECC Date of enlistment G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.P.B. 122) 5805 — S. 29 (1783) H.Q. 1772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	27/6/41	Pte	-	Sec. 15 (1) A.A. Absent without Leave from 0900hrs 29 Jun 41 To 0300hrs 4 Jul 41 (Absent 112 hrs)	C.S.M. Diplock L/Cpl. Alberts	15 days Detention	11 Jul 41	R.W. Frost Lt. Col.	Forfeits 5 days Pay. F.R.&T

Certified true copy 15 July 41

(M.R. Cooke) Lieut.
Officer i/c Records
No. 1 (Cdn) General Holding Unit.

(P.T.O.)

195 E. Ble Thompson J.

O. H. M. S.

M. F. B. 270

B-74005 Pte. Thompson, J.
No.1 Cdn Div Inf Reinf Unit

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 19th day of December, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial of the said persons for the following reason(s), namely:—

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—

PROCEEDINGS REVIEWED

27/1/42 Q.M.G.'s Br. (A.G.)

Remaining Officers

President.

Rank.	Name.	Regiment.
Major	A.M. Clarke	No.3 Cdn Arty Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	J.P. McNaughton	No.3 Cdn Div Inf Reinf Unit
Lieutenant	E.W.S. Wood	No.3 Cdn Arty Reinf Unit
Lieutenant	E.E. Sneed	No.1 Cdn M.G. Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units,
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-74005 PTE. THOMPSON, J. No.1 Cdn Div Inf Reinf Unit.	First Charge A.A. sec 15(1)	Guilty	Guilty	Confirmed [illegible] Brig.
	Second Charge A.A. sec 24(2)	Guilty	Guilty	
	See charge sheet attached. TO UNDERGO DETENTION FOR 150 DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £5.2.11 IN RESPECT OF LOSS BY NEGLECT PLUS £3.6.8 IN RESPECT OF COSTS OF APPREHENSION.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) D.M. Maclaren Brigadier (Signed) C.M. Clarke Major R.C.A. 3 CARD.

Commanding Cdn Reinforcement Units. *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of December, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses (nil)
*(3. ~~The interpreter~~) The shorthand writer
*~~4. The officers under instruction~~ (nil)

* Omit if not applicable.

were duly sworn.

Signed this 24th day of December, 1941.

C.M. Clarke Major R.C.A. 3 CARD.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the provisions of A.A. s. 71(3) have been complied with.~~

~~Signed this day of 19~~ (nil)

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8th day of January 1942

D.M. Maclaren Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 10 Jan 1942 (Signed) Lew. Lear Lt-Col.
D.C. 9 d/11 Jan 1942 C.W.S. Asstd Officer Commanding No. 1 Cdn. Div. Inf. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(31758) Wt. 40113—493 200 m 1/40 P. St. G. 600

CHARGE-SHEET

The accused, No B-74005 Pte. Thompson, J. (48th Highlanders of Canada), No.1 C.D.I.R.U. a soldier of the Canadian Army (Overseas) is charge with, when on active service:-

First Charge
Section 16 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE
in that he

absented himself without leave from 2200 hrs. 10th September, 1941, until apprehended by the Civil authorities at Auchterdenan, Fife, at 0100 hrs. 2nd December, 1941, thereby incurring costs of apprehension in the amount of £3-6-8.

Second Charge
Section 24 (2)
Army Act

LOSING BY NEGLECT
his equipment, clothing and regimental necessaries
in that he

At Algonquin Camp, Witley, on 11 December 1941 was deficient of:

B-75005 PTE THOMPSON, J.

Articles.	£. S. D.	Articles.	£. S. D.
Anklets. Web. prs.1	00-04-04	Knife, Clasp	0-03-04
Bags, kit	0-05-03	Lanyard	0-00-01
Blouses, battle Dress	1-02-06	Shoes Canvas	0-03-06
Trousers battle Dress	1-00-06	Shorts, Gym prs.-2	0-04-02
Boots, Ankle, prs. 1.	1-02-06	Bag Ration	0-00-02½
Brasses, button	0-00-02	Bottle water	0-02-11
Brush, button	0-01-02	Brace, Right.	0-01-10
Brush Cloth	0-02-03	Carrier, Waterbot.	0-01-11
Cap, comforter	0-01-08	Straps, wbe. Supp.	0-01-04
Gloves, woollen 1 pr.	0-01-11	Bottle Oil	0-00-07
		Pullthrough	0-00-04½
		Mug, enamel	0-00-05
			£ 5. 8.11.

L.W.W. Slack Lt.Col.
(L.W.W. Slack) Officer Commanding,
1st Cdn Div. Inf. Reinforcement Unit.

Witley Surrey,
11 December, 1941.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 19th day of Dec 41.

F.R. Phelan Major R.A. - 3 CARU
President of the Court Martial
December 24th 1941

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT WITLEY, Surrey ON THE 9th DAY OF DEC 41

TRIAL OF:- No. S-74005, PTE J. THOMPSON, 1 CDIRU.
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lt J.R. Turner (Unit) 1 CDIRU.
Defending Officer:- (Name) Lt H. Gessels (Unit) 1 CDIRU.
At 1400 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1-No, sir.
The President, members and judge-advocate (if any) are duly sworn.
The officers under instruction are duly sworn.
Q2. Do you object to Sgt. T. Fyburn acting as shorthand writer?
A2.- No, sir.
The shorthand writer is duly sworn.
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
Q3. Do you wish to make any statement in mitigation of punishment?
A3.- No, sir.
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Prosecutor, sworn, produced AF B296 and copy MFM-6.

Defending Officer stated accused not chronic wrongdoer, his former offences not serious. Accused remained with wife who expected baby. Had wired for extension with was refused. Accused left regtl necessaries with friend when he went away; while away friend was transferred to field. Requests leniency.

J. Wilson Major R.A.O.C.
President of Court Martial

SUMMARY OF EVIDENCE

In the case of No. B-74005 Pte. Thompson, J. 48th Highlanders of Canada, on the strength of 1st Cdn. Division reinforcement Unit.

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness Lieut. E. J. Rider, R.C.R. Officer in charge of records 1st Cdn. Division Reinforcement Unit, having been duly sworn states:

I am Officer i/c Records, 1st Cdn Division Reinforcement Unit and as such produce the following documents in evidence:

(1) Record of the Declaration of a Court of Inquiry on the illegal absence of B74005 Pte. Thompson, J. 48th Highlanders of Canada showing that the accused illegally absented without leave at Algonquin Camp, Witley, Surrey at 2200Hrs, 18 September, 1941.

(2) Certificate in accordance with Army Act, section 163 (1) (M), showing that the accused was arrested at Auchterderran, Fife, at 0100 hrs 2nd December, 1941.

(3) Statement of expenses incurred in returning accused to London from Edinburgh in the amount of £3-6-8.

These documents refer to the accused B-74005 Pte. Thompson, J. 48th Highlanders of Canada, whom I now recognize.

Records in my care show that the accused did not return to his barracks until he was returned by the Canadian Provost Corps after his apprehension.

E. J. Rider .....Lieut.

The accused declines to cross-examine this witness.

2nd Witness B74249 Sgt. Rowan, 48th Highlanders of Canada on the strength of 1st Cdn. Division Reinforcement Unit having been duly sworn states:

On the afternoon of 4th December 1941 I was on duty as Provost Sergeant, at Algonquin Barracks, Witley, when at approximately 1500 hrs. Pte. Thompson, was returned to barracks by an escort who handed me this certificate. I recoghize the accused as the person referred to in the document which I now produce in evidence.

aR

A. Rowan Sgt.

The accused declines to cross-examine this witness.

aR

3rd Witness B-73334 Cpl. J. R. Tweedie, 48 Highlanders of Canada, having been duly sworn states:

I am acting C. Q. M.S., 48th Highlanders of Canada and on 11th December, 1941, I checked the kit of No B-74005 Pte. Thompson, J. and found that he was deficient in the following articles.

B-74005 Pte. Thompson, J.

Articles.	£. S. D.
Anklets, Web prs. 1.	00-04-04
Bags, Kit	0-05-03
Blouse, battle Dress	1-02-06
Trousers " "	1-00-06
Boots, Ankle. prs.1-	1-02-06
Brasses, button	0-00-02
Brush, button	0-01-02
Brush, Cloth	0-02-03
Cap, comforter	0-01-08
Gloves, Woollen prs.1	0-01-11
Knife Claps,	0-03-04
Lanyard	0-00-01
Shoes, Cavas prs.1-	0-3-06
Short Gym. prs.2-	0-04-02
Bag, Ration	0-00-02½
Bottle water	0-02-11
Brace, Right	0-01-10
Carrier Waterbottle	0-01-11
Straps, web Support.	0-01-04
Bottle Oil	0-00-07
Pullthrough	0-00-4½
Mug, enamel	0-00-05
	£5-2-11 HRS

The prices shown above are correct according to R.C.O.C. price list d/3-9-41.

J R Tweedie Cpl.

The accused declines to cross-examines this witness.

J R Turner Lieut
Signature of Officer taking Summary

The accused having been duly cautioned in accordance with Rule of Procedure 4(a) reserves his defence.

Certified that Rule of Procedure 4 (c), (d), (e) has been complied with.

Taken down by me in the presence and hearing of the accused this 11th of December, 1941.

J R Turner Lieut
Officer taking Summary

ans

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. B-74005 Pte. THOMPSON, J. (48th Highrs of Can), No. 1 Canadian Infantry Holding Unit, and in my opinion he is ~~unfit~~ fit to undergo trial by Court-Martial.

Algonquin Camp, Witley,
24th December 1941.

H. J. Mathias
(Medical Officer)

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the Yks County Police in connection with the apprehension of 2.4.1005. Pte Joseph Thompson and are payable to The County Police

nil

H.R. Robertson {Superintendent ~~a Officer~~ i/c Police Station at

Date 2nd Dec 1941. County Police Office. Dunfermline

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster is hereby authorised to pay to being the person recommended by the Committing Magistrate, a reward of for the apprehension of

Date (O.C. Unit) Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below —

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*10004) Wt.12205/230 25,000 5/39 A.A.E.W.Ltd. Gp.698 Forms/O.1618/3

DESCRIPTIVE RETURN OF § No. B. 7400[illegible] Joseph Thompson, who † was apprehended at one (hour) a m on the Second day of December, 1941 and was committed to confinement at Police Station, Dunfermline on the Second day of December, 1941 as a Deserter (or Absentee without leave) from the 2d [illegible] Canadian Infantry Holding Unit Regiment of 48th Highlanders of Canada.

Age 21 years 0	Height 5	feet 8½	inches
Complexion Great.	Hair Lt Brown	Eyes Hazel	
Marks Tattoo right forearm	In uniform or plain clothes	Uniform	

Probable date and place of attestation	26th February, 1940 Toronto, Ont., Canada
Probable date of desertion or beginning of absence and from what place.	18th September, 1941, Algonquin Camp, Petawawa, Ontario
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	Capt. McCready, 70th Black Watch, Kirkcaldy, R.H., Adam Smith Hall, Kirkcaldy.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	*On 1/12/41 Capt McCready, 70th Black Watch, Kirkcaldy, received an anonymous letter alleging that this soldier, who was wearing the uniform of a Gordon Highlander, was a deserter from his unit. This information was passed to the Police for investigation & D/Sgt of this Force on 1/12/41 showed that he was a deserter, and on inquiry being made at the address given he was found residing there. He admitted his identity and that he had been absent from his unit since 18/9/41.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is a deserter from the before-mentioned Corps.

No. P. Mac Con — Signature
Staff Substitute of 7th Kinross — Residence
Dunfermline — Post Town
2nd December 1941 — Date of Signature
J Thompson — Signature of Prisoner
Donald M. Fraser, PC No 61 — Signature of Informant

} of Committing Magistrate.

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

_____ Signature
_____ Residence
_____ Post Town
_____ Date of Signature

} of Magistrate.

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. _____ of _____

Regiment at _____ on _____ by _____

who was committed as a Deserter (or Absentee without leave) on the _____

RECOMMENDATION FOR REWARD.

I RECOMMEND* _____

_____

Address _____

for a reward of _____

_____ Signature of Committing Magistrate.

_____ Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Camp 101, Witley Surrey on the 13 day of October 1941, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. 5-74005 Pte. Thompson, J. (AF)th.

DECLARATION.

The Court declare, That 5-74005 Pte. Thompson, J. illegally absented without leave at Algonquin Camp, Witley, Surrey at 2200 hrs. 18 September 1941, and that he is still as absent and that on 10 September, 41, he was deficient and is still deficient in articles of kit to the value of £29-10-32.

Anklets Web prs. 1	£0-4-4	Greatcoat	£2-7-6
Cap Badge	£0-0-4	Comb Hair	£0-0-3
Bags, kit	£0-5-3	Disc, Identity	£0-0-3
Blouses Battle Dress	£2-5-0	Drawers Woollen	£1-15-0
Trousers " "	£2-1-0	Field Dressing	£0-1-1
Balmoral	£2-11-11	Fork Table	£0-0-4½
Boots, Ankle 2	£2-5-0	Gloves Woollen	£0-1-11
Braces prs.	£0-6-6	Holdall	£0-0-6
Brasses Button	£0-0-8	Housewife	£0-0-7
Brush Boot Blacking	£0-0-01	Jacket sweater	£0-3-4
Brush " Polishing	0-0- 7	Knife Clasp	£0-0-2
Brush Button	£0-1-2	Lanyard	£0-0-2
Brush Cloth	£0-2-3	Knife Table	£0-0-10
Brush Shaving	£0-1-2	Blouse Denim	£0-5-2
Brush Tooth	£0-0-2	Trousers Denim	£0-5-3
Cap Comforter	£0-1-8	Razor	0--0-9½
		Shirt Flannel	£1-0-0
		Shirt Woollen	£0-15-2

(P.T.O. Continued)

Names of President and Members

PRESIDENT Major W.C. Upper(RHLI)
MEMBER Lieut. H.E. Wills(HPE)
MEMBER Lieut. A. Condy(R.C.R.)

(Signed) L.W.W. Slack, Lt.Col.
No. 1 Con Int W. Welf, C.A.(C)

Signature of Commanding Officer.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(12261) WL24318/1023 75,000 10/39 A.& E.W.Ltd. Gp.698 Forms/B115/56
(12443) WL42750/760 225,000 1/40

Shoes Canvas prs. 1-	£0-3-6
Socks, Worstead prs 3	£0-5-9
Spoon Table	£0-0-4½
Towels, Hand 2	£0-3-0
Shorts Gym prs. 2	£0-4-2
Vests C m prs. 2	£0-3-10
Drawers Cellulose	£0-4-4
Bags Ration	£0-0-2½
Belt Waist	£0-3-6
Bottle Water	£0-0-11
Braces, 2	£0-3-6
Carrier Water Bottle	£0-1-11
Prop Bayonet	£0-1-6
Haversac	£0-0-6
Helmet Steel	£0-0-0
Pack	£0-1-6
Pouches Basic, 2	£0-10-6
Sling Rifle	£0-1-3
Straps Shoulder 2	£0-2-10
Straps Web Supporting	£0-1-4
Tins Mess	£0-2-10
Bayonet	£0-16-0
Bottle Oil	£0-0-7
Pulltrough	£0-0-4½
Rifle D.3877	£7-11-0
Scabbard	£0-1-3
Sheet Ground	£0-10-0
Cape Anti-Gas	£0-12-3
Container	£0-6-0
Eyeshields, 6	£0-2-3
Facepiece	£0-3-6
Haversac	£0-1-7
Ointment A.G.	£0-1-6
Outfit A.G.	£0-0-2½
Wallet, A.G.	£0-0-9
Mug Enamel	£0-0-5
	£ 20-10-3½

W.

FIFE CONSTABULARY.

CERTIFICATE IN ACCORDANCE WITH SECTION 163(1)(m) OF THE ARMY ACT.

I certify that the person whose description is given below was arrested ([redacted]) at

(place) AUCHTERDERRAN, FIFE.

at (hour) 1 a.m. on the Second

day of December, 19 41.

Regimental particulars of officer or soldier referred to above.

(No. B.74005

Rank Private

Name Joseph THOMPSON

Unit 1st Canadian Infantry Holding Unit, 48th Highlanders of Canada, Algonquin Camp, Witley, Surrey.

O. i/c Detention Room
No. 6 Provost Company.
Lieut

Description

(Age 21 years

Height 5 feet 8½ inches

Complexion Fresh

Hair Light brown

Eyes Hazel

Marks Bust of woman and Scotland tatteed right forearm, scar left elbow.

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody, on arrest or surrender.

Donald M. Fraser, P.S. No. 61.

(In charge of Auchterderran Police Station).

Ref: M.P.& C.(Can.)839

Regt. No. B74005

Rank Pte.

Name Thompson, I.

Regt. No.1 C.I.H.R.

Unit:

The following expenses were incurred in apprehending and returning the A/T soldier to xxxxxxx from Edinburgh London

DATE	PARTICULARS	AMOUNT £	s	d
4 Dec 41	Escort return fare from Edinburgh to London	3	0	6
	Prisoner's xxxxxxxxxxxxxxxxxxxxxxxxxxxx in possession of his own ticket -			
	xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx			
	Escorts expense for xxx, meals, bus fares xxxxxxxx xxxxxxxxxxxxxxx.	0	6	0
	TOTAL ---------- £	3	6	8

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. O'Byrne Lt.
P.O. No 6 Prov. Coy.
Canadian Provost Corps.

GRC

M.F.M. 6
(A.F.B. 122)

No. B-7400 Name Thompson, J Sqn., Battery, or Company Depot Corps 48th H. of Can Date of enlistment 29-4-40 G.C. Badges Service or Proficiency Pay

Signature O.C. Company, etc. Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. two

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous Sheet destroyed 29-10-40 (Signed) David Ivoe, Lieutenant.					
Bordon Hants	26/8/40	Pte		A.W.O.L. for 10 hrs A.F. 15(1) A	Sgt. Kelman	28 days Detn.	28-8-40	Lt.Col. Slack	Forfts. 6 days pay and 26 days pay. Total 32 days pay F. N. & I.
On Board H.M.T. E.49	31/ 7/ 40	Pte.		Conduct to the prejudice of good order and military discipline. A.A. Sec. 40	A/CSM Langford A/L/Cpl. Wilkinson		1-9-40	Lt. Col. Weeks C.C.R.E.-40	Forfts. 5 Days Pay F.N.& I.

(P.T.O.)

Certified True Copy

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Hants	16/ 10/ 40	Pte.		A. W. L. from 2350 hrs 13-10-40 to 2020 hrs 16-10-40 A.A.Sec.15(1)	C.S.M. Sgt. Wood	14 Days C.B.	17-10-40	Lt. Col. Slack	Forf. 3 days Pay F.N. & I.
Bordon	5/12/ 40.	Pte.		A. W. L. from 1200 hrs. 1-2-40 to 1525 hrs. 5-12-40. A.A. Sec. 15(1)	Sgt. Yollick	14 Days Det. Commencing 16-12-40	26-12-40	Major Fletcher	Forf. 2 Days pay forf. 14 days C. C. pay total 19 days pay . F.N.& I.
Witley Surrey	27/ 4/ 41	Pte.		Conduct to the prejudice of good order and military discipline. Neglected to obey an order. Sec. 40 A.A.	Cpl. Wilson Cpl. Wilkinson	14 Days C.B.	29-4-41	Lt-Col. Slack.	

No. 874005 Name Thompson, J. | Sqn., Battery, or Company | #1 CIWT | Corps 48th H. of C. | Date of enlistment 29-4-40 | G.C. Badges | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 133) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
~~Witley~~ ~~Surrey~~	2-5-41	Pte.		A. W. L. from 0630 hrs 2-5-41 to 1600 hrs 2-5-41. A.A. Sec. 15(1)	Cpl. Wilson P.	14 Days Detn.	3-5-41	Lt. Col. Slack	Forfs. 1 Days Pay R.R.& I. Forf. 14 Days pay. R.R.&I. total 15 days pay.
~~Witley~~ ~~Surrey~~	17-5-41	Pte.		Disobeing a lawful command; he did not get out of bed when ordered to do so A.A. Sec. 40.	L/C Stevenson Pte. Rushton.	28 Days Detention	19-5-41	Lt-Col. Slack	Forfeits 28 days p F.R.& I. 140 (1) (h)

Certified True Copy E. J. Rich Lieut

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21-7-41	Pte.		Sec. 40 A.A. Condcut to the prejudice of good order and military discipline, while on inspection of guard was talking.	Cpl. Thompson	27 Days Detn.	28-7-41	N.C.Other-Forfeits 1and Lt.-Col.	1 days pay F.R. & I
				Sec 15(1) A.A.L. - absenting himself without leave from 2145 to 2225 hrs. missing his tour of Duty while on guard.	Cpl. Thompson		28-7-41		
				RELEASED FROM CANADIAN DETENTION BARRACKS ON AUGUST 23 1941 SENTENCE HAVING EXPIRED. COMMANDANTS INITIALS (SIGNED) C.C.					

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

No B-74005 Private Thompson, J. 48th Highlanders of Canada, 1st Canadian Division Infantry Reinforcement Unit.

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
For absence without leave	2	5
For A.A. Section 40	2	3
For disobeying lawful command A.A. 9 (2)	1	1

~~Number of instances of gallantry or distinguished conduct:~~

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court-Martial or a civil court.

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and 20 days in military custody, making a total of 22 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 years.

6. The date of his attestation specified in his attestation paper is 26 February 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 177 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr. 177 days service.

9. The accused is entitled to reckon 1 yr. 177 days service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

24 Dec 41

E. J. Rider Lieut.
(E.J.Rider) Regtd. Officer.

A.M. Wheeler Major R.C.A.
President of the Court Martial.

QQQ-120

TPR THOMPSON J.A.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ~~Yes~~ - .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s).~~ ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the ~~charges~~ on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 74 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans . Do you intend to call witnesses on your behalf ?
Ans . Are they witnesses as to character only ? Ans .
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ~~Witness as to character~~ .
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B. and Ex C. respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ~~Yes through my def offr~~ .(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B. 78670 Tpr. Thompson J.A. 1st Lgr H Cav and Bde.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Use for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40.	Guilty.	Guilty	7 Yrs Rest.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Rest ~~At present under sentence for ...~~ beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer F.P. for 60 days and to forfeit all arms any pay for 60 days and to be placed under stoppage of pay in the amount of £15-10-0 in respect of damage to Cdn Pill Box No. Ca 4.6.46.54.

(Sgd) H.M. Campbell Capt
Judge-Advocate, if any.

1 Jul 44
Date awarded.

(Sgd) J.C. Jefferson Brig
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) .....
Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison on declaration bankruptcy until further ordered.
(J. AA 57A. Delete if not used.)

Date 30 Jun. 44. (Sgd) J.C. Jefferson Brig.

Commanding 10 Cdn Inf Bde.
Confirming Officer.

Date 19 Jul 44

A.D.J.A. H.Q. 1 Cdn Inf Div.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 78670 Tpr Thompson J.A.	1 Jul 44	H.M. Campbell Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant witholding confirmation.

RECEIVED 8 JUL 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.C. Jefferson Comd 10 Can Inf Bde dated 26 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 78670	Tpr	Jack Alexander	Thompson	4 Cdn Armd Regt

PROCEEDINGS REVIEWED 10 Jul 44 [illegible] Marshall Capt REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 6 Jul 44 Gdn. Sec G.H.Q. 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 29 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see foot for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn e. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	T.B. Nash.	
Member	Capt	R.A. Pelton	14 Cdn Armd Regt
Member	Lieut	G.M. Blaking	G.S.H. 4 C.
Judge-Advocate	Capt	N.O. Barron	10 Cdn Inf Bde
Prosecutor	A/Capt	J.H. Gordon.	H.Q. 4 Cdn Armd Div
Defending Offr	A/Maj.	B.V. Massie.	HQ 1 Cdn Army Tk Bde HQ 4 Cdn Armd Div.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea Not

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ Not not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

8 AB 160 2nd 11 Mar 98

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 78670 Tpr. Thompson J.A. 1 Armd Sqn 4 Can Armd Bde

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40.	Guilty.	Guilty	78th Regt.
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Nil At present under sentence for ~~.....~~ beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer F.P. for 60 days and to forfeit all ~~extra~~ daily pay for 60 days and to be placed under stoppage of pay in the amount of $ 15-10-0 in respect of damage to Gas Mk 6A No. CA 426465 H.

(Sgd) Kirkaman Capt 29 June 44. (Sgd) J.M. Lachapelle Lt Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

Kirkaman Capt ADJ HQ 4 Can Armd Div.

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

Date 30 June 44. (Sgd) D.C. Jefferson Brig.

Commanding 10 Can. Inf. Bde. Confirming Officer.

Date 1 Jul 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 78670 Tpr Thompson J.A.	1 Jul 44	A Campbell Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

RECEIVED 8 JUL 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

(AFB 122 (In lieu of AFA) 40/PAM/SC/1098 (40/01))

4/38B

Convened by Order of Brig J.C. Jefferson Comd 10 Can Inf Bde dated 28 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 78670	Tpr.	Jack Alexander	Thompson	1 Armd Sqn 4 Can Armd Bde

PROCEEDINGS REVIEWED 10 Jul 44 arsmarshall Capt REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 6 Jul 44 Offr Adm Bde HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 29 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	T.B. Nash.	HQ 4 Can Armd Bde
Member	Capt	R.A. Pelton	A & S H & C.
Member	Lieut	J.M. Blaking	10 Can Inf Bde Sig Coy
Judge-Advocate	Capt	N.G. Kirkaman	HQ 4 Can Armd Div
Prosecutor	A/Capt	J.H. Gordon.	HQ Sqn 4 Can Armd Bde
Defending Offr	A/Maj.	R.V. Massie.	HQ 4 Can Armd Div.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~...~~ plea Nad

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ Nad not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. JAB 160 Jul 11 Mar 98

CHARGE SHEET

The accused B-78670 Tpr Jack Alexander THOMPSON, HQ Sqn 4 Cdn Armd Div, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at approximately 2200 hrs on the night of 24 June 1944 improperly and without authority took and used Canadian Military Vehicle No. CL-4264654 thereby occasioning damage to the said vehicle to the extent of £15-10-0.

C S Campbell

(C S Campbell) Major
Officer Commanding
HQ Sqn 4 Cdn Armd Division

T. be tried by FGCM

Accused warned 10 May DAAG 1946 for Court 10 May

2 – the Hal
28 June 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B78670	Tpr		JACK ALEXANDER	THOMPSON	HQ Sqn 4 CDN ARMD DIV

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Jun 44 endorsed ~~by me, or~~ by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J B Lash	29 Cdn Armd Recce Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC	A/Sqn HQ
Lieut	To be detailed by OC	10 Cdn Inf Bde HQ Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed by OC	Loc Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	H. A. Hanson	HQ 4 Cdn Armd Div

On Active Service in the Fd

in England (Country.)

Date 28 Jun 44

J C Jefferson (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 10 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JCJ.

MED OFFRS CERTIFICATE
KR (Can) para 557

A21

I certify that I have this day examined No B-78670 Tpr
Thompson J A of HQ Sqn 4 Cdn Armd Division and in
my opinion he is ~~fit~~ unfit to undergo trial by Court Martial.

Sta In the Field

Date 29 June 1944

J D Galloway Capt RCAMC
(MO)

1.

Statement by Accused.

Previous to the accident I was in a pub drinking beer to an extent that I was not in proper frame of mind at the time of the accident. That all.

2.

Christie

M-45690 Sgt Jergstad J.A.-
HQ RCA & ~~[illegible]~~ cad sworn
states.

Am Mess Steward and I/c
Canteen B Mess HQ RCA. The
accused is a Canteen at B
Mess. I have known him nearly
2 years. Has been working with
me for one year.

He has been very conscientious
in his work, exceptionally neat
in everything he does. Extremely
honest. Has not been in any
trouble. Have seen him drunk.

No X Exam.

RP (S) B/ complied with.

Maj. B. Massey HQ RCA cad
Bde. sworn states:-

The accused has been my
Batman for past 6 weeks.
I found him to be honest and
conscientious, although perhaps
lacking in initiative.

No X Exam.

RP (S) B. complied with.

Plea in Mitigation by Def H/-

Conduct sheet, with explanation of 3 small absences during 1943, and one of 1944, is seen.

As a plea to explain conduct of arrest. Obvious explanation — liquor.

Court an assessment of a part of damage as punishment.

(copy)

Summary of Evidence in the case of B-78670 Tpr Thompson J A, HQ Sqn 4 Cdn Armd Div, Canadian Army Overseas, charged with Conduct to the Prejudice of Good Order and Military Discipline in that he in the field at approximately 2200 hrs on the night of 24 Jun, 1944 improperly and without authority took and used Cdn Mil Veh No. CL-4264654 thereby occasioning damage to the said vehicle to the extent of £15-10-0.

The C.O. directs that the evidence be taken on oath.

First Witness

K-38545 Tpr Sartorius G, Tpt Tp, HQ Sqn 4 Cdn Armd Div, sworn states:-

On the night of 24 June 1944 I was detailed to drive veh CL-4264654 on a recreation trip to Heathfield which was authorized by Major C S Campbell O.C. HQ Sqn 4 Cdn Armd Div. We left unit lines about 1915 hrs and arrived at Heathfield at approx. 2010 hrs. I stayed with my vehicle until approx 2125 hrs. When I left it to go to a nearby NAAFI, approx 50 yards distant, to get a cup of tea. I had immobilized the vehicle by detaching the wire from the starter button as soon as we arrived. I was away from the vehicle for about 10 minutes returning to the parking spot at approx 2135 hours. In my absence someone had taken my vehicle and it was not where I had parked it. No one had, or was given authority to move this vehicle.

The accused declined to cross examine this witness.

(Sgd) Tpr G Sartorius K-38545

Second Witness

B-43750 Gnr Allward A N, Batman at HQ, RCA, 4 Cdn Armd Div, sworn, states:-

I was on 24 June 1944 and still am batman at HQ RCA 4 Cdn Armd Div. On the night of 24 June I accompanied Tpr Thompson, whom I recognize as the accused, on a recreational trip to Heathfield. When we arrived at Heathfield, Tpr Thompson and I went to the Half Moon Hotel and had a couple of drinks. We were in the hotel for about an hour to an hour and a half (approx) when Thompson went outside and was away for about 10 minutes. He then returned and said to me "Come on - lets get going". We went outside and he got into the truck which had brought us to Heathfield. I asked him where he was going and he said, "To pick up the other two fellows". I asked him if he had permission to use the truck and he said he did. So I thought that he was going to pick up two fellows and go to the dance.

After we had been driving for about ten minutes, I asked him again where he was going and he said "Just down the road to pick up somebody".

Just after that we made a sharp turn and immediately after another which we didnt quite make and the truck crashed into a wall. Right after that Thompson said something to the effect that he had taken the truck without authority so I jumped out of the truck and headed back for Heathfield. Because of the excitement I cannot recall his exact words.

The accused declines to cross examine the witness.

(Sgd) Gnr. A N Allward

Third Witness

Charles Field, 3 St Johns Cottages, Netherfield, by occupation gardener.

Document purportingto be signed statement of the evidence of Charles Field, 3 St Johns Cottages, Netherfield, was read over to the accused, marked exhibit 'A' and attached hereto.

I certify that in my opinion owing to the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

(Sgd) J H Gordon, Capt.
HQ Sqn 4 Cdn Armd Div
Offr Detailed To Take Summary

I do not require the attendance of this witness for cross examination.

(Sgd) J A Thompson

Fourth Witness

George William Styles of 1 Beach Cottages, Netherfield Place, Netherfield, by occupation a gardener.

Document purporting to be signed statement of the evidence of George William Styles, 1 Beach Cottages, Netherfield Place, Netherfield, was read over to the accused, marked Exhibit 'B' and attached hereto.

I certify that in my opinion owing to the time and expense involved, the attendance of this witness at the taking of the Summary of Evidence cannot readily be procured.

(Sgd) J H Gordon, Capt.
HQ Sqn 4 Cdn Armd Div
Offr Detailed to Take Summary

I do not require the attendance of this witness for cross examination.

(Sgd) J A Thompson

Fifth Witness

Ernest John Grippy, Ashes Lodge, Netherfield, by occupation a herds man.

Document purporting to be signed statement of the evidence of Ernest John Grippy, Ashes Lodge, Netherfield, was read over to the accused, marked Exhibit 'C' and attached hereto.

I certify that in my opinion, owing to the time and expense involved, the attendance of this witness at the taking of the Summary of Evidence cannot readily be procured.

(Sgd) J H Gordon, Capt.
HQ Sqn 4 Cdn Armd Div
Offr Detailed to Take Summary

I do not require the attendance of this witness for cross examination.

(Sgd) J A Thompson

Sixth Witness

Capt P L W Platt, OC 4 L.A.D., attached HQ Sqn 4 Cdn Armd Div, sworn, states:-

I was on the 24 June 1944 and still am OC 4 L.A.D. attached HQ Sqn 4 Cdn Armd Div. I received a message from HQ Sqn 4 Cdn Armd Div that the vehicle CL-4264654 was reported wrecked near Netherfield requiring suspended tow. This report was received at 1015 hrs. 25 June 1944. I sent casualty report to REME HQ and sent S/Sgt Harvey, Armt Art to verify the location and damage and vehicle. From the list of damages I received from S/Sgt Harvey I compiled the following detail of cost of damage repair and replacement to this vehicle:

	Man Hours	Material Cost
Broken Front drive shaft	1½	£1-10-0
Bent Tie Rod & Broken Connector	2	£2-4- 0
Bent bumper	1)	
Bent fender	1½)	£3-0- 0
Bent running board and support	)	
Left front spring hanger broken	½	-0-10-0
Left front spring leaves lost	5	£2- 0-0
Right front spring & hanger twisted	3½	0-10-0
Axle knuckle oil seal retainer broken	½	0- 8-0
Cab slightly dented	1	0- 0-0
Petrol Tin racks bent	½	0- 0-0
Severely cut tyre	1	£3- 0-0
Total	16	£13-12-0
16 hours labour at 3 s per hr -		£ 2- 8-0
TOTAL		£15-10-0

The accused declined to cross examine this witness.

(Sgd) P L W Platt, Capt.

Seventh Witness

S/Sgt Harvey F M, K-45538 Armt/Art. 4 L.A.D. att'd HQ Sqn 4 Cdn Armd Div, sworn, states:-

I was on 24 June 1944, Armt/Art 4 L.A.D. att'd HQ Sqn 4 Cdn Armd Div. As a result of information received from HQ Sqn 4 Cdn Armd Div on Sunday 25 June 1944 at about 1015 hours I was detailed to proceed to Netherfield to examine Veh CL-4264654 . Vehicle was reported to have been involved in an accident and to be badly damaged. I proceeded to Netherfield and discovered Veh CL-4264654 vehicle I carefully examined. As a result of my examination I found the following damages:

(1) Broken front drive shaft
(2) Bent tie rod and broken connector
(3) Bent bumper
(4) Bent fender
(5) Bent running board and support
(6) Left front spring hanger broken
(7) Left front spring leaves lost
(8) Right front spring and hanger twisted
(9) Axle knuckle oil seal retainer broken
(10) Cab slightly dented
(11) Petrol tin racks bent
(12) Severely cut tyre.

Seventh Witness: (Cont'd.....)

These damages I embodied in a report to Capt. Platt OC 4 L.A.D.

The accused declined to cross examine this witness.

(Sgd) F M Harvey

The accused was warned as follows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any ~~xxxx~~ evidence you give will be taken down in writing, and may be used in evidence."

The accused: I have nothing to say at this time.

(Sgd) J A Thompson

The accused declined to call witnesses in his own behalf.

I certify that R.P. 4 has been complied with.

Taken by me in the field in the hearing and presence of the accused this 27th day of June, 1944.

(J H Gordon) Captain
HQ Sqn 4 Cdn Armd Div
Offr Detailed to Take Summary

"A" Nil

Summary of Evidence in the case of B-78610 Tpr. Thompson, J. A., H.Q. Sqn. 4 Cdn. Armd. Div., Canadian Army Overseas, charged with failure to the prejudice of good order and military discipline in that he was in the field at approximately 2100 hrs. on the night of 24 June, 1944 improperly and without authority took and used Cdn. Mil. Veh. No. CA 4264654 thereby occasioning damage to the said vehicle to the extent of £15-10-0

The C.O. directs that the evidence be taken on oath.

First witness

K/35545 Tpr. Santoro, G., Tpt. Tp. H.Q. Sqn. 4 Cdn. Armd. Div., sworn, states:

On the night of 24 June 1944 I was detailed to drive Veh. No. CA 4264654 on a recreation trip to Bretteville which was authorized by Sergt. Campbell of H.Q. Sqn. 4 Cdn. Armd. Div. We left camp about 1915 hrs. and arrived at Bretteville at approx. 2010 hrs. I stayed with my vehicle until approx. 2135 hrs. when I left it to go to a dance by [redacted]. I had instructed the vehicle by [redacted] attaching the wire from the starter button as soon as we arrived. I was absent from the vehicle for [redacted] about 10 minutes returning to the parking spot [redacted] at approx. 2135 hours. [redacted] I got in where I had parked my vehicle and it [redacted] was not where I had parked it. I [redacted] was quite unable to move the vehicle.

The accused declined to cross examine this witness.

Pte. H.V. Tpr. K/35545

Sixth witness

Capt. P.L.W. Platt, O.C. 4 L.A.D. attached H.Q.Sqn. 4 Cdn. Armd. Div., sworn, states:

I was on the 24 June 1944 and still am O.C. 4 L.A.D. attached H.Q.Sqn. 4 Cdn. Armd. Div. I received a message from H.Q. Sqn. 4 Cdn. Armd. Div. that the vehicle Cn 4264654 was reported wrecked, near Bretteville. Repairs completed tom. Thos report was received at 1015 hrs. 25 June 1944. Next morning I went to R.E.M.E. Wks. and met S/Sgt Harvey Board. Det. to verify the location and damage and vehicle. From the list of damages received from S/Sgt. Harvey I completed the following detail of the damage upon and repairment to this vehicle:

Second Witness

B/43750 Gnr. Allward, A.N. Rutman ~~Fus.~~ of H.Q. R.C.A., 4 Cdn Armd. Div., sworn, states:

I was on 24 June 1944 and still am batman at HQ R.C.A. 4 Cdn. Armd. Div. On the night of 24 June I accompanied Gnr. Thompson, whom I recognize as the accused, on a recreational trip to Heathfield. When we arrived at Heathfield, Gnr. Thompson and I went to the Half Moon Hotel and had an complete drinks. We were in the hotel for about an hour to an hour and a half (approx) when Thompson went outside & was away for about 10 minutes. He then returned & said to me "Come on. Lets get going". We went outside & got into the truck which had brought us to Heathfield. I asked him where he was going and he said, "To pick up the other two fellows." I asked him if he had permission to use the truck and he said he did. I then thought that he was going to pick up two fellows and go to the dance.

After we had been driving for about ten minutes I asked him again where he was going & he said "just down the road to pick up some lads."

Just after that we made a sharp turn and immediately after another which we didn't make sense and the truck crashed into a wall. Right after that Thompson said something to the effect that he had taken the truck without authority so I jumped out of the truck and headed back for Heathfield. Because of the excitement I couldn't tell how many shots.

The accused declines to cross examine the witness

Gnr. A.N. Allward.

Third Witness.

Charles Field, 3 Sr John Cottages, Heathfield, by occupation gardener.

Document purporting to be signed statement of the evidence of Charles Field, 3 St John Cottages, Heathfield, was read over to the deponent, marked exhibit A and attached hereto.

I certify that no improper pressure was used to induce the witness to alter the wording of the statement of evidence I am now reading to him.

J.C. Gordon, Lieut.
H.Q. Sqn. 4 Cdn Armd. Div.
Offr Detailed To Take Summary

I do not require the attendance of this witness for cross examination.

J.A. Thompson

Fourth Witness

George William Stiles of 1 Beech Cottages, Heathfield, Plasterer. by occupation as aforesaid.

Document purporting to be record statement of the evidence of George William Stiles, 1 Beech Cottages, Heathfield, Sussex, Plasterer, was read over to the deponent, marked Exhibit B and attached hereto.

I certify that no improper pressure was used to induce the witness to alter the wording of the statement of evidence he is now reading to him.

J. Gordon Lieut
H.Q. Sqn. 4 Cdn Armd. Div.
Offr. Detailed To Take Summary

I do not require the attendance of the witness for cross examination

J.A. Thompson

	Man Hours	Material Cost
Fit new foot drive shaft	1½	£ 1 - 10 - 0
Rest to set & broken armature	2	£ 2 - 4 - 0
Rest bumper	1	- - -
Rest pulley	1½	£ 3 - 0 - 0
Rest [illegible] head and magnet	X	
Refit front spring hanger bracket	½	0 - 10 - 0
Refit foot spring frame bar	3	£ 2 - 0 - 0
Refit rear spring & hanger bracket	3½	0 - 18 - 0
Adjs. brushes, shoes, retainer springs	½	0 - 6 - 0
Lubricate, dust	1	0 - 0 - 0
Petrol, tin, sundries used	½	0 - 0 - 0
Secondary out type	1	3 - 0 - 0
	16	£ 13 - 0 - 0
16 hours labour at 3 s per hr. =		£ 2 - 8 - 0
Total =		£ 15 - 10 - 0

The amount declared to were examine this witness

[illegible]

Sworn to at Trowbridge

[illegible] Rank [illegible] K/45538 Armt/Art 4 A.A.D. attd HQ Sqn 4 Cav. Armd Div.; answer, state. I was on 24 June, 1944, Armt./Art 4 A.A.D. attd HQ Sqn 4 Cav. Armd Div. As a result of information received from the Sqn H.Q.A.D. on Sunday 25 June 1944 at about 10.15 hours I was detailed to proceed to Netherfield to examine Veh. No. 4364654 which was reported to have been involved in an accident and to be badly damaged. I proceeded to Netherfield and discovered Veh No 4364654 which I carefully examined. As a result of my examination I found the following damages [illegible]

(1) Broken front drum shaft
(2) Bent tie rod and broken connector
(3) Bent bumper
(4) Bent fender
(5) Bent running board and support
(6) Left front spring hanger broken
(7) Left front spring leaves lost
(8) ~~Left~~ Right front spring and hanger twisted
(9) Axle knuckle oil seal retainer broken
(10) Tube slightly dented
(11) Petrol tin rucks bent
(12) ~~Smashed~~ Severely cut tyre.

These damages I embodied in a report to Capt. Platt O.C. 4 L.A.D.

The accused declined to ~~have~~ examine this witness

F. M. Platt Capt.

The accused was warned as follows:

"Do you wish to make any statement on your evidence on oath? You are not obliged to say anything on your evidence unless you wish to do so, but whatever you say, on any evidence you give will be taken down in writing, and may be used in evidence."

The accused: I have nothing to say at this time.

J. A. Thompson

The accused declined to call witnesses on his own behalf.

I certify that R.P.4 has been complied with.

Taken by me in the ftd. in the hearing and presence of the accused this 27th day of June, 1944.

J. H. Gordon, Capt - 4th Corps 4 Ord Bund Dep. Detailed to take summary.

SUSSEX POLICE FORCE.

I, Charles FIELD of 3, St. Johns Cottages, Netherfield, by occupation a Gardener age 53 years, state:-

At about 10.15 p.m. on the 24th. June, 1944, I was walking about 100 yards past Netherfield church with Mr. Guppy and Mr. Styles.

I heard a motor vehicle behind me. I turned and saw it go into Eatenden Lane. It was a military vehicle. I have never seen a similar vehicle go so fast. I should think it was travelling at 50 miles per hour. I heard a crash and went to the scene.

I saw the lorry, stationary in the lane and the church wall was badly damaged.

The driver was at the wheel and endeavoured to get the vehicle on the move again, but was unable to do so.

There was another soldier on the lorry.

I could identify the driver again.

The lorry was badly damaged.

Charles Field

28th. June, 1944.

This is Exhibit "A" referred to in the Summary of Evidence in the case of Tpr. Thompson, J.A. B/78670 taken before me this 27th day of June, 1944

J.A. Foster, Capt
Adj. Sqn & Clerk attached to take Summary
Off. Detailed to take Summary

SUSSEX POLICE FORCE.

I, George William STYLES of 1, Beech Cottages, Netherfield Place, Netherfield, by occupation a Gardener age 62 years state:-

About 10.15 p.m. on the 24th. June, 1944, I was walking accompanied by Mr. Guppy and Mr. Field and when about 100 yards from the church on the Battle road, I heard a motor vehicle approaching the church from the direction of Heathfield. I looked round. The vehicle was being driven at an excessive speed. It turned into the lane towards Mountfield. I heard several crashes and went to the lane. I found a large army vehicle stationary on its nearside of the road, badly damaged.

The church wall was badly damaged in two places. There was a soldier in the driver's seat attempting to start the vehicle.

G. W. Styles

26th. June, 1944.

SUSSEX POLICE FORCE.

I, Ernest John GUPPY of Ashes Lodge, Netherfield, by occupation a Herdsman age 43 years state:-

At about 10.15 p.m. on the 24th. June, 1944, I was walking about 100 yards past Netherfield church, accompanied by Mr. Styles and Mr. Field.

I heard a vehicle coming from the direction of Heathfield. I turned round and saw a military vehicle turn into Batenden Lane. It was being driven at from 45 to 50 miles per hour. He did not reduce speed when turning the corner. I heard a crash and glass being broken. I went to the scene and saw a military motor lorry stationary on the nearside of the road. The driver was in his seat still trying to get the vehicle to move.

There was another soldier on the lorry. The passenger was wearing brown shoes.

I could identify the driver.

E Guppy

26th. June, 1944.

Exhibit "C" referred to in the Summary of Evidence in the case R. v. Pte. Thompson, J.A., 13/12670 taken before me this 27th day of June, 1944

J.H. Jackson, Capt.,
A.A. Supp. & Com. Unit Dvr.
Officer Detailed To Take Summary

MFM 6
(AFB 122)
(10/PAM/130 (9438)

No B78670 Name Thompson J A | Sqn, Battery, or Company | Corps CAC | Date of enlistment 8-6-40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No "2" | Signature OC Company, etc C S Campbell Maj | Quarter

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SHEET ONE DESTROYED 23 Jun 44					
Field	2-5-42	Tpr	Nil	AA Sec 15(1) AWL 5 days, 14 hrs	---	168 hrs Detn 6 dys pay	5-5-42	Maj McMillan	
"	15-6-43	"	"	AA Sec 15(1) AWL 1hrs 25 mins.	---	Forf 1 dys py	16-6-43	Maj Punchard	
"	16-7-43	"	"	AA Sec 15(1) AWL 10hrs 46mins	---	Frf 2 dys pay 5 days C.B.	19-7-43	" "	A/Forf 1 dys pay
"	1-8-43	"	"	AA Sec 15(1) AWL 20 mins	---	1 dys pay, 5 days C.B.	3-8-43	" "	

CERTIFIED TRUE COPY.....
(C S Campbell) Major
OC HQ Sqn 4 Cdn Armd Division

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

7

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-78670	Trooper	Thompson, J.A.	Hq Sqn 4 Can Armd Division

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 15(1) AA - AWL ..... 4 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 2 May 1942

Date of last entry in Field Conduct Sheet 1 Aug 1943

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of ~~June~~ One

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 3 days in military custody, *i.e.*, No days in open arrest, 4 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 28 YRS

6. The date of his ~~attestation~~ calling up for military service 8 June 1940

7. The service which the accused is allowed to reckon is 4 years

8. The accused is in possession of‡ Nil

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	N/A
In the war substantive rank of	N/A
In the acting rank of	N/A

Upholder B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(81114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Op.698
(22459) Wt.21226/1378 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 29th day of June 1944

[signature]

Office medical Instruments

Lt. E. G. Parris
Lieut. United R.

Lt. R. B. Lamb
Adj R.

TTT-241

Pte. Thompson, J.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 18 (2) AA	NOT GUILTY	NOT GUILTY	
2nd Sec 40 AA	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1) "TDJ"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital~~ (1) "TDJ"

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

"TDJ"
One days forfeiture of pay

(Sgd) ..... 24 Jun 44 ..... (Sgd) "T D Jotcham" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and sentence of this court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) "SWT"
(1. AA 57A. Delete if not used.)

(Sgd) "S W Thomson Lt-Col"

Date 3 July 44

Commanding A/Comd 2 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-139140 Pte Thompson J A	3 July 44	L V McGurran Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

Spare copy - TTT241

CPA96 (In lieu of AF A43) 40-P.M.S. 1658 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig T.G. Gibson Comd 2 Cdn Inf Bde dated 20 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-139140	Private		John Alfred	THOMPSON	L Edmn R

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 24 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2) "TDJ"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.~~ (1) ~~Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.~~ (1) "TDJ"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	T D Jotcham	P P C L I
Member	Capt	L G Barton	P P C L I
Member	Lieut	W.F Thurgood	Seaforth of C
Judge-Advocate	/	/	/
Prosecutor	Lieut	A F Frith	L Edmn R
Defending Offr	Major	J T Blair	L Edmn R

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) plea "TDJ"
(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "TDJ"

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) "TDJ"

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to all charges, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~is~~ disallowed on the First charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is ~~are~~ found Not Guilty of the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. YES Do you intend to call witnesses on your behalf ?
Ans. YES Are they witnesses as to character only ? Ans. NO
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the findings.(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) (or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes one witness
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(~~s~~), and in mitigation of punishment ?(1) Ans. Yes .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets in which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 71(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, D139140 Private John Alfred THOMPSON, of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is charged with:-

When On Active Service

1st CHARGE
Section 18 (2) Army Act

WILFULLY INJURING HIMSELF, A PERSON SUBJECT TO MILITARY LAW, WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field, at approximately 1115 hrs 2 June 44, by discharging a Mauser automatic pistol wilfully maimed himself by shooting himself in the left leg with intent thereby to render himself unfit for service.

When on Active Service

2nd CHARGE
ALTERNATIVE
Section 40 Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 1115 hrs 2 June 44, so negligently handled a Mauser automatic pistol as to cause it to be discharged and thereby injured his left leg and rendered himself temporarily unfit for service.

In the Field

Date.....

"H.P. Bell-Irving" Lt-Col
(H.P. Bell-Irving) Lt-Col
Commanding The L Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
26 June 44

"T G Gibson"
(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

"TD"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate outhy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-139140	Private		John Alfred	THOMPSON	L Edmn R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) [illegible] endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed, or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	T.D. Jotcham	PPCLI

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	L.G. Burton	PPCLI
Lieut	M.E. Thurgood	Seaforth of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*)

T G Gibson (*Signed personally. RP 105 fn 2.*) Brig (*Rank.*)

Date 20 Jun 44

Commanding 2 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1897 (4951)

(*See overleaf for oaths and notes for use on trial.*)

"TD5"

MEDICAL CERTIFICATE
(KR (CAN) para 557)

This is to certify that I have on this date examined D-139140 Private THOMPSON J.A. of The Loyal Edmonton Regiment and in my opinion is fit to undergo trial by Court Martial.

"Robert M Levine" Capt
(R.M. Levine) Capt RCAMC
M.O. i/c The L Edmn R

In the Field.

Date 24 Jun 44.

24 Jun 44

Ex.A "DJ" F.G.C.M.

Evidence for Prosecution:

C-120663 Pte GRIER R J

1st Witness

Having been duly sworn states that Sir I am C-120663 Pte GRIER R.J. On June 21 44 the morning after we had taken the monastary I was on a bren post on the side of the hill up from the monastary. Pte. Thompson was sitting beside me. He had the captured German Mauser in his hand and was apparently trying to ease the action forward on the weapon and he handed it to me, warning me to be careful because he didn't know much about it, and that the active appeared to be stuck. I held it in my hand for only a few seconds and returned it; and he continued to try to ease the action forward, it went forward all of a sudden and was discharged into the calf of his left leg, upon which I applied a first field dressing.

Questions by prosecution:

(1) Do you recognize the accused?

A. Yes Sir.

(2) You stated that you were on guard Sir.
Was Pte Thompson also on guard duty?

A. No Sir.

(3) When Pte. Thompson handed you the pistol was it loaded?

A. Yes. Sir I believe so Sir.

(4) When he handed you the pistol did he warn you to be careful because the action was stuck.

A. Yes Sir

(5) To your knowledge was there anything faulty with the mechanism of the pistol?

A. I don't know sir I am not familiar with that type of pistol.

(6) Did you see Pte Thompson pointing the weapon at his leg while he was trying to ease the action forward?

A. No Sir.

(7) Did you see the pistol go off?

A. I more or less saw it indirectly Sir.

(8) After you had bandaged Pte Thompson's leg did he reprimand himself for his carelessness?

A. I dont know Sir I was excited at the time myself.

(9) Can you recall (in your own words) anything Pte Thompson said after the accident?

A. No Sir I cannot.

(10) Was Pte Thompson able to walk away.
How was he taken care of?

A. He did not use his injured leg but he put his arms around two of our shoulders and walked away.

Cross examination by Defence.

(1) Pte Grier did you try to unload this pistol when it was handed to you.

A. No Sir I just looked at it and handed it back.

(2) Did you see anyone else try.

A. No Sir

(3) Were there any German prisoners in the coy area at the time of the shooting.

A. No Sir they had been removed.

(4) How long before the shooting had they been removed.

A. Two hours Sir.

(5) Questions by the Court.

(1) Did you see the pistol in his hand pointed at his leg or hear the report or see the flash.

A. I heard the report and saw the flash out of the corner of my eyes.

(2) Do you know what Pte Thompson did with the pistol after it was discharged.

A. Yes Sir it flew from his hand onto the road way and was picked up by the Corporal.

(3) How far away did the pistol land after it flew from his hand.

A. About four feet Sir.

2nd Witness

Having been duly sworn states that Sir I am Capt T.B. Swainger. 2 FDS RCAMC formerly attached to L. Edmn R. as M.O., and I recognize the accused as Pte Thompson. On the day of the accident Pte Thompson was brought to the R.A.P. suffering from a gunshot wound (pistol) of the left leg. He stated that he had been examining a Mauser pistol, and it had accidently discharged wounding him in the leg.

Questions by Prosecution.

When Pte Thompson was brought to you was he walking or was he carried.

A. He was assisted.

(2) Was the leg wound pf Pte Thompson serious enough to keep him out of action with the coy.

A. Yes.

(3) For approx. how long would it keep him out.

A. It depends on whether there was infection or a bone injury.

(4) What would be the minimum time with no infection or bone injury.

A. From two to three weeks.

(5) Did Pte Thompson reprimand himself for his carelessness.

A. I do not remember.

(6) Did Pte Thompson state that he had been handling a Mausser pistol and had accidently shot himself.

A. Yes Sir

The defending Officer submits that the evidence of the prosecution does not establish a prima facie case against the accused on first charge owing to the lack of evidence.

The prosecution has no reply to this submission.

2nd Charge. Evidence for defence.

The Defence declines to make an opening address.

1st Witness D-139140 Pte THOMPSON J A.
Having been duly sworn states that
Sir I am D-139140 Pte Thompson J A

Question by Defence.

Who gave you the weapon?

A. It was given to me by Sgt. Chettleborough.

(2) Who is Sgt Chettleborough.

A. He is the Lance-Sgt of thirteen plt. of C. Coy

(3) What plt are you in?

A. Thirteen Plt. Sir.

(4) What kind of a weapon was it?

A. It was a German Mausser pistol Sir.

(5) Did you notice anything particular about it when you got it?

A. No Sir.

(6) In what position was the mechanism when you got it.

A. When I took the pistol out of the case the action was forward Sir.

(7) Had you ever seen a Mausser before.

A. No Sir.

(8) What did you do when you took it out of the case.

A. I started to look the weapon over. I tried to take out the magazine. I could not get the magazine out so I asked a friend of mine how the magazine was taken off. He then gave me a couple of pointers about the safety catch and the magazine. Then he pulled the action back and cocked the gun. When he put the magazine back in the action jammed.

The Defending Officer produces a Mauser pistol 6.35. and shows it to the accused.

(9) The weapon you had, was it similar to this one?

A. Yes Sir.

(10) Was it jammed with the action half forward?

A. Yes Sir

(11) Did you give the pistol to anyone after the pistol was jammed?

A. Only Pte Grier Sir.

(12) No one else helped you?

A. No Sir

(13) Why did you try to fix the jam?

A. So I could put the pistol away.

(14) Away where.

A. In its case Sir.

(15) Were you out with Sgt Chetelborough that morning?

A. Yes Sir.

(16) What did you do?

A. We went to get five Germans that were in a cave on the hillside a few hundred yards up the road.

(17) Did you get them?

A. Yes Sir.

(18) Were they searched?

A. Sgt Chelborough searched and disarmed them Sir.

(19) What did he do with their weapons.

A. He brought them back to coy h.q. with the German prisoners.

(20) Did you get any of their weapons.

A. I was given the Mauser pistol sir.

(21) The same one that caused your injury.

A. Yes Sir.

The defending Officer shows the court a jammed pistol which was very difficult to clear and could not be done, without an instrument of some sort.

Questions by the Prosecution.

(1) Was there anything faulty with the mechanism of this pistol.

A. Not to my knowledge Sir.

(2) When you handed the pistol to Pte Grier did you warn him to be careful bwcause it was dangerous to handle it.

A. I warned him to be careful because the weapon was jammed.

was this particular pistol jammed by firing it.

A. No it was not.

(3) When Sgt Chetleborough gave you the pistol, did he give it to you the intention you were use it, or did he give it to you as a souvenir?

A. He didn't say anything, he gave it to me without comment.

(4) Was the pistol properly cocked when you received the pistol back from you friend.

A. No sir the action was only to the rear.

(5) Who is this friend.

A. I do not know his name sir.

Is he still around now.

A. I do not know sir I've been with the N.A.F. since the 6 June.

2nd Witness M-15920 L/Sgt CHETTLEBOROUGH L.F.

Question by defence.

(1) Do you recognize the accused?

A. Yes Sir

(2) On the morning of 2 Jun 44 did he go on a patrol with you.

A. Yes Sir.

(3) What were the results of this patrol.

A. We captured five prisoners sir. Cornered by Pte Thompson I disarmed the prisoners and started for coy H.Q. Pte Thompson stopped at the platoon area to exchange his pres for a tommie gun and we turned the prisoners over to coy H.Q.

(4) Where did you leave their weapons?

A. I carried the weapons myself to coy H.Q. When they had been checked by the major he gave them back to me.

"DS" Evidence of 1st Witness for Defence (cont)

(4) The pistol was pointing at your leg when you started to ease the the action forward.

A. No Sir, when I first started to clear the weapon I made sure that it would miss my leg if it was to go off.

(5) Was there a second time you tried to ease the action forward?

A. Yes after I got the weapon back from Pte Greier Sir.

(6) Was the pistol pointing at your leg when it went off?

A. In order for it to have been pointing at my leg when it went off it must have been the pressure of my hand working on the action that lowered the barrel.

(7) I wanted to know was the pistol pointing at your leg when it went off.

A. It must have been for the bullet to pass through my leg.

(8) Therefore were you wounded when you were trying to ease the action of the pistol?

A. Yes Sir.

(9) Was the pistol jammed in the same manner as the pistol on exhibition?

A. I dont recall clearly but I do know there was a second round that was jammed in the action.

(10) Did your friend show you how to take out the magazine and apply the safety catch on with pistol.

A. Yes Sir.

(11) Did you try to take off the magazine before trying to ease the action forward?

A. Yes I first tried to remove the magazine.

Question by the court.

(1) How did you finally clear the gun in order for it to go off.

A. That is something I dont know sir, I dont remember.

"TDJ"

(V) How many weapons were there?
A. Five Sir.

(VI) What kind were they

A. One Luger one P38 one P.08 two Mauser automatics, Sir.

(VII) After the Major checked them over did he give you any instructions.

A. I asked for one to give to Pte Thompson, he told me to take them and give them out to the patrol.

(VIII) And you followed out his orders.

A. Yes, Sir.

The Defending officers closing address.

First: The coy in which Pte Thompson is , were still in contact with the enemy, Prisoners were taken from a cave three hundred yards away that morning. It is quite evident that the coy com sant the captured weapons out to Pte Thompsons platoon to be used if necessary against the enemy. Pte Thompson received this weapon which he had neve r seen before, and endavoured to find out how it worked Since the coy was cramped for space as a result he was accidentally wounded. He couldn't have negligently handled the weapon, he had never received any instructions about and therefore, if a booby trap had went off while he was trying neutralize it.

The Prosecutions closing address.

I just want to review a few very short point. Pte Thompson handed Pte Grier the pistol and warned him to be careful because the action was stuck, yet when Pte Thompson tried it ease the action of the pistol forward the pistol was pointing at his leg as it went off

This leg wound was serious enough to render Pte Thompson from carrying out his duty with his company for at least two or three weeks.

The Defending Officer calls witness of character for the accused.

1st Witness Capt R.M. Levine No. L. Admn R. having been duly sworn states that.

Question Do you recognize the accused.

A. Yes I do

What kind of a job has he been doing since he came to the R.A.F?

A. Very satisfactory he has been employed as my batman for the past four days and previously when I was relieving for Capt. Grainger the previous M.O. was handyman about the R.A.F.

The prosecution declines to cross-examine the witness.

Statement in mitigation for the accused by the defence.
Pte. Thompson before joining the army was turned down on medical grounds from the merchant navy, the navy and the air force. He underwent an operation for a hernia in order to become category A and join the army to come overseas. Unfortunately this operation had to be performed while he was still a civilian and there are no army records to verify it. In view of this fact and his absolutely clean conduct sheets I submit the court should deal as leniently as possible with him when considering the sentence.

MFM 6
(AFB 122)
40/PAS/12f (5428)

No. 2139141 Name THOMPSON, J.A. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 2 Feb [illegible] | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Exhibit C
ZG

"Certified True Copy"

(L.V. McCurran) Capt & Adjt
The Loyal Edmn R.

(PTO)

RECORDED AT CMHQ IN AD 160 TTT 241

(In lieu of AFA3)
C.M.F.C. 1/1908 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of BRIG T.G. GIBSON Comd 2 Cdn Inf Bde dated 20 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D139140	Private	John Alfred	THOMPSON	4 Edmn R

PROCEEDINGS REVIEWED

REVIEWING OFFICER, 1 CDN CORPS BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 24 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans~~

~~The Interpreter is sworn (1). Do you object to ... as shorthand writer? Ans~~

~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (3)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	T.D. JOTCHAM	RE(A)
Member	CAPT	L.G. BURTON	CMP
Member	Lieut	M.F. THURGOOD	Seaforth of C
Judge-Advocate			
Prosecutor	Lieut	A.F. FRITH	4 Edmn R
Defending Offr	Maj	J.T. BLAIR	4 Edmn R

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (4)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (has) (~~have~~) plea ... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ...

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: ...

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 18(2) AA	NOT GUILTY	NOT GUILTY	
2nd Sec 40 AA	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date) ...~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~I am in continuous custody awaiting present trial, a total of ... days, of which ... days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One days forfeiture of pay.

(Sgd) ... Judge-Advocate, if any. Date awarded. 24 June 44 (Sgd) ... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Geo Thomson Lt Col

Date 3 Jul 44 Commanding ~~A/Cmd~~ 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D139140 Pte Thompson J.H	3 July 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(5) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is (is not) allowed on the First charge(s), ~~and allowed on the ..... charge(s)~~, and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (~~are~~) found Not Guilty on the ~~latter~~ charge(s).(4)
First Sub (1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)
The Court is adjourned for the noon. Tdy

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. YES

Do you intend to call witnesses on your behalf ?
Ans. YES . Are they witnesses as to character only ? Ans. NO .
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or,~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes me witness.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, D139140 Private John Alfred THOMPSON, of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is charged with:-

When On Active Service

1ST CHARGE SECTION 12(c) ARMY ACT

WILFULLY INJURING HIMSELF, A PERSON SUBJECT TO MILITARY LAW, WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field, at approximately 1115 hrs 2 June 44, by discharging a Mauser automatic pistol wilfully maimed himself by shooting himself in the left leg with intent thereby to render himself unfit for service.

When On Active Service

2ND CHARGE ALTERNATIVE SECTION 40 ARMY ACT

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 1115 hrs 2 June 44, so negligently handled a Mauser automatic pistol as to cause it to be discharged and thereby injured his left leg and rendered himself temporarily unfit for service.

H P Bell-Irving

In the Field

Date .....

(H.P. Bell-Irving) Lt-Col
Commanding The L Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

T G Gibson

In the Field
Date 20 Jun 44

(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&N/1697 (D868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139140	Private		John Alfred	THOMPSON	L Edmn R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~are~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is expedient that the offence(s) should be tried by a Field General Court-Martial~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. ~~[illegible]~~
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	T.D. Jotcham (*Must be named. RP 106.*)	PPCLI (Unit.)

MEMBERS.

Capt.	L.G. Burton	PPCLI
Lieut. (Rank.)	~~M.B. THURGOOD~~ ~~W.A. Rudkin~~ (*Named or detailed. RP 106.*)	Seaforth of C (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	~~M.B. Thurgood~~ (*Named or detailed, if any. RP 106.*)	~~Seaforth of C~~ (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 20 Jun 44

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 2 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL CERTIFICATE
(KR (CAN) para 552)

This is to certify that I have on this date examined D139140 Private THOMPSON J.A. of The Loyal Edmonton Regiment and in my opinion is fit/~~unfit~~ to undergo trial by Court Martial.

Robt Levine Capt.

(R.M. Levine) Capt RCAMC
M.O. i/c The L Edmn R

In the Field

Date 24 Jun 44

Ex. A. 16 F.G.C.M. 24 Jun 44

Evidence for Prosecution.

1st Witness sis C120663 PTE GRIER R.J.

Having been duly sworn states that ~~he~~ I am C120663 PTE GRIER R.J.
On June 2 / 44 the morning after we had taken the monastary I was on a brew post on the side of the hill up from the monastary Pte Thompson was sitting beside me. He had the captured German Mauser in his hand and was apparently trying to ease the action forward on the weapon. I asked to see the weapon, and he handed it to me, warning me to be careful because he didn't know much about it, and that the action appeared to be stuck. I held it in my hand for only a few seconds and returned it, and he continued to try to ease the action forward, it went forward all of a sudden and was discharged, into the calf of his left leg, upon which I applied a first field dressing.

Question by prosecution:

(i) Do you recognise the accused?

A. yes sir.

(ii) You stated that you were on guard duty, was Pte Thompson also on guard duty?

A. No sir

(iii) When Pte Thompson handed you the pistol was it loaded?

A yes sir. I believe so sir.

iv When he handed you the pistol did he warn you to be careful because the action was stuck

A. yes Sir

(iii) Were there any Samoan prisoners in the coy. area ~~at~~ the time of the shooting.

A. No Sir they had been removed.

(iv) How long before the shooting had they been removed.

A. Two hours Sir.

Questions by the Court.

(i) Did you see the pistol in his hand pointed at his leg or hear the report or see the flash.

A. I heard the report and saw the flash out of the corner of my eyes.

(ii) Do you know what Pte Thompson did with the pistol after it was discharged.

A yes Sir it flew from his hand onto the road way and was picked up by the Corporal

(iii) How far away did the pistol land after it flew from his hand.

A. about four feet Sir.

2nd Witness

Having been duly sworn ~~states that~~.

Sir I am ~~Capt~~ T.R. GRINGER. R.C.H.A.C 2 EDS. formerly attached to L. Edmn R. as M.O. ~~[illegible]~~ and I recognize the accused as Pte Thompson. On the day of the accident Pte Thompson was brought to the R.A.P. suffering from a gunshot wound (pistol) of the left leg. He stated that he had been examining a mauser pistol, and it had accidently discharged wounding him in the leg.

Question by Prosecution

~~If~~ When Pte Thompson was brought to you was he walking or was he carried

A. ~~He was walking but~~ he was assis

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(2) AA	NOT GUILTY	NOT GUILTY	
2nd Sec 40 AA	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial or trial of prior charge, of which days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Reprimand & One days forfeiture of pay.

(Sgd) Judge-Advocate, if any. 29 Jun 44 Date awarded. (Sgd) President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the Court.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) J.A. Burnham Brig

Date 28 June 44 Commanding 2 Can Inf Bde (Confirming Officer.)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D139140 Pte Thompson, J.A.	28 Jun 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 TTT-241
CFA96 (10 lines of AFA3) 40-P-H-1608 (3804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of BRIG T.G. GIBSON Comd 2 Cdn Inf Bde dated 20 Jun 44

RECEIVED 15 AUG 1944 D139140
PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH
JUL 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D139140	Private	John Alfred	THOMPSON	4 Edmn R

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 29 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to as interpreter ? Ans~~

~~The Interpreter is sworn (1). Do you object to as shorthand writer ? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	T.D. JOTCHAM	RCA
Member	CAPT	L.G. BURTON	RCA
Member	Lieut	M.F. THURGOOD	Seaforth of C.
Judge-Advocate			
Prosecutor	Lieut	A.F. FRITH	4 Edmn R
Defending Offr	Maj	J.T. BLAIR	4 Edmn R

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Do p 3.)

A8. The accused before arraignment make(s) (no) (1) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in refcrence to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed~~ on the First charge(s), ~~and allowed on the remainder~~, and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (are) found Not Guilty on ~~the latter~~ charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

The Court is adjourned for the hour. Jeff

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. YES. Do you intend to call witnesses on your behalf? Ans. NO. Are they witnesses as to character only? Ans. YES.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)~~

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes one witness.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Oversouts RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date..... (Sgd)..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) AA 57.

(1. AA 57A. Delete if not used.)

(Sgd) Geo. T. Thompson Th Col

Date 3 July 44 Commanding 2 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D137140 Pte Thompson J.H.	3 July 44	M Wyckham

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MEDICAL CERTIFICATE
(KR (CAN) para 557)

This is to certify that I have on this date examined D139140 Private THOMPSON J.A. of The Loyal Edmonton Regiment and in my opinion is fit/~~unfit~~ to undergo trial by Court Martial.

In the Field

Date 24 Jun 44

(R.M. Levine) Capt RCAMC
M.O. i/c The L Edmn R

FIELD GENERAL COURT-MARTIAL

CFA35 (To item of AFA31 40/PAN/1097 (2003))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D139140	Private	John Alfred	THOMPSON	L Edmn R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~XX~~e) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~XXXX

CHARGE SHEET

THE ACCUSED, D139140 Private John Alfred THOMPSON, of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is charged with:-

When On Active Service

1ST CHARGE SECTION 18(c) ARMY ACT

WILFULLY INJURING HIMSELF, A PERSON SUBJECT TO MILITARY LAW, WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field, at approximately 1115 hrs 2 June 44, by discharging a Mauser automatic pistol wilfully maimed himself by shooting himself in the left leg with intent thereby to render himself unfit for service.

When On Active Service

2ND CHARGE ALTERNATIVE SECTION 40 ARMY ACT

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, at approximately 1115 hrs 2 June 44, so negligently handled a Mauser automatic pistol as to cause it to be discharged and thereby injured his left leg and rendered himself temporarily unfit for service.

H P Bell-Irving

(H.P. Bell-Irving) Lt-Col
Commanding The L Edmn R

In the Field

Date .....

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

T G Gibson

(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

In the Field

Date 20 Jun 44

Ex. A F.G.C.M. 24 Jun 44

Evidence for Prosecution.

1st Witness ~~this~~ C120663 PTE GRIER R.T.

~~Having~~ Having been duly ~~sworn~~ sworn states ~~that~~ that

Sir I am C120663 PTE GRIER R.T.

On June 2 1944 the morning after we had taken the monastary I was on a brew post on the side of the hill up from the monastary Pte Thompson was sitting beside me. He had the captured German Mauser in his hand and was apparently trying to ease the action forward on the weapon. I asked to see the weapon, and he handed it to me, warning me to be careful because he didn't know much about it, and that the action appeared to be stuck. I held it in my hand for only a few seconds and returned it, and he continued to try to ease the action forward. It went forward all of a sudden and was discharged into the calf of his left leg, upon which I applied a first field dressing.

Question by prosecution:

(I) Do you recognise the accused?

A. yes sir.

(II) You stated that you were on guard duty; was Pte Thompson also on guard duty?

A. No Sir

(III) When Pte Thompson handed you the pistol was it loaded?

A. Yes sir. I believe so sir.

IV. When he handed you the pistol did he warn you to be careful because the action was stuck

A. yes Sir.

(V) To your knowledge was there anything ~~wrong~~ faulty with the mechanism of the pistol?

A. I don't know sir I am not familiar with that type of pistol

~~(VI) Was Pte Thompson familiar with the pistol~~

(VI) Did you see Pte Thompson pointing the weapon at his leg while he was trying to cock the action forward?

A. No Sir.

(VII) Did you see the pistol go off?

A. I more or less saw it indirectly Sir.

(VIII) After you had bandaged Pte Thompson's leg did he apologize himself for his carelessness?

A. I don't know sir I was excited at the time myself.

(IX) Can you recall (in your own words) anything Pte Thompson said after the accident?

A. No Sir I can not.

(X) Was Pte Thompson able to walk away how was he taken care of?

A. He did not use his injured leg but he put his arms around two of our shoulders and walked away.

Cross examination by defence.

(i) Pte Grier did you try to unload this pistol when it was handed to you.

A No Sir I just looked at it and handed it back.

(ii) Did you see anyone else try

A. No Sir.

(iii) Were there any German prisoners in the coy. area ~~at~~ the time of the shooting.

A. No Sir they had been removed.

(iv) How long before the shooting had they been removed.

A. Two hours Sir.

Questions by the Court.

(i) Did you see the pistol in his hand pointed at his leg or hear the report or see the flash.

A. I heard the report and saw the flash out of the corner of my eyes.

(ii) Do you know what Pte Thompson did with the pistol after it was discharged.

A yes sir it flew from his hand onto the road way and was picked up by the Orpl.

(iii) How far away did the pistol land after it flew from his hand.

A. about four feet Sir.

2nd Witness

Having been duly sworn ~~states that~~.

Sir I am ~~Capt~~ T.R. GRAINGER R.C.A.M.C 2 EDS. presently attached to 1. Edmn R. as M.O. ~~[illegible]~~, and ~~[illegible]~~ I recognize the accused as Pte Thompson. On the day of the accident Pte Thompson was brought to the R.A.P. suffering from a gunshot wound (pistol) of the left leg. He stated that he had been examining a mauser pistol, and it had accidently discharged wounding him in the leg.

Questions by Prosecution

~~If~~ When Pte Thompson was brought to you was he walking or was he carried

A. ~~It was walking but~~ he was assis

(ii) Was the leg wound of Pte Thompson serious enough to keep him out of action with he coy.

A. yes.

(iii) For approx. how long would it keep him out.

A. It depends on whether there was infection or a bone injury

(iv) What would be the minimum time with no infection or bone injury

A. From two ~~d~~ to three weeks.

(v) Did Pte Thompson reprimand himself for his carelessness.

A. I do not remember. ~~It~~

(vi) Did Pte Thompson state that he had been handling a mausser pistol and had accidently shot himself

A. yes Sir

The defending officer submits that the evidence of the prosecution does not establish a prima facie case against the accused, on pick charge owing to the lack of evidence

The prosecution has no reply to this submission

2nd Charge. Evidence for defence

The defence declines to make an opening address.

1st Witness D139140 PTE. THOMPSON J.R.

having been duly sworn states that

Sir I am D139140 Pte Thompson J. A.

Question by Defence

(i) What do gave you the weapon?

A. It was given to me by Sgt Cheetham

(ii) Who is Sgt Cheetham

A. He is the same - Sgt of thirteen plt of C. Coy

(III) What plt are you in?
A. Sixteen Plt Sir

(IV) What kind of a weapon was it?
A. It was a German Mausser pistol Sir

(V) Did you notice anything particular about it when you got it?
A. No Sir

(VI) In what position was the mechanism when you got it.
A. When I took the pistol out of the case the action was forward sir

(VII) Had you ever seen a Mauser before.
A. No Sir.

(VIII) What did you do when you took it out of the case.
A I started to look the weapon over. I tried to take out the magazine. I could not get the magazine out so I asked a friend of mine how the magazine was taken off. He then gave me a couple of pointers about the safety catch and the magazine. Then he pulled the action back and cocked the gun. After he put the magazine back in the action jammed.

(IX) The Presiding Officer produces a Mauser pistol 6.35. and shows it to the accused.

(IX) The weapon you had, was it similar to this one?
A Yes sir

(X) Was it jammed with the action half forward?
A. yes sir

(XI) Did anyone else ~~hand~~ to you give the pistol to anyone else after the pistol was jammed?
A only Pte Gunn Sir.

(XII) No one else helped you?
A. No Sir.

(XIII) Why did you try to fix the gun?
A As I could put the pistol away.

(XIV) Away where.
A In its case sir.

(XV) Were you out with Sgt Cheltenbrough that morning?
A Yes sir.

(XVI) What did you do?
A We went to get five Germans that were in a coal on the hillside a few hundred yards up the road

(XVII) Did you get them?
A yes sir

(XVIII) How they searched?
A. Sgt Cheltbrough searched and disarmed them

(XIX) What did ~~he~~ he do with their weapons.
A He brought them back to coy hq. with the German prisoners

XX) Did you get any of their weapons.
A I was given the Mauser pistol sir.

(XXI) The same one that caused your injury
A. yes sir.

(XXII) The defending officer shows the court a ~~pistol~~ jammed pistol ~~which~~ which was very difficult to clear and could not be done without an instrument of some sort.

Questions by the Prosecution.

(i) Was there anything faulty with the mechanism of this pistol
A. Not to my knowledge sir.

(ii) When you handed the pistol to Fletcher did you warn him to be careful because it was dangerous to handle it
A I warned him to be careful because the ~~the~~ weapon was jammed

(ii) Was this particular pistol jammed by firing it.
A. No it was not.

(iii) When Sgt Chettleborough gave you the pistol did he give it to you ~~for~~ with intention you were to use it, or did he give it to you as a souvenir?
A. He didn't say anything, he gave it to me without comment.

(iv) Was the pistol properly cocked when you received the pistol back from your friend.
A No sir the action was only to the rear.

(v) What is this friend.
A I do not know his name sir.
Is he still around now.
A I do not know sir I've been with the Pnr since the 6 June.

2nd Witness M 15520 L/Sgt. CHETTLEBOROUGH L.F.

Question by defence.

(i) Do you recognise the accused?
A Yes sir.

(ii) On the morning of 8 June 44 did he go on a patrol with you
A Yes sir.

(iii) What were the results of this patrol
A. We captured five prisoners sir

(iv) Covered by Pte Thompson I disarmed the prisoners and started for Coy HQ. Pte Thompson stopped at the platoon area to exchange his bren for a commando and we turned the prisoners over to Coy HQ.

(v) When did you leave their weapons.
A. I carried the weapons myself to Coy HQ & when they had been checked over by the major he gave them back to me.

(IV) The pistol was pointing at your leg when you started to raise the action forward.

A. No Sir. When I first started to clear the weapon I made sure that it would miss my leg if it was to go off

(V) Was there a second time you tried to raise the action forward?

A Yes after I got the weapon back from Pte Lewis

(VI) Was the pistol pointing at your leg when it went off?

A In order for it to have been pointing at my leg when it went off, it must have been the pressure of my hand working on the action that lowered the barrel.

(VII) I wanted to know was the pistol pointing at your leg when it went off.

A It must have been for the bullet to pass through my leg

(VIII) Before were you wounded when you were trying to raise the action of the pistol?

A Yes sir

(IX) Was the pistol jammed in the same manner as the pistol on exhibition?

A I don't recall clearly but I do know there was a second round that was jammed in the action

(X) Did your friend show you how to take out the magazine and apply the safety catch on said pistol

A Yes sir

(XI) Did you try to take off the magazine before trying to raise the action forward?

A yes I first tried to remove the magazine.

Question by the Court.

(i) How did you finally clear the gun in order for it to go off.

A That is something I don't know sir. I don't remember

(V) How many weapons were there? 9

A Nine sir

(VI) What kind were they

A one Luger one P38 one P08 Two Austrian automatics sir

(VII) After the major checked them over did he give you any instructions.

A. I asked for one to give to Pte Thompson, he told me to take them and give them out to the patrol.

(VIII) And you followed out his orders

A yes sir

The Defending officers closing address.

First: The coy in which Pte Thompson is, was still in contact with the enemy, Prisoners were taken from a post three hundred yards away that morning. It is quite evident that the coy com. sent the captured weapons out to Pte Thompsons platoon to be used if necessary against the enemy.

Pte Thompson received this weapon which he had never seen before, ~~about no one in the~~ and endeavored to find out how it worked. Since the coy was in action he would be nervous and perhaps cramped for space. As a result he was accidentally wounded. He couldn't have negligently handled the weapon, he had never received any instructions about and therefore was wounded in action just as legally as if a booby trap had went off while he was trying neutralize it.

The Prosecutions closing address.

I just want to mention a few very short points Pte Thompson handed Pte Gill the pistol and warned him to be careful because the action was stuck. Yet when Pte Thompson tried to ease the action of the pistol forward the pistol was pointing at his leg as he said and off

The leg wound was serious enough to render Pte Thompson from carrying out his duty with his company for at least two or three weeks

The Defending officer calls witness of character for the ~~def~~ accused.

1 st Witness Capt R. M LEVINE M.O. 2/Edmon R. having been duly sworn states that

Question. Do you recognise the accused

A yes I do

Q What kind of a job has he been doing since he came to the R.H.P.?

A Very satisfactory he has been employed as my batman for the past four days and previously when I was relieving for Capt Grainger the previous M.O. was handyman about the R.H.P.

The prosecution declines to cross examine the witness.

Statement in mitigation for the accused by the defence

Pte Thompson before joining the army was turned down on medical grounds from the merchant navy, the navy and the air force. He underwent an operation for a hernia in order to become category A and join the army to come overseas. Unfortunately this operation had to be performed while he was still a civilian and there are no army records to verify it. In view of this fact and his absolutely clean conduct sheet I submit the court should deal as leniently as possible with him when considering the sentence

Ex B. 20

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D139140	Private	John Alfred THOMPSON	The Loyal Edmn R.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, preference being given to the most serious offence in each entry and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~NUMBER OF OFFENCES OF EACH DESCRIPTION.~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~At the dated at the present time is under sentence for~~ - - - - - - beginning on the - - day of - - - - - - - - -

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days ~~in civil custody, and 22 days in military custody~~, making a total of 22 days, ~~of which 22 days were spent~~ in hospital.

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5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 23 years 57 days

6. The date of his ~~attestation~~ specified in his ~~record of service~~ ~~attestation paper~~ is 2 Feb 43.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~no~~ to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated , and in his regiment (*or* corps *or* department) the rank of N/A dated

(*22944) W1.21733/1877 10,000 10/42 A.& E.W.Ltd. Gp.698
(23027) W1.32858/1227 32,000 8/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D139140 Rank Private Name THOMPSON, J.A. of L Edmn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of June 1944

(L.V. McGirran) Capt & Adjt
The Loyal Edmn R.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. D13914 Name THOMPSON, J.A. Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 2 Feb 43 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 A.F.B. 199 (7151) T.41 (1219-20) H.Q. 1772 39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

"Certified True Copy"

(L.V.McGurran) Capt & Adjt
The Loyal Edmn R.

(P.T.O.)

SUMMARY OF EVIDENCE in the case of D139140 Private THOMPSON, John Alfred, of The Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, CMF.

By Order of the a/Commanding Officer, evidence is taken on oath.

1st Witness Prosecution

C120663 Pte Grier, Robert James, of The Loyal Edmonton Regiment, being duly sworn states:

I am C120663 Pte Grier, R.J. of C Coy, The Loyal Edmonton Regiment. At approx 1115 hrs 2 Jun 44 near the Convent (MR 434427 - FROSINONE Map) I was on guard at a Bren post by which the accused, D139140 Pte Thompson, J.A., whom I now recognize, was sitting and trying to ease the action of German Mauser automatic pistol, forward. I asked to see the weapon and he gave it to me but warned me not to fool around it because it was loaded and that the action was stuck. When I took the weapon in my hand I looked it over and handed it back to Pte Thompson. Pte Thompson continued trying to ease the action forward when suddenly it went off, the round going through his left leg. I applied a first-field dressing to the wound and then called for a stretcher bearer. After the accused had been hit he mentioned that he had hurt himself on the mortar range and now he had hurt himself again. He seemed to be reprimanding himself for his carelessness.

Questioned by Officer taking Summary.

Q. 1 Was the safety catch on?
A. 1 I didn't notice.

Cross examined by the accused.

Q. 2 Do you recall my surprise at the gun going off, that it left my hand and landed on the road?

A. 2 It flew from Pte Thompson's hand and believe it was due to the surprise that he had shot himself. He daid that he never wanted to see an automatic pistol again.

(signed) R.J. Grier

2nd Witness Prosecution

Capt T.R. Grainger, RCAMC, att'd to The Loyal Edmonton Regiment being duly sworn states:

I am Capt T.R. Grainger, RCAMC, att'd to The Loyal Edmonton Regiment. On the morning of 2 Jun 44 the accused D139140 Pte Thompson, J.A. whom I now recognize, was brought to the RAP suffering from a leg wound. He stated that he had been handling a Mauser Pistol and had accidentally shot himself. On examination I found that he had a soft tissue relatively minor wound of his left leg. Dressings were applied and he was evacuated to the Field Ambulance.

(signed) T.R. Grainger

The accused, D139140 Pte Thompson, J.A., after being duly warned as follows, "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." declines to make a statement.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused on 6 Jun 44 and that Rules of Procedure 4 (C) (D) (E)(F) & (G) have been complied with.

(signed) E.L. Nerland Lieut
Officer Taking Summary

6 Jun 44
In the Field

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DELAY REPORT ON FGCM PROCEEDING

(To be signed personnally by Commanding Officer & Confirming Officer)

ACCUSED D.139140 Pte Thompson J.A. UNIT LOYAL EDMONTON REGT

DATE OF OFFENCE 2 Jun 44 DATE OF ARREST 2 Jun 44

SUMMARY TAKEN 5 Jun 44 APPLICATION FOR FGCM 6 Jun 44

CONVENED _____ TRIAL _____ CONFIRMED _____

PROMULGATED _____

TOTAL days FROM ARREST TO TRIAL (Excluding days not in unit custody day of arrest and day of trial) _____

REMARKS OF CO (Explanation of delay,etc). Application for FGCM and documents were submitted by 2 Edmn R to HQ 2 Cdn Inf Bde 6 Jun 44 but due to reasons not presently available from previous Staff Learner, Lieut Praager, they were lost.

Blake H Gn. Tidyman Capt
Staff Capt 2 Cdn Inf Bde
per (T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

REMARKS OF CONFIRMING OFFICER _____

4G-84

Pte. Thompson. J.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-16716 Pte THOMPSON, John Freeland - 1 COMERU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Eighteen (18) months and to be made to forfeit pay which has been made good to the extent of £30-0-0 in terms of Section 1 Act 1944

~~Judge-Advocate, if any.~~ Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 57, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 5th Dec 44 (Sgd) J. C. Stewart

Commanding J. C. STEWART, Brigadier, Commanding "C" Group Con. Reinforcement Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 16716 Pte Thompson J.F.	6 Dec 44	Gordon Bailey Lt 1 Comeru

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 DEC 1944 HAS BEEN RECORDED AT CMHQ IN AB 160 4684

CFA96 (To lieu of AFA81) 40/P & B/1698 (R) (44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.C. Stewart, CBE, DSO Comd "C" Gp CRU dated 29 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-16716	Pte	John Freeland	THOMPSON	1 COMERU

PROCEEDINGS REVIEWED 12 Dec 44 J. C Stewart Capt REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~The Interpreter is sworn.~~(1) Do you object to Mr Berman as shorthand writer? Ans No. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. KEDMAN VD	HQ CRU
Member	Capt.	M.E. McCORMICK,	1 CAS RU
Member	Lieut	C.M. THOMPSON	1 CAS RU
~~Judge-Advocate~~			
Prosecutor	Lieut	M.W. NEDVED	1 COMERU
Defending Offr	Capt	W.K. McKIEL,	1 COMERU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused / / / / before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Do 287

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO TIME Evidence NOTE-PAD
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By 2nd officer NOTE-PAD (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-16716 Pte. John Freeland THOMPSON, Royal Canadian Ordnance Corps, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with,

1st CHARGE
Sec. 15(1)
ARMY ACT

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 1 Canadian Ordnance Reinforcement Unit, did absent himself without leave from 2200 hours 5 October 1943, until apprehended by the Civil Police at Tunbridge Wells at 1945 hours 21 November 1944, thereby incurring costs of apprehension amounting to (8s) eight shillings.

Total Absence (412) four hundred and twelve days, (21) Twenty one hours, (45) forty five minutes.

2nd CHARGE
Sec. 40
ARMY ACT

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Tunbridge Wells, at 1945 hours 21 November 1944, when apprehended by the Civil Police, was wearing badges of rank of Warrant Officer Class I, to which he was not entitled.

Bordon Hants
26 Nov 44

(Harold M. Bailey) Colonel
Commanding Officer,
No.1 Cdn Ord & Mech Engr Rft Unit

To be tried by Field General Court Martial

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units

29 Nov 44
Bordon, Hants.

CFA 95 (In lieu of AFA 31)
40/PA8/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy; AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-16716	Pte	John Freeland	THOMPSON	1 COMERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXX] committed the offence(s) set forth in the Charge Sheet[X] attached and on (*date*) this date endorsed by me, ([XXXX

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FA/S/1697 (2893)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
C-16716	Pte		John Freeland	THOMPSON	1 COMERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the und. rsigned, that the person[X] named above as the accused, being subject to military law, has [XXX] committed the offence(s) set forth in the Charge Sheet[X] attached and on (*date*) this date endorsed by me, ([XXXXXXXXXXXXXXXXXXXX]. " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [XXXXXXXXXXXXXXXXXXX

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. F/16716 (Rank) THOMPSON J.E. (Name) of NO.1 C.O.R.U. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station Aldershot

Date Dec 1. 1944

Sgd. J.A. Robertson Capt
(Medical Officer)

F.G.C.M. IN THE CASE OF

C-16716 Pte. THOMPSON, J.F. 1 COMERU

1 Dec. 44.

STATEMENT BY THE ACCUSED(ON OATH) NOTE E-1

Sir:

I would like to start my story at the beginning of my service in England and try to make it as brief as possible. When I came over first I came over as a Small Arms Instructor and as such I was given promotion of two occasions and I was originally with an Anti-Tank Unit. I was transferred from that Unit to the RCOC and after being in the field shops for some months I was sent to the Holding Unit for Trade Test which I passed. I was then sent on a course at London as an Instrument Mechanic and again passed and was returned to the holding unit. At this time I asked to be re-attached to my original Unit which took place and at the time that they left for Italy I was taken out of the draft and sent on a further course. Up until this time I had had no trouble at all and had even enjoyed the army, even the spit and polish, but I was naturally disappointed when I could not go with the Unit. The name of this unit was the 1st. Division "orkshop. Just at this time I was advised that my wife in Canada had left her home and including myself, that is she left me, and a short time later I was advised by the Paymaster that I would be forced by the Government to pay the maximum allowance or allotment and the paymster at that time said not to sign the commitment unless I was forced to do so, and a few months later I was forced to make the assignment of $22.50. Ithinkat this time was my first entry on my MFM 6. I went a bit off the beam. Again I was sent on a further course which I passed quite successfully and had no trouble whatever. I was again returned to the holding unit, but was unable to be posted to a field unit even though I stated this desire on many occasions. The only thing I wanted to do was to get abroad so I could forget all my domestic troubles. I was turned down, even though the 10 other men on the course were drafted, I was left behind. Because I could not get a posting and got into one of my black moods . I have a University Education which I got the hard way, but inactivity of the holding unit was more than I could bear. I fought to get abroad but it was no use. I am Category "A". I am qualified in Small Arms Training, Thompson Sub-Machine gun and Instrument Mechanic Group "B". When I finished this course and was returned to the Unit, my tradespay instead of increasing, was taken away from me because of a ruling that tradespay would not be granted until you were sent to a field unit. This took money away from me, that I really needed. When my wife left her home she had made arrangements to get the allowance, and my assigned pay. I was an accountant in Civil Life. Well I Think sir, that I have gotten into trouble because of the extra time on my hands, but I feel sure sir, that If I could get abroad that I could distinguish myself as a year ago I was nothing more than a Pscopathic case. I know I am quite wrong, but if one sits in the holding unit and sees many other boys being posted to the field who have neither the qualifications, nor as good a M.F.M. 6, it is enough to make you do something wrong. I simply plea in conclussion to get a chance to get abroad and do something.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

PLEA IN MITIGATION NOTE E-1

Read by Defending Officer and is attached to the proceedings.

THE COURT WILL BE CLOSED TO CONSIDER THE SENTENCE

PLEA OF MITIGATION
COURT MARTIAL
C-16716 Pte. Thompson, J.F.

The evidence submitted by the prosecution allows the accused no alternative but to plead guilty to the charges.

Before rendering punishment on the accused may it please the court to take into consideration certain circumstances outlined in the statement made by the accused under Oath. Enlistment in an Anti-Tank Regiment in June 1940, showed a desire to get into a highly combatant Unit and such was the wish of the accused. Due to civilian experience and suitable education the accused was transferred to R.C.O.C. and received training on Instrument repairs, although such a transfer was not requested by the accused, who would have apparently preferred to remain in the Anti-Tank Regiment with his friends. However it was deemed that the accused would be more useful in Instrument Work and courses in England after arrival in Sep 1940 were attended and qualifications obtained. The unfortunate fact however, is that the accused was never on strength of any one workshop group for any appreciable length of time and employed at his Army Trade to an extent in keeping with the training given. Probably the reason for this condition was the inactivity of the Canadian Army in actual warfare after Dunkirk, and could not this activity been the cause of restlessness resulting in men going AWL? A s the accused has stated relations between his wife and himself were a source of ittitation and coupled with a feeling of not contributing his full worth to the war effort, a condition of frustration resulted. Had the accused been kept more busily engaged at his trade or some other productive occupation, it is quite probable this court-martial would not have been required. It is practically impossible for some individuals to not become restless when engaged in a seemingly not worthwhile occupation, and such an individual is the accused. On one occasion the accused was held back from a posting to the field and sent on another Instrument Course. On completion of this course the accused returned to the Holding Unit and again began a period of hopefully waiting for a posting. Such was the circumstances at the time of going AWL. Please note that during the AWL period, the accused worked on farms and thus spent the time to some good.

The accused realizes his crimes and the necessity for punishment, however in passing judgment may the Court consider the value of the accused at the fighting front at this time. The accused has that one desire to get into action and may the sentence be such as to still provide that opportunity before hostilities cease.

W L McKiel Capt.

(W.L.McKIEL) C A P T.

E-3

MM

SUMMARY OF EVIDENCE

In the case of C-16716 Pte. John Freeland THOMPSON, RCOC, on strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. D.Seguin, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, having been duly sworn states:

"I am an Officer of No. 2 Company of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, and I produce the following:

(a) A certified true copy of the Record of Declaration of the Court of Inquiry concerning the absence of the accused dated 31 October 1943.

(b) A Certificate of the apprehension of the accused dated 21 November 1944.

(c) A Certificate of Expenses incurred in the return of the accused dated 22 November 1944.

as Exhibits (a),(b) and (c) for the Prosecution and pertaining to the accused whom I now recognize. I have initialled the Exhibits for the purpose of identification."

D. Seguin Lieut.

(Lieut. D. Seguin)

The accused declines to cross-examine the witness.

The accused having been duly cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Reserves his Defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken by me in the presence and in the hearing of the accused and that Rules of Procedure 4(c), (d),(e) and (f) have been complied with

Bordon Hants
26 NOV 44

(MAJOR B.E.Taylor) Officer detailed to take down Summary of Evidence.

EX A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bordon Hants on the 31st day of October 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-16716 Pte THOMPSON, J.E.

"A"

DECLARATION.

The Court declare, that C.16716 Pte THOMPSON, J.E., R.C.A.S.C. No 1 C.O.R.U., C.A. (Overseas) illegally absented himself without leave from Bordon, Hants at 2200 hours 5 October 1943, and that he is still so absent and at the time was deficient and is still deficient of articles of clothing & equipment to the value of $38.56

See attached list.

No. 1 CDN. ORD. RSVY. UNIT. 1 Nov. 43
No. 2 COY.

Re Deficiencies

The u/m is a list of deficiencies of kit of C-16716 Pte Thompson J. F.

THE ARTICLES	QUANTITY	FULL PRICE	PRICE TO BE CHARGED
Battbard	1	.84	.84
Cap Field Service	1	.82	.61 x
Boots Pr	1	4.81	3.61
Blouse Battle Dress	1	6.18	4.63
Trousers Battle Dress	1	6.24	4.68
Anklets Webb	1	.77	.57
Socks Pr	2	.37	.54 .27
Shorts Summer	1	.46	.34
Shirts Angola	2	4.10	3.08
Haversack	1	2.14	2.14
Ground Sheet	1	2.40	2.40
Bottle Water	1	.65	.65
Carrier(Water Bottle)	1	.43	.43
Drawers Woolen Pr	1	1.17	.88
Pullover Jersey	1	1.51	1.41
Vest Woolen	1	1.14	1.14
Badge Cap	1	.08	.06 x
Brush Button	1	.15	.11
Brush Cloth	1	.24	.18
Brush Hair	1	.24	.18
Brush Shaving	1	.30	.21
Brush Polishing	1	.24	.18
Brush Tooth	1	.08	.06
Holdall	1	.17	.13
Housewife	1	.58	.46
Razor	1	.42	.32
Shorts Gym	1	.43	.33
~~Webb~~Belt Webb	1	1.03	1.03
Braces S.B. 1 right	1	.46	.46
Straps Supporting	2	.47	.34
Mess Tins	Set	.39	.39
Cape Anti Gas	1	4.43	4.43
Bayonet	1	1.90	1.90
Total Full Price		45.65	
Total Price to be Charged			38.66

I certify that I have inspected the kit of C-16716 Pte Thompson J.F. and found the a/m deficiencies

D C Watters .....Witness

Watters D. C.

.....Comm.
(L-9147 A/WS Whitrow E.G)

I CERTIFY that the man whose personal description is given below ~~was arrested~~ was apprehended by Detective Sergeant Curling

at Tunbridge Wells, at (hour) 19.45 hrs on

the 21st day of November, 1944, as being No. C. 16716.

(Rank and Name) Pte John Freeland THOMPSON,

~~absentee~~ (or absentee without leave) from 23rd September, 43.,

and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 42 Height Five Feet nine Inches

Complexion ruddy Hair dark brown.

Eyes brown.

Marks

In uniform or plain clothes Uniform of the rank of R.S.M. ., R.C.O.C.

Probable Date and Place of Attestation	5th June, 1941.
Probable Date of Desertion or beginning of absence, and from what place	Absent since 23rd September, 1943, deserter since 30th October, 1943, 3rd F.W.D. R.C.O.C. 1st Division.

Signature of Officer of Police in charge of Chief Inspector. Tunbridge Wells Station.

22.11.44. Date of Signature.

Army Form C.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case

of No .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

Army Form O.1617
R.A.F. Form 1617.

IMMEDIATE.

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *i.e.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 459/1940).

(22742) Wt.88503/137 25,000 10/42 A. & E.W.Ltd. Gp.698 Forms/O.1617/12
(25650) Wt.48526/1288 40,000 2/43 " "

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No C [illegible] Rank Pte Name Thompson, J. F. Unit 1 COMERO

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Tunbridge Wells

Date	Particulars	Amount		
22 Nov. 44	Escorts return fare from LONDON To Tunbridge Wells		5	4
	Prisoners single fare to LONDON From Tunbridge Wells		2	8
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

C/ [illegible] M

A.M. Johnston Lieut Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

CHARGE

Army Form B 252
(See King's Regulations)

No.1 C.O.M.E.R.U. (CRU) Regiment
Battery / Squadron / Troop or / Company

CHARGE against No. C-167I6 Rank Pte.

Name Thompson J.F.

Place Tunbridge Wells Date of Offence 2I-Nov-44.

OFFENCE W.O.A.S. was A.W.L.

MAJOR
R. B. HOLMES
ASSISTANT PROVOST MARSHAL
CANADIAN MILITARY H.Q

Names of Witnesses:—
Det.Sgt. Curling (Civil Police).

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

3 3/44 G.H.Q.F.F. 2031

Statement of **EVIDENCE** in the case of
C-I67I6 Pte. Thompson J.F.
No.I C.O.M.E.R.U. (CRU)

Sir:

Documentary evidence attached.

REMARKS

68

CHARGE

Army Form B 252
(See King's Regulations)

No. I C.O.M.E.R.U (CRU) Regiment
Battery / Squadron / Troop or / Company

CHARGE against No. C-167I6 Rank Pte.

Name Thompson J.F.

Place London Date of Offence 22-Nov-44.

OFFENCE W.O.A.S. was wearing badges of rank to which he was not entitled.

MAJOR
R. R. HOLMES
ASSISTANT PROVOST MARSHAL
CANADIAN [redacted] ARY H.Q.

[redacted] of Witnesses:—

Sgt. Hadden I.L. No.6 (Area) Provost Coy.

Cpl. Bradden H.J. No.6 (Area) Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

H.Q.P.P. 2604

Statement of **EVIDENCE** in the case of
C-I67I6 Pte. Thompson J.F.
No.I C.O.M.E.R.U. (CRU)

Sir:

At London, at about I6I5 hrs, 22-Nov-44, I was on duty as N.C.O. i/c Detention Office, in company with Cpl. Bradden H.J. when the a/m soldier was brought into this Office under arrest.

I noticed as I was booking in the a/m soldier that he was wearing the Badges of Rank of a(R.S.M.)

I informed him that he would be charged accordingly.

London
22-Nov-44. I L Hadden ..... Sgt.
K-99505 Hadden I.L.
No.6 (Area) Provost Coy.

Sir:

I have read over and corroborate the above statement.

London
22-Nov-44. H J Bradden ..... Cpl.
B-I44001 Bradden H.J.
No.6(Area) Provost Coy.

REMARKS

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
C-16/16	Private	John Freeland THOMPSON	1 C.C.M.E.R.U

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For	A.A. Sec 15(1)	8 times.
For	A.A. Sec 19	1 times.
For	A.A. Sec 40	1 times.
For	A.A. Sec 18 (1)	1 times.

Date of first entry in Field Conduct Sheet ..... 1 Dec 41

Date of last entry in Field Conduct Sheet ..... 26 Apr 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ N.A.

~~beginning on the~~ N.A. ~~day of~~ N.A.

4. The accused has been awaiting trial on the present charges for 1 days in civil custody; and for ~~NIL~~ 9 days in military custody, i.e., N11 days in open arrest, ~~NIL~~ 9 days in close arrest; of which N11 days were spent in hospital.

5. The present age of the accused is 23 June 1906

6. The date of his attestation ~~calling up for military service~~ is 5 June 1941

7. The service which the accused is allowed to reckon is 5 June 1941

†State the military decorations (if any) held by accused.

8. The accused is in possession of † NIL

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

E x B

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2887 30,000 5/44 51-432 T.Ltd. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 15 Nov 42	A.A. Sec 15 (1) A.W.L.	90 days detention.	30 days remission.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~28 Nov 44~~ 1st day of December 1944 for Maj. Carty Lieut Fort CAPT & ADJT

NO.1. CANADIAN ORDNANCE & MECH ENGRS REINF UNIT

MFM 6
(AFB 122)
40/PAS/156 (3458)

No C-16716 Name THOMPSON John Freeland Sqn, Battery, or Company — Corps # 3 Army Troops — Date of enlistment 3-6-41 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc HM Burley Maj

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS				Granted Embarkation Leave -5-7-41 Pte 2 Order 150/6-7-41					
Field	1-12-41	L/C.		WOAS Drunkenness in that he at Burgess Hill, Eng. on 1-12-41, while on duty as NCO i/c Day picquet was drunk (sec 19AA)	Sgt. Stinson P.	Reverts to rank of private		F.W. Cranston Capt	
Field	17-3-42	Pte.		WOAS Conduct to the Prejudice of good order & military discipline in that he in the field, at or about 2055 hrs. 10 Mar 42 did improperly order a private soldier to turn out car lights, threatening the use of a bayonet if so doing	Pte. Gilkes	21 days FP	17 Mar 42	Major HQ Conn	HQ Conn Mjr
				Army Act Section 40					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8-6-42	Pte.		WOA6 AWL from 0300 hrs 8 June 42 till 0600 hrs 9 June 42(absent 22 hrs) Sect 15 AA) Forfeits 1 days pay FRI 149(1)(a)		Forfeiture 8 days pay FRI 149(2) 1 days pay FRI 149(1)(a) Total forf 9 days pay	10-6-42	Lt. M.S. MS Cranston	
Field	2-8-42	Pte.		AA Sect 15(1) AWL WOAS from 2300 hours 2 Aug 42 to 2045 hrs 15 Aug 42(absent 12 days 21 hrs 45 mins)	Documentary	Forf 21 days pay AA 46(2) FRI 149(2)	17 Aug 42	H.M. Burley Major	Forf 13 days pay FRI 149(1)(a) Total Forf 34 days pay
Field	3-9-42	Pte.		Malingering: i.e falsely claimed to have been ordered to report to MO for X Ray, as excuse for missing parade	S/S Burgess Doc	Forf 10 days pay	5-9-42	Mjr Shields	
Field	16-9-42	Pte.		AWL from 1300 hrs 16-9-42 to 1700 hrs 16-9-42	S/S Brereton	7 days CB	18-9-42	Capt. Baker	Forf 1 days pay
Field	28-9-42	Pte.		AWL from 1300 hrs 27-9-42 to 2200 hrs 27-9-42 (9 hrs)	S/S Burgess	7 days CB	28-9-42	Capt. Baker	Forf 1 days pay
Field	6-11-42	Pte.		AWL from 1700 hrs 6-11-42 to 1200 hrs 7-11-42 (time 33 hrs)	S/S Burgess		13-11-42	HM Hastings Capt	Forf 2 dys pay FRI

MFM 6
(AFB 122)
10/P&S/136 (5438)

No C-16716 Name THOMPSON John Freeland | Sqn, Battery, or Company | Corps RCOC | Date of enlistment 5 May 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk One Dec 41 | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Nov 42	Pte.		WOAB A/L from 2300 hrs 15 Nov 42 until 1730 hrs 30 Nov 42(time absent 14 days 6½ hrs)	Lieut. Gilmour S/S Burgess	90 days Detn	10 Dec 42	FOCM confirmed Brig Vokes	Forf 15 days pay FRI 149 Forf 10 days pay in arrest Forf 90 days pay FRI 149 (b)
				RELEASED FROM THE DETENTION BARRACK H. DUNN ON FEB 6, 43 SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER "RULES FOR DETENTIONBARRACKS AND MILITARY PRISONS" 30 days. COMMANDANTS INITIALS J.A.H.				A.H. Gilmour A/OC	Lieut. 1 CDO

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	6 Feb 43	Pte.		AA Sect 15(1) AWL-WOAS from 2200 hrs 6 Feb 43 to 2200 hrs 9 Feb 43(absent 3 days)	Cpl. Lord	Admonished	13 Feb 43	H M Burley Major	Forf 3 days pay FRI 149 (1)(a)
Field	20-3-43	Pte.		A.A. Sec. 15(1) AWL from 2200 hrs 20-3-43 till 2300 hrs 22-3-43 (absent 2 days, 1 hr)	Cpl. Gagnon	7 days FP with forf of pay	23-3-43	H.Hamm Major	Aut Forf 3 days pay FRI 149(1)(a/ Forf 7 days pay FRI 149(2)
WaltHamstow	26-4-43	Pte.		WOAS Absent without leave from 2230 hrs 26-4-43 until found in bed at reveille at 0630 hrs on the 28-4-43(absent 32 hours)	L/C. Wright, L	7 days CB	28-4-43	C.W. Cysset Major	Aut Forf 2 days pay FRI 149(1) (a)

CERTIFIED TRUE COPY

M.S. Forbes Lt
Officer having custody of Regimental Books
28 November 1944

I hereby request that the Convening Officer appoint Capt. W.L.McKiel to represent me at my forthcoming Court Martial.

Bordon Hants
26 NOC 44

J.F.Ronkon (Accused) C 16716

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Bordon preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Bordon Hants
26 Nov 44

J.F.Ronkon (Accused) C 16716

LIST OF WITNESSES

In the case of C-16716 Pte. John Freeland THOMPSON, RCOC on strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit.

(For the Prosecution)

1. Lieut. D. Seguin — Officer No. 2 Coy No.1 C.O.M.E.R.U.

(For the Defence)

NONE

LIST OF EXHIBITS

In the case of C-16716 Pte. John Freeland THOMPSON, RCOC on strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit.

(For the Prosecution)

(a) A certified true copy of the Record of Declaration of the Court of Inquiry concerning the absence of the accused dated 31 October 1943.

(b) A certificate of the apprehension of the accused dated 21 November 1944.

(c) A certificate of Expenses incurred in the return of the accused dated 22 November 1944.

(For the Defence)

NONE

Bordon Hants,
26 NOV 44

(Harold M. Bailey) Colonel
Commanding Officer,
No. 1 C.O.M.E.R.U.

83-U

Pte THOMPSON, J.F.

Correspondence to be PINNED here.

830

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TENTH day of December, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[~~I am unable to appoint~~:—

*(~~1. Three Officers to form the Court.~~)

*(~~2. A Field Officer as President.~~)

~~for the following reasons, namely:—~~]

Proceedings reviewed for Major-Gen. (AG) i/c HQ. 31 Dec. 42.

90-41

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.C. Irvine	Sask LI(MG)

Members.

Rank.	Name.	Regiment.
Capt	M.H. Webber	RCCS att 2 C.I.B.
Lieut	J.E. Robinson [Waiting Member]	Sask LI(MG)
Lieut	J.M. Galbraith	RCCS att 3 Fd Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (A.E.D. Tremain) Brigadier

Commanding R.C.A. 1st Canadian Division

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C16716 Pte John Freeland Thompson 1 Cdn Div Ord Workshop RCOC	First Charge Sec 15(1) Army Act	Guilty	Guilty 90 (ninety) days detention. [illegible] 14 Dec 42	Confirmed W. Brig
G45102 Pte George Edward Murphy 1 Cdn Div Ord Workshop RCOC	First Charge Sec 15(1) Army Act	Guilty	Guilty 180 One hundred and Eighty days detention. Stoppage of Pay to amt of $2.11.2 (Cost of return to Unit)	
	Second Charge Sec 24(2) Army Act	Guilty	Guilty. Stoppage of Pay to amt of $2.16.4. to cover Cost suspended. Total Stoppages $5-7-6 [illegible] 14 Dec 42	Confirmed W. Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" no.
Answer (*to be recorded on separate sheet if necessary*):—

Signed [illegible] (Signed) [illegible] Major.
Commanding Brigade HQ 1 Can Div (Signed) [illegible] Lt Col (AMC)
Convening Officer (*e*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the FOURTEENTH day of DECEMBER 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) ~~N/A~~
*(4. ~~The officers under instruction~~) ~~N/A~~

* Omit if not applicable.

were duly sworn.

Signed this 14th day of Dec. 1942.

[illegible] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) ~~N/A~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 16th day of December 1942.

[illegible] Brig
Confirming Officer.
Comd 2 Can Inf Bde

Promulgated and extracts taken in the case of G45102 Pte George Edward Murphy

(*a*) (Dated) 17 Dec 42 (Signed) [illegible] Maj

Promulgated and extracts taken in the case of C16716 Pte John Freeland Thompson

(Dated) 17 December 42 (Signed) [illegible] Maj

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W. 47797/1937 35 M. 5/41 KJL/5285(2) Gp. 698-3

(5)

CHARGE SHEET

The accused, C.16716, Pte. John Freeland Thompson, of the 1st Cdn. Div. Ord. Workshop, RCOC, CA(AF), is charged with:

While on active service, absenting himself without leave

IN THAT HE

First Charge A.A.Sec.15(1)	In the Field, did absent himself without leave from 2300 hrs 15 Nov 42 until apprehended in Ticehurst by Lieut. A.H. Gilmour at or about 1730 hrs. 30 Nov 42. Absent 14 days, 20 hrs, 30 mins.

Major,
(G.M. Hunter)
Commanding Officer.

9 Dec 42

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Date 11 Dec 42

Major

(4)

No. 3 Group,
1st Cdn. Div. Ord. Workshop, R.C.O.C. C.A.(A.F.)

This is to certify that C.16716 Pte. Thompson, J.F. is fit to undergo Trial by Court Martial

Date 14 Dec 1942.

J.M. Keller Capt. R.C.A.M.C.
Medical Officer

Major

(10)

I have satisfied myself that none of the officers detailed as members of the Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge(s) before the Court Martial.

Major.

(Signature of the President)

(1)

December 7th

C 16116 Pte. John Freeland Thompson R.C.O.C.

Lieut. R. H. Edmonds, Can. Div. Ord. Workshop R.C.O.C.

Lieut. F. R. Ferris, Can. Div. Ord. Fld Pk. R.C.O.C.

None.

No.

sworn

and duly

The summary of evidence is read by the president.

The accused is asked if he wishs to make a statement and answers "No"

The accused is asked if he wishs to call witness as to character and answers "No"

The prosecutor having been duly sworn produces A.F.B. 295 and certified copy of A.F.Os of the accused.

The accused examines the above documents

The accused is asked if he wishs to make a statement in mitigation of sentence and makes the following statement:

"I thank like to draw the Courts first on the first charge there was no blame on to record charge I was in charge of a guard and spoke up an English soldier drinking a Cabbot saloon and told him to drink his Light, Being suspicious of the said soldier due to previous contact with him When he refused I threatened him with my bayonet thinking that this was in due course of duty.

On the charge of malingering I pleaded guilty without understanding the full nature of the charge.

In the present instance, I was forced to assign 15 days pay to my wife who at present and another man at home. My mother was looking after my child and my wife took him away and as a result my mother had a stroke. The [illegible] of family trouble [illegible]

Can be made final at the time I announce it and I put it on [illegible] as the case from my data which is [illegible] and have been made & put [illegible]

The court is closed to consider sentence & accused is removed under close arrest until promulgation of sentence

[illegible] major.

(6)

SUMMARY OF EVIDENCE IN THE CASE OF C.16716 Pte. John Freeland Thompson OF THE 1st. CANADIAN DIVISIONAL ORDNANCE WORKSHOP, R.C.O.C.

BY DIRECTION OF THE COMMANDING OFFICER A/MAJOR G.M. HUNTER THE EVIDENCE IS TAKEN ON OATH.

1st. Witness for the prosecution.

B.94586 Sgt. (a/S/Sgt.) Smith E.L. of the 1st Cdn. Divisional Ordnance Workshop, RCOC being duly sworn states:-

I am Regimental N.C.O. at 3 Group, 1st Cdn.Div.Ord.W/S. At 2300 hrs. 15 November 42. at Tattoo Roll Call, C.16716 Pte. John Freeland Thompson did not answer his name and was not present in billets. He has not been present in the Unit Lines until he was brought in under escort from No.1 Group, 1st Cdn.Div.Ord.W/Shop, 1 December 42.

E.L. Smith

B.94586 Sgt. (a/S/Sgt.) Smith E.L.

The Accused declines to cross examine this witness.

2nd Witness for the prosecution.

D.82085 Sgt. (a/S/Sgt.) Badieley J. of the 1st. Cdn. Divisional Ordnance Workshop, RCOC being duly sworn states:-

I am Regimental N.C.O. at 3 Group, 1st Cdn.Div.Ord.W/S. Because of a report I received at 2300 hrs 15 November 42. I checked the billets but could not find C.16716 Pte. John Freeland Thompson. He has not been present in the Unit Lines, nor have I seen him until on the night of Monday 30 November 42. I was present when C.16716 Pte. John Freeland Thompson was put under arrest by Lieut. Gilmour in a public house in the village of Ticehurst.

J. Badieley

D.82085 Sgt. (a/S/Sgt.) Badieley J.

The Accused declines to cross examine this witness

3rd. Witness for the prosecution.

Lieut. A.H. Gilmour of the 1st Canadian Divisional Ordnance Workshop, RCOC , being duly sworn states :-

I am Captain Regimental of 1st Cdn.Div.Ord.W/Shop. Because of a report received on the 30 November 42. and after a considerable search, I located and arrested C.16716 Pte. John Freeland Thompson in a public house in the village of Ticehurst, I then conveyed him into the guard room at No. 1 Group, 1st Cdn.Div.Ord.W/Shop.

A.H. Gilmour Lieut

Lieut. A.H. Gilmour.

The Accused declines to cross examine this witness

CERTIFIED THAT RULE OF PROCEDURE 4 (C) (D) (E) (F) AND (G) HAVE BEEN COMPLIES WITH.

Taken down by me in the presence and hearing of the accused this 8th day of December 1942, in the Field

A.H. Gilmour Lieut

Lieut. A.H. Gilmour
Capt. Regimental .

(8)

M.F.M. 6
A.F.B. 132
(15M 7-41 (1254-26)
H.Q. 1772-39-1852

No. C.16716 Name THOMPSON JOHN F. Sqn., Battery, or Company — Corps RCOC — Date of enlistment 5.6.41 — C.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disassociating with trial	By whom awarded	Remarks
XXXXXXXXX Field	1.12.42	L/Cpl		WOAS DRUNKENESS, in that he at Burgess Hill, Eng. on 1.12.41 while on duty as NCO i/c Pay Picquet was drunk. A.A.Sec.9	S/Sgt Stinson	Reverts to the rank of private		sgd. F.W. Cranston, Capt	
Field	17.3.42	Pte		WOAS Con. to the Prej. of Good Order & Mil Disc. in that he in the field at or about 2055 hrs 10 Mar 42 did improperly order a private soldier to turn out car lights, threatening the use of a bayonet in so doing. A.A.Sec.40	Pte Gilkes	21 Days F.P.	17.3.42	Major H.C. Conn	

CERTIFIED TRUE COPY

W.H. Gelmour Lieut. for
Major
Commanding Officer
1 Cdn. Div. Ord. Workshop.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	8.6.42	Pte		WOAS AWL from 0800 hrs 8.6.42 till 0600 hrs. 9.6.42 (22 hrs) AA.Sec 15(1) Forf 1 Days Pay FR&I 149(1)(a)		Forf 8 Days Pay FR&I 149(2) 1 Days Pay FR&I149(1)(a) Total 9 days Pay	10.6.42	Lieut. H.S. Cranston	
Field	2.8.42	Pte		AA.Sec.15(1) AWL-WOAS from 2300 hrs 2 Aug 42 to 2045 hrs 15 Aug 42(Abs 12 days 21 hrs 45 mins)	Documentary	Forf 21 Days Pay AA.46(2) FR&I 149(2)	17 Aug 42		Forf 13 Days pay FR&I 149(1)(a) Total forf 34 days pay
Field	3.9.42	Pte		Malingering: i.e. falsely claimed to have been ordered to report to MO for x-ray as excuse for missing parade	S/Sgt Burgess	Forfs. 10 Days Pay	5.9.42	Maj Shields	
Field	16.9.42	Pte		AWL from 1200 hrs 16.9.42 to 1700 hrs 16.9.42	S/Sgt Brereton	7 Days CB	18.9.42	Capt L.P. Baker	Forf 1 Days Pay

M.F.M. 6
A.F.B. 172
175M—7-41 (1219-26)
H.Q. 1772-39-1652

No. 16716 Name THOMPSON John F Sqn., Battery, or Company Corps RCOC Date of enlistment 5.6.41 G.C. Badge Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	28.9.42	Pte		AWL from 1300 hrs 27.9.42 to 2200 hrs 27.9.42 (9 hrs)	S/Sgt Burgess	7 days CB	28.9.42	Capt Baker	Forf 1 Days Pay
Field	6.11.42	Pte		AWL from 1300 hrs 6.11.42 to 1200 hrs 7.11.42(33 hours)	S/Sgt Burgess		13.11.42	Capt Hastings	Forf 2 Days Pay

CERTIFIED TRUE COPY

A.H. Lower Lieut. for Major
Commanding Officer, 1 CDOW/S

(P.T.O.)

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Eighth~~ Fourteenth day of Dec 1942

Allan H Gilmour Lieut

Allan H Gilmour Lieut

Army Form B.256.

Statement as to Character and Particulars of Service of Accused.

C.19716 Gnr. Freeman of the 1st Can. Div. Grd. Workshop, RCOC
Thomson

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of which full particulars are given in the Schedule of convictions and dispensations with trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For Drunkenness A.A.Sec.9	times 1	times
For A.W.L. AA.Sec.15(1)	6 times	times
For A.A.Sec40.	1 times	times
For Malingering	1 times	times

*The numbers entered should correspond with the figures in the column headed "Nature of Offence" in the Conduct sheets, Provided that where the most serious offence is recorded against the accused on more than one occasion, the number of occasions on which such offence has been committed should be entered.

Number of instances of gallantry or distinguished conduct,

M.M. or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W1 4866/804 500,000 8/42 W. & S. Ltd. 54—6664

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for N.A.
beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges

for days in Civil Custody,

and ~~8~~ 14 days in Military Custody.

Total ~~D~~ 14 days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 36 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 5.6.41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of years' service.

9. The accused is entitled to reckon years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

of the

Army Number, Rank and Name

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

(*Continued overleaf.*)

40-98

Pte Thompson J. H.

RECEIVED 2 FEB 1945 BRANCH

RECORDED AT CMHQ IN AB 140 40-98

CF A96 (In lieu of AFA4) 40 P & S 11608 (3604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J. E. Snow Comd "A" Op. GRD dated 14 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-45745	Pte	John Henry	Thompson	4 VRD CCOD

PROCEEDINGS REVIEWED

[signature] Major

PRESIDING OFFICER 1 CIC BRANCH C.M.F.O.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) on (*date(s)*) 15 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member(s) JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans ~~The Interpreter is sworn.~~(1) Do you object to C20926 Pte Hus Laundy as shorthand writer? Ans No The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.H. Mercer ED KC	M.R. CRA
Member	Capt	D.R. Davies	4 VRD CCOD
Member	Lieut	E.J. Williams	1 CBUS REME
~~Judge-Advocate~~			
Prosecutor	Lieut	J.C. Dent	1 CCOD 4 VRD
Defending Offr	Lieut	F.L. Gist	4 VRD; 1 CCOD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D C 7 B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-45745 Pte John Henry THOMSON 4 VRD CCOD

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12(1)(b)	Not Guilty	NOT GUILTY of Desertion Guilty of absence without leave, time of charged	
2nd	AA Sec 40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence ~~for~~ NOT ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be Severely Reprimanded; To undergo Detention for ~~three~~ 3 days and 6 be put under stoppages until he has made good the sum of $1-10-0 Costs of return

15 Jan 45 (Sgd) [signature] Major
(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

JES

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further order(s)~~(1) JES

(1. AA 57A. Delete if not used.)

Date 17 Jan 45 (Sgd) J.E. Snow Brig. Commanding "F" Sp. C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-45745 Pte Thompson J.H.	23 Jan 45	[signature] Lt
PART II DO. 11	23 JAN 45	4 VRD 1 CCOD RCOC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B). and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ~~A~~ B initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B, above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1 & 2A charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1 & 2A charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4).
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Neither Make a Statement Do you intend to call witnesses on your behalf ?
Ans No Are they witnesses as to character only ? Ans No .
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the findings, if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 1 & 2A charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No one this time Big Bill
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Big Bill Offr (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, B-45745, Pte. John Henry Thompson, of No. 4 V.R.D., 1 Cdn C.O.D., R.C.O.C., a soldier of the Canadian Army Overseas, is charged with:

While on Active Service

1ST. CHARGE
Sec. 12(1)(a)
Army Act

DESERTING HIS MAJESTY'S SERVICE

in that he,

at Bordon, Hants, at 2359 hours, 1 DEC 44, absented himself from No. 4 V.R.D., 1 C.C.O.D., R.C.O.C., until apprehended by Civil Police at Coventry, at 1145 hours, 12 DEC 44, dressed in plain clothes. (Total time absent, 10 days, 11 hours and 46 minutes.) Thereby incurring costs of returning him to his unit in the amount of £1-10-0.
While on Active Service

2ND. CHARGE
Sec. 40
Army Act

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at Coventry, at approximately 1130 hours, 12 DEC 44, made use of a document purporting to be a genuine pass, well knowing it was not genuine.

R.C. Kelly

(R.C. Kelly) Lieut.-Col.,
O.C. Depot Battalion,
H.Q., 1 Cdn C.O.D., R.C.O.C.

8 Jan 45
Peper Harrow

To be Tried by Field General Court Martial.

J.E. Page

Bordon, Hants.
14 Jan 45

(J. E. [illegible]) Brigadier
Comd "Y" G[illegible], CMC

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-45745		Pte	John Henry	Thompson	4 VRD CCCD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Jun 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. A. Miller, M.C.	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	E. H. Haines	4 VRD CCCD
Lieut.	E. J. Williams	1 CBW RCEME

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Date 14 Jun 45

(J. E. SACER) Brigadier
Commanding "Z" Gp, CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FA95 (In lieu of AFA3) 40/P & S/1697 74931)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
KR(Can) para 557

I certify that I have this morning examined No. B-45775.....
Rank...Pte.....Name.....THOMPSON, J.H.....of.....4 VRD., 1 CCOD.....(Unit)
and in my opinion he is ~~fit~~ unfit* to undergo trial by Court
Martial.

.....(Rank)
Unit
Medical Offr., RCAMC

Station..FAF, Borden.....
Date...16 Jan 46.....
(of Court Martial)

* Cross out one N/A and initial

Reporter: C 20926 Pte
Laverty HW.

E Q C M

CASE OF :

B 45745 Pte THOMPSON

FIRST WITNESS FOR THE PROSECUTION: SWORN STATES:
Jack Arnold SMITH PC of COVENTRY

Q. When did you see the accused and in what connection?
A. As a result of a telephone call, I arrested the accused and brought him into the police station at Coventry. There I asked him to produce any document to prove his identity, he produced this piece of paper(Ex "C") he said what would you say if I told you I was on leave from the Army? I said why did you not produce this pass before? On examining it I found out it was a leave pass made out to expire 2359 hrs 14 Dec. Shortly after this a telephone message was received and as a result of this message I charged the accused with being an absentee. When he was searched this letter was found on him. (Marked Ex. "B" for identification) I asked the accused about another piece of paper he had on him and he said that this was a discharge paper issued in 1940 and he was using it in an endeavour to obtain a civilian identity card. At the time I arrested him he was dressed in civilian clothes , with a muffler which when removed revealed a khaki shirt and collar.

Q. Was this conversation with the accused after he was under arrest?
A. After the accused was under arrest I was making inquiries as to how he came to be in possession of a discharge certificate and did not obtain an identity card . I gave him this warning after I arrested him. I said"Do you wish to say anything in answer to the charge, you are not obliged to say anything unless you wish to do so, but whatever you say maybe taken down in writing and used as evidence."

BY THE COURT TO THE DEFENDING OFFICER:
Q. Do you wish to question this witness. Are you objecting to any statement by the accused?
A. No Sir.

WITNESS CONTINUES:
The accused told me that he had worked his way over in a cargo boat from Canada and landed at Liverpool. The accused told me that he had used his discharge certificate. He said it was a certificate he had obtained when he was in Canada. He came over to England on a cargo boat working his passage and landed at Liverpool, there he left the boat and did several kinds of work, after that he went to London where he picked up with a girl and they came to Coventry and she and he went to the Food Office she for the purpose of getting her name on her identity card changed to her married name"Thompson" and he to get a civilian identity card. He stated that he had been able to get food from different Cafes and eating h houses.

Q. At the time the accused was picked up was there anything to make you think that the accused was not in the country over two months?
A. No Sir

Q. This letter that the accused had on his person at the time, which has been marked Ex. "B" for identification, did the accused say anything about this letter?
A. No Sir.

...../2

STATEMENT BY WITNESS (Cont)

Q. How did you find out that the accused's pass was not good?
A. The accused admitted that he was absent.

Q. When was this?
A. When I charged him. When the accused was charged he said, "I am absent from 1st. of Dec." I said you have put the 4 in between the figure one and Dec. And he said, yes, I am AWL.

Q. When did he say this to you?
A. When he was charged.

Q. Before or after?
A. After the warning.

DEFENDING OFFICER:

Q. When did you first place the accused under arrest?
A. He was placed under arrest at 4 PM.

Q. Where did you pick him up, on the street?
A. Yes sir, at 1145 AM.

Q. Between 1145 AM and 4 PM did you ask him any questions?
A. Yes Sir.

Q. And got answers you have given us in evidence?
A. I did not get a lot of them until later, after he was formerly charged.

Q. Did the answers after arrest differ from those given before?
A. Yes Sir.

Q. How was the accused dressed?
A. In civilian clothes. He was wearing a navy blue suit and a dark overcoat.

Q. Was that dark overcoat not a service great coat?
A. Not to my recognition.

Q. What form of identification did the accused show to you and did you find any Army identification on him?
A. The discharge certificate Ex"C" and the leave pass.

Q. Did you not see his identity discs?
A. I did not see those until he was formally charged.

Q. Did you see his pay book with identity card?
A. I did not.

Q. Did you not see his pay book?
A. I did not search him. After he was searched his pay book was on him and we found it when he was searched.

Q. Did you see this woman?
A. Yes Sir.

A certified true stencil copy of Part II Order #176 d/14 Dec 44 para 6 , section "B" sub-section 3 and 4 relating to the absence of the accused submitted by Lt. J.C. DENT of #1 CCOD 4VRD. (Marked Ex. "D") and Expense Voucher (marked Exhibit "E".)

...../3

DEFENDING OFFICER:

The accused does not propose to make a statement but has asked to submit a Plea in Mitigation.

Q. Is he pleading guilty to the charge of being a deserter?
A. He did not intend to desert. The evidence shows no intention to desert. I hope it will be accepted from evidence today. There is no proof that he was a deserter or that he accepted a job or that he was going to desert or that he made any effort to get out of the country. Any man is entitled to wear civilian clothes on leave and that he was carrying all military identification. That would not be likely in a case of desertion. He had adequate time to dispose of all these if he fully intended to desert the army.

PROSECUTOR:

The thing is that he did try to get civilian identification card by producing a discharge paper dated 1940, which is one point which shows intention to desert. Secondly I propose he would be very foolish to throw away this documens until he could get a civilian identification card. He was trying to get a civilian ration card.

STATEMENT BY THE ACCUSED:

I am guilty of being absent, of changing my pass to 14 days. I did not intend to desert the Army. I intended to come back when 14 days was up. I had my uniform with me in a suitcase, and I had my identity card and pay book both with me all the time.

EXHIBIT "C"

CANADIAN ARMY OVERSEAS

LEAVE PASS

Date 27 NOV 44

Pass No. 81-F

No B-45745 Rank Pte. Name Glampson D. TO.

has permission to be absent from his unit from A.D hrs 30 Nov 44

to 2359 hrs 14 Dec 44 for the purpose of proceeding to

London

Orderly Room Stamp

(Unit Signature Stamp)

EXHIBIT "D"

Expense Voucher Re— Ref: KR & O [illegible] Capt.

Reg No B45145 Rank Pte Name Thompson J.H. Unit 4 VRD

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit from London from Coventry

Date	Particulars		Amount		
13 Dec 41	Escorts return fare from LONDON To	Coventry		14	5
	Prisoners single fare to LONDON From	Coventry		7	3
	Prisoners fare from	to		8	10
	Escorts & Prisoners expenses for ~~Bed~~; Meals, Bus fares				
		Total £	1	10	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W.R. Birch CAPT.
R. E. BIRCH, D.A.P.M.
C. M. H. Q.

J. A. Thomson LIEUT.
J. A. THOMSON, Can.
ADMIN. OFFICER, D.P.M.'s OFFICE, C. M. H. Q.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55 40/P & S/483 (6762)

J. M. Tidmore Co. EXHIBIT "B"

Dec. 7-12-41

Johnny Thompson

Dear Mother I Dad

Just a few lines
I hope these few both good health
and getting along fine. Well
dad I don't know what you intend
if we put me to try me I get job
in Coventry. The Ark place wants
to pay me $6 per week for
spelling a week or the bake shop
I don't think I will be home the 25 nor
Because I want to stay here. Do you
blame me. I have a discharge paper
with me. Every body tell me why
don't I get out of army and get a
job. Because if they had the
discharge papers. They would be
home too. I rather stay here
some too

then go back to canada I know I will be better off here than over there, Well Ada Bob Gwen Coventry are fine and good health. Uncle Bill he is getting fat now after he had a Op. Aunt Pat had wrote a letter to you and Aunt Polly wrote a letter too I never met Vern. But he is stay at Aunt Polly now. I've had many for last picture I sent. Well said of have something to say to you I have last found my real Mother. And she is very nice lady. They all treat me well And I by my self very much. Well my wife is getting along fine and good health. As well my self to. I will close now

Your Son
Robert Allie Loving Kisses

EXHIBIT "F"

M.F.M. 7
400 M—8-39 (1704)
H.Q. 1772-45-18

CANADIAN FIELD FORCE

DISCHARGE CERTIFICATE

This is to Certify that No. [illegible] (Rank) Pte. enlisted in the A. & S.H. of C. (Fd.) C.A. C.F. CANADIAN FIELD FORCE at Hamilton, Ont. on the 6th day of July 1940.

He served in A & S H of C (Fd.) C.A.C.F.

and is now discharged from the service by reason of being unlikely to become an efficient soldier. R.O. 37 (6a) 1939

THE DESCRIPTION OF THIS SOLDIER on the DATE below is as follows:—

Age 27
Height 5'8"
Complexion fair
Eyes blue
Hair fair

Marks or Scars: Scar right side of neck. Tattoo left arm—'I.T.'

John Jr. Thompson
Signature of Soldier

Date of Discharge September 27th, 1940.

W Greenspon
Issuing Officer

Lieut. Col.
O.C. The A. and S. H. of C. (Fd.)
Rank

Date September 27th, 1940

N.B.—As no duplicate of this Certificate will be issued, any person finding same is requested to forward it in an unstamped envelope to the Record Office, Department of National Defence, Ottawa, Canada.

(P.T.O.)

8. PUNISHMENTS (Cont'd)
(Continued from Previous Page)

Confirmation: Findings & sentence confirmed by Brig J E Sager, Com'd "F" Grp CRU on 9 Dec 44
Close Arrest: Placed in close arrest from 0330 hrs 9 Nov 44 to 2400 hrs 3 Dec 44 (24 days 20 hrs 30 mins)
Forfeitures: AWL from 0600 hrs 2 Nov 44 to 0330 hrs 9 Nov 44 (Absent 6 days 21 hrs 30 mins) Forfs 7 days pay FR&I 149 (1)(a) Forfs 3 days pay FR&I 149(1)(b) Forfs 25 days pay FR&I 149(1)(c)(i) (Total forf 35 days pay and stoppage of pay in the am't of $1-14-0 FR&I 178(2) and $84.90 FR&I 158(2))

9. APPOINTMENTS & PROMOTIONS

F 40402 (1)	L/Cpl	Pearl G L 4 VRD	To be A/Sgt from 11 Apr 44 to 21 Apr 44 To be A/Sgt from 25 May 44 to 21 Jun 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
C 669 (2)	A/Cpl	Garred P V 3 VRD	Appointed A/L/Sgt (Unpaid) wef 9 Dec 44 (Auth: CMI/801/Promotion/33 d/9 Dec 44)
E 52708 (3)	Pte	MacPherson A HQ	To be A/Cpl from 7 Feb 44 to 6 Mar 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
L 17104 (4)	Pte	Huff W MT Coy	To be A/Cpl from 21 Jan 44 to 20 Feb 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
A 4361 (5)	Pte	Sherman G L 5 VRD	To be A/Cpl from 14 Dec 43 to 13 Jan 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
B 72986 (6)	Pte	Watson A 4 VRD	To be A/Cpl from 15 Dec 43 to 30 Dec 43 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
K 42912 (7)	L/Cpl	Winston W D 4 VRD	To be A/Cpl from 21 Jan 44 to 20 Apr 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
A 11718 (8)	Pte	Binkle A H 3 VRD	To be L/Cpl from 11 Jun 44 to 17 Jun 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
A 10061 (9)	Pte	Drysdale J MT Coy	To be L/Cpl from 16 Feb 44 to 16 May 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
B 42137 (10)	Pte	Fowle R MT Coy	To be L/Cpl from 19 Aug 44 to 22 Aug 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)
K 57909 (11)	Pte	Heslop D A 4 VRD	To be L/Cpl from 15 Dec 43 to 14 Mar 44 (Ref C.M.Q./Circular Letter 115 d/21 Nov 44)

(OVER)

9. APPOINTMENTS & PROMOTIONS (Cont'd)

M 106555 Pte McIntyre H J (12) CS — To be L/Cpl from 2 Jul 44 to 1 Aug 44 (Auth: Ref CMHQ/Circular Letter 115 d/21 Nov 44)

K 57404 Pte McLaughlin W C (13) 4 VRD — To be L/Cpl from 5 Jul 44 to 31 Jul 44 (Ref CMHQ/Circular Letter 115 d/21 Nov 44)

B 112917 Pte Melarkey F C (14) 5 VRD — To be L/Cpl from 27 May 44 to 25 Jun 44 (Ref CMHQ/Circular Letter 115 d/21 Nov 44)

A 6071 Pte Trussler L W (15) 2 VRD — To be L/Cpl from 25 Dec 43 to 23 Mar 44 (Ref CMHQ/Circular Letter 115 d/21 Nov 44)

B 132847 Pte Yates D J (16) 2 VRD — To be L/Cpl from 26 May 44 to 20 Jul 44 (Ref CMHQ/Circular Letter 115 d/21 Nov 44)

10. TRADESMEN QUALIFICATIONS

L 105898 Pte Schachter H B (1) HQ — Having been TT by a STTB as Clerk Grp"C" is now shown as qualified wef 6 Dec 44 (Auth: Nom roll for TT (77515) d/12 Dec 44)

B 84977 Pte Thomson W J (2) 5 VRD — Having been TT by a STTB as M/Mech Grp"B" is now shown as qualified wef 7 Dec 44 (Auth: Nom Roll for TT (77308) d/9 Dec 44)

11. CHANGE OF ADDRESS NEXT OF KIN

C 18580 Pte Forde F G (1) 4 VRD — Change of address N-of-K to: Mrs Mary Forde (Mother) 218 Weston Road, Toronto, Ontario, Ontario, Canada

12. CHANGE OF NEXT OF KIN

D 7179 Pte Godsell J A (1) 5 VRD — Change of Next of Kin from: Mrs Jane Louise Godsell (Wife) to Mrs Edith Fairholm (Sister) 1845 Sicard St, Maisonneuve, Montreal, Quebec, Canada

13. RE-ENLISTED TO MARRY (A)(HD)

H 31075 Pte Dennis H W (1) 5 VRD — Part II DO 161 para 14(2) d/13 Nov 44 insofar as it refers to this soldier is hereby amd to read for "on or after (but not before) 7 Jan 45" read "on or after 8 Dec 44" (Auth: HQ C/d/406/Marry "D"/1 (Pers 3))

14. GOOD CONDUCT BADGES

B 94813 Pte Guyler J A — 4 Jun 42 Awarded one good conduct badge wef dates
A 59898 Pte Siegrist G D 23 Nov 44shown (Auth: CA(O/S)AO 308/40)
(1) HQ

D 167108 Pte Dandurand J G A — Awarded one good conduct badge wef 1 Dec
(2) 4 VRD — 44 (Auth: CA(O/S)AO 308/40)

(OVER)

1 CANADIAN CENTRAL ORDNANCE DEPOT, R.C.O.C.

PART II ORDERS

This Order No. 176
d/14 Dec 44

Sheet No. 7

15. HONOURS AND AWARDS

M 106953 Pte Gordon C L (1) A VRD — Awarded the Cdn Volunteer Service Medal and Clasp wef 11 Sep 44 (Auth: CA(O/S) RO 4167)

F 56629 Pte Surette G D (2) BR Coy — Awarded the Cdn Volunteer Service Medal & Clasp wef 6 Oct 44 (Auth: CA(O/S)RO 4167)

16. ATTACHMENTS INTER UNIT

A 59594 Pte Parwell K J
B 148106 Pte Wilson H E (1) CS — Att to MT Coy wef 12 Dec 44

F 50398 Pte Goldrich C R
L 3044 Pte Lamont T G (2) CS — Att to 1 VRD wef 11 Dec 44

C 110068 L/Cpl Kitts W C
G 49897 L/Cpl Fraser A J
F 31929 L/Cpl Clark A (3) CS — Att to HQ wef 12 Dec 44

B 46832 Pte Wnbee H F (4) CS — Att to 2 VRD wef 11 Dec 44

D 175560 Pte Officer H
K 49059 Pte Tolfree E C (5) CS — Att to 2 VRD wef 13 Dec 44

C 4244 A/Cpl Preston E C (6) CS — Att to HQ wef 12 Dec 44

C 113 Pte Willis J (7) CS — Att to 2 VRD wef 11 Dec 44

H 102[illegible] Pte Weedon A W (8) CS — Att to 4 VRD wef 11 Dec 44

D 140812 Pte Doyon F E
B 17881 Pte Mooney E J
K 36572 Pte Bale D H (9) CS — Att to 3 VRD wef 11 Dec 44

.....
(J C McClashan) Capt & Adjt
for Commandant, 1 Cdn Central Ord Depot

DJBL/

EXHIBIT "B"

1 CANADIAN CORPS TROOPS ORGANIZATION DEPOT, R.C.A.S.C.

PART II ORDERS

Issued by Brigadier R J Henderson, Commandant, 1 Cdn C C D

Last Order No. 175
d/13 Dec 44

This Order No. 176
d/14 Dec 44

WAR OFFICERS

1. ATTACHMENTS

Major (1) — B J Highfield, 4 VRD — Cease att fap from 1 Cdn S/Workshop wef 5 Dec 44

Lieut (2) — E B Tapley, MT Coy — Cease att fap from 1 CCRHU wef 12 Dec 44

OTHER RANKS

1. STRENGTH INCREASE

B 6307 (1) — Pte VanKoughnett H R, MT Coy — TOS on return from desertion wef 2200 hrs 12 Dec 44 & posted to Gd Increment

2. STRENGTH DECREASE

SOS to 1 CCRHU wef 8 Dec 44 (Auth: CMU/408/1 CCOD/1 444/Remuster/1 (Place) d/24 Oct 44

M 104102 Pte Crawford D — Veh Coy
C 100695 Pte Hebert E — Veh Coy
F 95427 Pte Kent N F — Veh Coy — Dvr Mech "C"
(1) 4 VRD

D 62365 Pte Lagace A (MT Coy) — SOS to 1 Hy Spec Emp Grp wef 11 Dec 44 (Auth: 408/Spec Emp Coy/1 (PTA) 452/Lagace A/1 d/6 Dec 44)
(2) MT Coy

D 96104 Pte Leclaire P E (Veh Coy) — SOS to Y3 List 1 CCRHU wef 7 Dec 44 on adm to Lister Emergency Hosp, Hitchin, Herts
(3) 4 VRD

C 2533 Pte Otis A (Veh Incr) — SOS to 1 CCRU wef 11 Dec 44 (Auth: 8066 CCOD & 408/RCASC/1 (PTA) 452/Otis A/1 d/6 Dec 44)
(4) 4 VRD

B 70498 Cpl Todd G H (Veh Coy) — SOS to 22 Cdn Spec Empl Coy wef 9 Dec 44 (Auth: CMU (PTA) A 10150 d/7 Dec 44)
(5) 5 VRD

L 93432 Pte Yurach N (MT Coy) (Clerk "C") — SOS to 1 RCVID wef 11 Dec 44 (Auth: 408/RUR/1/2 (Org 1) d/5 Sep 44)
(6) MT Coy

3. ATTACHMENTS

L 9607 Pte Bakken S
B 88006 Pte Scott J E — Cease att fap from 1 CCRHU wef 5 Dec 44
(1) 4 VRD

C 28975 S/Sgt Barber H F
A 55588 S/Sgt Brownlie A
I 35212 S MS Stanton J H — Cease att fap from 1 C.B.W. wef 7 Dec 44
D 166156 L/Cpl Stewart A
(2) 4 VRD

L 1594 Cpn Bell R — Cease att fap (except duty) from 1 CCRU wef 1 Dec 44
(3) 1 VRD

(OVER)

3. ATTACHMENTS (Cont'd)

Cease att fap from 1 CCOEMU wef 5 Dec 44

K 18026	Pte	Becker R C	F 96312	Pte	Gallant A J
L 107399	Pte	Grandfield C A	F 96665	Pte	Howard E W
B 145203	Pte	Kirby L A	B 3850	Pte	Lee R H
E 39217	Pte	Moreau V	F 79126	Pte	Surty G H
(4)		4 VRD	L 92530	Pte	Walker E A

C 33247 Pte Fraley L — Cease att fap from 1 CASCMU wef 10 Dec 44 Att fap to 4 VRD from 1 CASCMU wef 11 Dec 44
(5) CS

F 87107 Pte Hamilton R W — Cease att fap (except disc) from 1 CGPC wef 12 Dec 44
(6) 1 VRD

H 42011 Pte Ledoux F — Cease att fap (except disc) from 1 CGPC wef 10 Dec 44 Att fap (except disc) to 2 VRD from 1 CGPC wef 11 Dec 44
G 18943 Pte Vautare E
F 77211 Gnr Robinson A R
(7) CS

H 20672 Sgn McIver C — Att fap (except disc) to 1 VRD from 1 CGPC wef 12 Dec 44
(8) 1 VRD

B 70498 Cpl Toud G H — Att fap to 5 VRD from 22 Cdn Spec Empl Coy wef 9 Dec 44 Cease att fap from 22 Cdn Spec Empl Coy wef 13 Dec 44
(9) 5 VRD

4. COMMAND

B 58879	Pte	Allan R C	Proceeded on Command to Derby & Burton
H 15957	Pte	Wright E A	On Trent wef 1100 hrs 28 Nov 44 Returned
(1)		MT Coy	from on Command 1330 hrs 1 Dec 44
H 102596	Pte	Ashton R C	Proceeded on Command to Derby wef 1200
A 62062	Pte	Crosbie J L	hrs 7 Dec 44 Returned from on Command
L 27647	Pte	Umpherville W J	wef 1645 hrs 9 Dec 44
(2)		MT Coy	
B 3757	Pte	Barney G E	Proceeded on Command to Banbury, Derby
(3)		B4	& Bicester wef 0830 hrs 11 Dec 44 Returned from on Command wef 1530 hrs 12 Dec 44
M 7212	Pte	Dixon R (1 CCOEMU)	Proceeded on Command to Weedon & Derby
(4)		MT Coy	wef 0800 hrs 16 Oct 44 Returned from on Command wef 0930 hrs 20 Oct 44
C 38522	Cpl	Francis J (RCASC)	Proceeded on Command to Derby wef 1330
(5)		MT Coy	hrs 29 Nov 44 Returned from on Command wef 1700 hrs 1 Dec 44
L 18364	A/Sgt	Gardiner E F (RCASC)	Proceeded on Command to Derby & Old
L 5057	Pte	Hamilton W J	Dalby wef 0800 hrs 6 Dec 44 Returned fr
(6)		4 VRD	on Command 1930 hrs 8 Dec 44
B 61319	Pte	Gayford E	Proceeded on Command to Derby wef 1000
(7)		MT Coy	hrs 4 Dec 44 Returned from on Command 1400 hrs 7 Dec 44
F 5067	Pte	Hartlen R R	Proceeded on Command to Derby & Burton
A 116182	Pte	Iltchuck A	on Trent wef 1130 hrs 4 Dec 44 Returned
E 10316	Pte	Rodrigue J	from on Command 1730 hrs 6 Dec 44
(8)		MT Coy	

(CVDM)

4. COMMAND (Cont'd)

F 93546 L 59496 (9)	Pte Pte MT Coy	Leither G Slimon L L	Proceeded on Command to Derby wef 1000 hrs 4 Dec 44 Returned from on Command 1630 hrs 7 Dec 44
B 132889 (10)	Pte MT Coy	Russell J B	Proceeded on Command to Preston wef 1000 hrs 3 Dec 44 Returned from on Command 1400 hrs 6 Dec 44
F 41616 (11)	Pte HQ	Sebean W B	Proceeded on Command to London wef 0900 hrs 12 Dec 44 Returned from on Command 1515 hrs 12 Dec 44

5. LEAVE OF ABSENCE

Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4) wef 12 Dec 44 to 20 Dec 44

L 65473	Pte	Barthel A	
B 111243	Pte	Bradley A E	
D 122551	L/Cpl	Corber A	
B 57689	Pte	Downey W J	
F 95501	Pte	Henley L T	
L 100164	Pte	Kelly M F	
B 110762	Pte	Marshall F G	
A 3983	Pte	Melrose C L	
G 53209	Pte	Miller H S	
D 94111	Pte	Riopel J L	
G 54813	Pte	Covington G W	
D 9294	Pte	Fowler O C	
B 75768	Cpl	Nosh H	
(1)	MT Coy		
A 22147	Pte	Bleau J A	
C 15845	Pte	Buckland W G	
E 101094	Sgt	Donovan T D	
A 86072	L/Cpl	Francis W J	
C 38522	Cfn	Francis J (RCMPS)	
D 135867	Pte	Lightfoot H J E	
H 99078	L/Cpl	Marvin W E	
B 111573	Pte	Mayer A E J	
H 16592	Pte	Nicholson J J (1 CIRU)	
K 45206	Pte	Volland H E C	
D 166171	Pte	Cyr Z (1 COMMU)	
H 100890	Pte	Meyers W J	
B 142923	Pte	Peterkin J E	
A 51788	Pte	Query A E	

Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4) wef dates shown:

C 15663 H 101311 (2)	A/Sgt L/Cpl MT Coy	Cunningham T Wellman R C	1 Dec 44 to 9 Dec 44 9 Dec 44 to 17 Dec 44
A 21999 (3)	Pte 5 VRD	Boyle R L	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 13 Dec 44 to 21 Dec 44 with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4)
B 61049 B 77781 (4)	Sgt L/Cpl 5 VRD	Burt S V (RCMPS) Emerson R V	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 9 Dec 44 to 17 Dec 44 with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4)
B 87880 A 64370 35423 (5)	Pte Cfn Pte HQ	Chantrey H Thompson F W (RCMPS) Wedell E H	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 4 Dec 44 to 12 Dec 44 with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4)
B 103496 (6)	Pte 5 VRD	Cottom R G	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 11 Dec 44 to 19 Dec 44 with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4)
B 74599 (7)	Pte 4 VRD	Gardner T	Granted 7 days compassionate leave & 48 hrs pass (total leave & entitlement 9 days) from 12 Dec 44 to 20 Dec 44 with money allce in lieu of rations under F&I (O/S)Art 789(3)&(4)

(OVER)

5. LEAVE OF ABSENCE (Cont'd)

B 2800 M 65186 B 58568 (8)	Pte L/Cpl Pte HQ	Lynch J R Walker S R Watson G F D	Granted 7 days FL & 48 hrs pass (total leave & entitlement 9 days) from 4 Dec 44 to 12 Dec 44 with money allce in lieu of rations under FR&I (O/S)Art 789(5)&(4)
C 70597 (9)	Pte BR Coy	Sipes L B (1 CGMS)	Granted 14 days FL from 4 Dec 44 to 18 Dec 44 with money allce in lieu of rations under FR&I (O/S)Art 789(5)&(4)
B 63147 B 136721 L 27056 (10)	Pte Pte Pte 5 VRD	Thedorff R J V Graff W J Turner E A	Granted 7 days FL & 48 hrs pass (total leave & entitlement 9 days) from 12 Dec 44 to 20 Dec 44 with money allce in lieu of rations under FR&I (O/S)Art 789(5)&(4)

6. ABSENT WITHOUT LEAVE

L 104232 K 1207 (1)	Pte Pte 4 VRD	Hanes C E Poelzer A P J	Absent without leave wef 2200 hrs 2 Dec 44 Still absent without leave 2200 hrs 3 Dec 44 (1st day)
L 104232 K 1207 (2)	Pte Pte 4 VRD	Hanes C E Poelzer A P J	Absent without leave wef 2200 hrs 2 Dec 44 Still absent without leave 2200 hrs 10 Dec 44 (8th day)
B 45745 (3)	Pte 4 VRD	Thompson J H	Absent without leave wef 2359 hrs 1 Dec 44 Still absent without leave 2359 hrs 2 Dec 44 (1st day)
B 45745 (4)	Pte 4 VRD	Thompson J H	Absent without leave wef 2359 hrs 1 Dec 44 Still absent without leave 2359 hrs 9 Dec 44 (8th day)
B 6405 (5)	Pte 4 VRD	Treleaven R C	Absent without leave wef 1200 hrs 2 Dec 44 Still absent without leave 1200 hrs 3 Dec 44 (1st day)
B 6405 (6)	Pte 4 VRD	Treleaven R C	Absent without leave wef 1200 hrs 2 Dec 44 Still absent without leave 1200 hrs 10 Dec 44 (8th day)

7. HOSPITALIZATION

G 53453 M 96476 (1)	Pte A/Cpl 1 VRD	Evans R W Ewing J L (RCEME)	Disch from 2 C.D wef 13 Dec 44
D 61191 (2)	Pte 1 VRD	Malo R	Adm to 2 CMC wef 11 Dec 44

8. PUNISHMENT

B 38316 (1)	Pte 4 VRD	Oldfield A W	On 4 Dec 44 tried by F C C M Charges: 1/ Sec 15(1)AA 2/ Sec 40 AA 3/ Sec 24(2)AA 4/ Sec 40 AA Findings: Guilty on all charges Sentence: To undergo detention for a period of three (3) days and to be placed under stoppage of pay until he has made good the sum of $1-12-0 (cost of Apprehension) and $84.90 (unexpired value of deficiencies)

(continued on next Page)

Plea in mitigation for the accused.

Mr. President + Members of the Court

The accused Pte. G. H. Thompson enlisted in the Can. Army for the second time in Jan. 1941 and has been over (4) years of service with approx. 3½ of it in England. At the times of his re-enlistment it was known that he had been previously discharged as being unlikely to become an efficient soldier. This was ignored or passed over, as the case may be and it is the fault of the Army administration that Thompson was permitted to re-enlist and is in the army to day.

He was sent overseas in July 1941 with the trade of cook and has been in England ever since although his wish was to get to a fighting front. Any possibility of him getting to a fighting front was stopped in 1942 when his category was dropped to C because of trouble with his legs and ankles. This trouble has ameliorated and his present Category profile as of Apr 44 shows an E4 and M4. With regard to the M4 rating on his Category profile and his recent routine employment it would seem to suggest that his mental ability is definitely below average. From conversation with the accused, it was concluded that although he appears to be able to differentiate between right and wrong on army conduct standards he does not seem to appreciate the implication of his acts adequately.

Therefore the defense asks that a plea for leniency will be considered and it is submitted that the accused should appear before a psychiatrist

P.T.O.

AM

for a review of his N grading as soon as possible.

SUMMARY OF EVIDENCE

in the case of

B-45745 Pte. Thompson, J.H., on strength of No. 4VRD, 1 C.C.C.O.D., R.C.O.C., a soldier of the Canadian Army Overseas.

By Direction of the Acting Officer in Command, 4 VRD, 1 C.C.C.O.D., R.C.O.C., the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

Lieut. G.E. Algar, Regimental Officer, on strength of 4 V.R.D., 1 C.C.C.O.D., R.C.O.C., an Officer of the Canadian Army Overseas, having been duly sworn, states as follows:-

~~I, Lieut. G.E. Algar, produce certificate pursuant to A.A. 163(1), (j) purporting to be A.F.C. 1617, Certificate of Surrender to Civil Police of Deserter or Absentee without leave, signed by the Station Sergeant, Coventry City Police, relating to the accused (Marked Exhibit "A")~~

I produce as evidence 1 C.C.C.O.D., Pt II D.O. 176, d/14 Dec 44, relating to the accused (Marked Exhibit "B")

I produce leave ~~Pass~~ Stub, relative to the accused (Marked Exhibit "C")

I produce CMHQ 100:55 Expense Voucher, relating to the accused (Marked Exhibit "D")

~~I produce letter written to Mrs T. Thompson, 253 Strathearne Ave., Hamilton, Ont., relating to the accused (Marked Exhibit "E")~~

~~I produce AFW 7, Discharge Certificate, relating to the accused. (Marked Exhibit "F")~~

G Algar Lieut

The accused declines to cross-examine this witness.

~~SECOND WITNESS for the prosecution~~

~~Jack Arnold Smith, P.C. 95 of Coventry City Police,~~

~~A written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence. (Marked Exhibit "G")~~

~~Having regard to loss of time and expense involved, attendance of this witness cannot, in my opinion, be readily procured.~~

G M Stedman

(G.M. Stedman) Captain
Officer Detailed to take Summary of Evidence.

~~The accused does not demand the attendance of this witness for cross-examination.~~

The accused was cautioned as follows:
Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the accused declines to make a statement and reserves his defence.

/ OVER

I certify that the foregoing Summary of Evidence consisting of two(2) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have beencomplied with.

W.A. Stedman

(W.A. Stedman)Capt.
Officer Detailed to take
Summary of Evidence.

Bordon, Hants,
18 Dec 44.

ADDITIONAL

SUMMARY OF EVIDENCE

In the case of

B-45748 Pte. Thompson, J.H. on strength of No.4V.R.D. 1 C.C.O.D., R.C.O.C. a soldier of the Canadian Army overseas.

By direction of the acting officer in Command 4 V.R.D. 1 C.C.O.D., R.C.O.C. The summary of evidence is taken on oath.

First Witness. For the Prosecution.

Jack Arnold SMITH, P.C.95 of Coventry City Police. having been duly sworn, states:

At 11.45 a.m. Tuesday, 12th December 1944 in consequence of a message received, I went to the local Food Office, where I saw the prisoner. I arrested him and brought him to the Central Police Station, Coventry, and on searching him I found a letter addressed to Thompson's parents, marked exhibit "E", which I produce, and also found a certificate showing his pre-discharge from the Canadian Army on the 27th September 1940, marked exhibit, "F", which I also produce, and which had been presented at the local Food Office with a view to obtaining a civilian Identity Card for the prisoner.

When I arrested Thompson he was dressed in civilian clothes, a blue suit and a dark overcoat and he had a scarf round his neck, which, when undone, revealed a khaki shirt with collar attached.

The prisoner had produced to me during the time I was questioning him a Leave Pass, exhibit, "G", which I produce. This was a Pass entitling the prisoner to leave from A.D. hours, 30th November 1944 to 23.59 hours, 14th December, 1944 for the purpose of proceeding to London, but upon checking this up it was found that the figure "4" had been inserted between the "1" and "Dec.", thus forging the Leave Pass

Jack A. Smith
P.C. 95.

Accused declines to cross examine this witness.

The accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath? You are not abliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declines to make a statement and reserves his defence.

I certify that the foregoing Additional Summary of Evidence, consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) & (g) have been complied with

Bordon - Hants
8 Jan. 1945.

H.W. Stedman Capt.
Officer Detailed to take Additional Summary of Evidence.

ADDITIONAL

SUMMARY OF EVIDENCE

in the case of

B-45745 Pte. Thompson, J.H., on strength of No. 4 VRD, 1 C.C.O.D., R.C.O.C., a soldier of the Canadian Army Overseas.

By Direction of the Officer in Command 4 V.R.D., 1 CCOD, R.C.O.C., the Summary of evidence is taken on oath.

FIRST WITNESS for the Prosecution. Jack Arnold Smith, P.C. 95 of Coventry City Police.

A written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this Summary of Evidence(Marked Exhibit "G")

Having regard to loss of time and expense involved, attendance of this witness cannot, in my opinion, be readily procured.

(N.J.F. McLeod) Lieut.
Officer detailed to
take Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

The accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declines to make a statement and reserves his defence.

I certify that the foregoing additional Summary of Evidence consisting of one(1) page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

(N.J.F. McLeod) Lieut.
Officer detailed to
take Summary of Evidence

Bordon, Hants,
11 Jan 45

C O P Y. EXHIBIT "Q"

Jack Arnold Smith P.C. 96,
Coventry City Police.

REPORTS:-

Re: Gunner John Henry Thompson, No. B.48745,
Canadian Army, A.V.R.D. Bordon, Nr. Aldershot.
Army Absentee, 1st December 1944.

At 11.30 a.m. Tuesday 12th Dec. 1944 a message was received from the local Food Office that a girl named Margaret G. Blakeman, E.T.B.O. 7/29, home address, 8, Eight Acres, Beacon Hill, Hindhead, Surrey, was there applying for a new Identity Card and Ration Book as she had just got married and she was also applying for a new Identity Card in respect of her husband, John Henry Thompson, whom she stated was a discharged Canadian soldier. I went to the Food Office and saw Miss Blakeman. She repeated her story and produced an Army Field Discharge Certificate, dated 27th Sept.1940, issued to Gunner John Henry Thompson, No. B. 48745, authorising his discharged on that date as unlikely to become an efficient soldier. She stated that she was meeting her husband later in the day as he had gone to look for a job in Coventry and that they were staying.

As it was impossible to make an application for an Identity Card otherwise than personally, Miss Blakeman arranged to bring Thompson to the Police Station as soon as she saw him. She then went out and I followed and then saw the girl and Thompson walking along Hertford Street. I stopped them and they accompanied me to the Police Station. There Thompson told the tale that he was discharged from the Canadian Army in accordance with the Discharge Certificate and that he had come over to England on a Cargo Boat, working his passage and had landed at Liverpool approx. 4 mths.ago. He had been in possession of a Passport and what he called a Canadian Register Card, but that after 'walking off the ship at Liverpool' he went to London and several other places including Surrey, where he met the girl Blakeman and lost all his documents. He then came to Coventry on Sunday last in order to get work. He stated he had been managing to get food without Ration Books and had never been challenged for his Identity Card, but thought that if he was coming to Coventry to work he would want an Identity Card.

He was unable to give any definite date on which he arrived at Liverpool and he did not know the name of the ship of which he did arrive, but as he stated he was unable to give any further particulars of himself and he said he had no further papers on him, I communicated the with Liverpool City Police, Aliens Office, and requested them to communicate with the Immigration Office, with a view to seeing if any trace of this man could be found as it appeared that he had landed in this country without the permission of the Immigration Officer. They later replied that they were unable to find any trace of Thompson.

I then communicated the with Canadian Army Records Office, London and they intimated that they would make a search of their records and ring back. Whilst waiting for this call Thompson called me and produced the attached Leave Pass saying, "What would you say if I proved to you that I was on leave?" I told him that if he had had this document on him all the time and had not produced it it was his fault and that he should have had more sense. This Leave Pass purported to expire at 23.59 hours, 14th December 1944. Immediately after this the Canadian Army Record Office telephoned to the effect that Thompson was posted as an absentee from the 1st December 1944. They arranged to send an escort and upon a closer examination of the Pass it is possible to see that the figure "4" has been inserted by the side of the figure "1", making the 1st into the 14th. He was charged and taken to the Charge Office and detained.

P.T.O.

Continuation.

Upon being searched the attached Identity disc in the name of A.L. Boinin, stamped on it was found, as was also a letter addressed to Thompson's parent informing them that he was going to desert from the Army, using the Discharge Certificate, and was going to get a job in Coventry as a Baker.

I am, Sir,
Your obedient servant,

(Signed) Jack A. Smith,

P.C.95.

Forwarded for the information of the Officer Commanding, Canadian Army A.V.R.D. Bordon, Nr. Aldershot.

S.A. HECTOR,

13th December 1944. Chief Constable.

COVENTRY CITY POLICE
13 DEC 1944
SUMMONS & WARRANTS DEPT.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-45745	Pte.	Thompson, J.H.	4 V.R.D., 1 CCOD, RCOC

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sec. 15(1) A.A.	3 times	Sec. 15(1) A.A. 7 times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~The accused has not been previously convicted~~

or.

2. Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for 63 days in military custody, making a total of 63 days in custody.

5. The present age of the accused according to his record of service is 32 years, 40 days.

6. The date of his attestation specified in his record of service is 29 Jan. 1941.

7. The service which the accused is allowed to reckon towards discharge is 3 years, 343 days as of 18 Dec 44.

9. The accused is entitled to military decoration, or military reward State any military decoration or reward. Cdn. Volunteer Service Medal & Clasp.

dated

1

2

3

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number B-45745 Rank Pte.

Name Thompson, J. of 4 V.R.D., 1 C.C.O.D., RCOC Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	4 April 1942 In the Field	A.A. Sec 15(1) A.W.L. 17 days, 15 hours and 40 minutes.	40 days Detention.	10 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15 day of January 1946 Lieut

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked F signed by the president, and annexed to the proceedings.

M.F.M. 6

No. B.45745 Name THOMPSON, J.H. Sqn., Battery, or Company | Corps R.C.O.C. | Date of enlistment 29 Jan 41. | C.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	20 Aug 41	Gnr		A.W.L. 17 hrs 16 min. A.A. 15(1)		2 days pay FRI 149(1)(c)			1 days pay FRI 149(1)(a)
Field	18 Nov 41	Gnr		A.W.L. 6 hrs 30 min. A.A. 15(1)		3 days pay FRI 149(2)			1 days pay FRI 149(1)(a)
Field	4 Apr 42	Gnr		A.W.L. from 0630 hrs 4 Apr 42 to 2210 hrs 21 Apr 44. A.A. 15(1)		40 days Detention.		F.M.F.M.	Total forf. 65 days pay.
Field	4 Jan 43	Gnr		A.W.L. from 1200 hrs 4 Jan to 2100 hrs 6 Jan 43. A.A. 15(1)					
Field	4 Jul 43	Gnr		A.W.L. from 1900 hrs 4 Jul to 2110 hrs 10 Jul 43. A.A. 15(1)		27 days F.P. 27 days pay			Total forf. 36 days pay
Field	26 Dec 43			A.W.L. from 1900 hrs 26 Dec until 2359 hrs 1 Jan 44. A.A. 15(1)					14 days pay
Field	14 Mar 44			A.W.L. 4 days. A.A. 15(1)					Total forf. 18 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Jul 44	Gnr		AA Sec 15(1) AWL from 2359 hrs 15 Jul to 1530 hrs 25 Jul 43. (Absent-9 days,14 hrs, 31 mins)		28 days Detn. 28 days pay			10 days pay FRI 149(1)(a)

CERTIFIED TRUE COPY OF EXTRACTS FROM M.F.M. 4 - 19 Dec 44.

Edgar Kent

.....

4 V.R.D., 1 C.C.O.D., R.C.O.C.

(Officer having custody of Regimental Books)

I, B-45745, Pte. Thompson, J.H., of 4 V.R.D., 1 Cdn. C.O.D., R.C.O.C., wish to have Lieut. C.W. OpZoomer No. 4 V.R.D., 1 C.C.O.D., R.C.O.C., represent me at my trial.

Pte J.H. Thompson

(B-45745 - Pte. Thompson, J.H.)

LIST OF WITNESSES FOR PROSECUTION

Lieut. G.E. Algar, No. 4 V.R.D., 1 C.C.O.D., R.C.O.C.
Jack Arnold Smith, P.C. 95, Coventry City Police.
Margaret G Blakeman, Eight Acres, Beacon Hill, Hindhead, Surrey.

1264 Gnr Thomson J. H.

O. H. M. S.

M. F. B. 270
1000 M 12-40 (8668-59-70)
H.Q. 1772-39-67

Correspondence to be PINNED here.

126 H

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY NINTH day of APRIL, 1942.

Whereas it appears to me, the undersigned, an officer in Command of ROYAL CANADIAN ARTILLERY, FIRST CANADIAN ARTILLERY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

PROCEEDINGS REVIEWED

Officer i/c Base Records
28 May 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H.C. MacDougal	2 LT A.A. Regt RCA

Members.

Rank.	Name.	Regiment.
Lieut.	K.S. Keator	1 A.Tk Regt RCA
Lieut	D.F. McOust	1 A.Tk Regt RCA
Lieut.	WAITING MEMBER E.F. Femmingley	2 Lt A.A. Regt RCA

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]

Commanding (A. E. D. TRAINING)

*Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B 45745 Gnr Thompson, J.H. 3 Fd Regt RCA	W.O.A.S. Absenting himself without Leave (A.A. Sec.15(1))	Guilty	Guilty Forfeiture of 15 dys pay (FR=I 148(1)A) and 80 dys Detention	Confirm The finding and sentence of the Court but mitigate the sentence to Forfeiture of 15 days pay and 40 days detention J.C. Macdougall Brigadier

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.C. Macdougall Brigadier (Signed) J.C. Macdougall Maj
Commanding R.C.A. 1Cdn Div 2nd S.A.A. Regt R.C.A.
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the TWENTY NINTH day of APRIL 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 29th day of April 1942.

J.C. Macdougall Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 370 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 1st day of May 1942.

J.C. Macdougall
Confirming Officer. Brigadier

Promulgated and extracts taken in the case of B-45745, Gnr. Thompson, J. H.

(*a*) (Dated) 3 May 42 (Signed) J.C. Ford
(F. A. Ford) Lt.-col.,
Comd., 3 Fd. Regt., R. C. A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47787/1937 25 M. 5/41 K.H. 526(D2) Gp. 698-3

CHARGE SHEET

The accused, No. B-45745, Gnr. Thompson, J. H., SPECIAL INCREMENT 3 Cdn Fd Regt, a soldier of the Canadian Army, is charged with:-

First Charge

SEC. 15 (1) A.A

When on Active Service, absenting himself without leave--

in that he

in the field, absented himself without leave, from 0630 hrs., 4 Apr 42 until apprehended by the military police at 2210 hrs., 18 Apr 42, a total absence of 14 days, 15 hours, 40 minutes.

(F. A. Ford) Lt.-col.,
Comd., 3 Fd. Regt., R. C. A.

20 Apr 42
In the field

To be tried by Field General Court Martial

(A. E. D. TREMAIN)
Brigadier
C.R.A. 1 Can. Div.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA. 557

I certify that I have this morning examined

No. B-45745 Gnr. Thompson J. H.

of Special Increment 3 Cdn Fd Regt and in my opinion he

is fit/~~unfit~~ to undergo Trial by Court Martial.

P.K. Tisdale Capt

(P. K. Tisdale) Capt RCAMC
M. O., 3 Fd. Regt., R.C.A.

In the field
29 Apr 42

29 April 42

B45745 GNR THOMPSON J H

LIEUT A.C. PATERSON

LIEUT A.L. CURRIE

NO

A Macdonald
President

EVIDENCE IN THE CASE OF No. B-45745, Gunner John Henry THOMPSON, of Special Increment, 3 Canadian Field Regiment held in the Field on this twenty ninth day of April, 1942.

5. The court, having been reopened, the charge to which the accused pleaded guilty was read to him again.

6. Question to the accused :

Do you wish to make any statement in mitigation of punishment ?

Answer: Yes. (Pointing to Defending Officer)

7. The Defending Officer, Lieut. A.L.Currie, 3 Fd Regt., R.C.A. having been duly sworn, made the following statement:

I have known Gnr. Thompson since his second entry into the Canadian Army, which was in the spring of 1941. Evidence that he was in the Canadian Army before that time is here, which is his original discharge paper. He has shown himself to be a rather efficient soldier, given a job to do, he will do it well, although I must admit that he has to be told in detail what is wanted, but it will be dome. As far as initiative is concerned and ability to qualify for an N.C.O. he is entirely lacking. Gnr. Thompson's first offence in the Canadian Army was due to trouble at home, the details of which I am familiar with, and it is a sad case, due to his wife's adultery. He asked for compassionate leave to return home, which was refused so he went A.W.L. Since that time he has suffered from a wracked mental condition and his subsequent lapses, I consider, are entirely due to his domestic troubles.

8. Question: Are there any more witnesses as to character ?

Answer : Yes.

9. Capt. P.K.Tisdale, M.O. was called and having been duly sworn made the following statement :

I am Capt. P.K.Tisdale, Medical Officer, 3 Fd. Regt., R.C.A. The accused, Gnr. Thompson, in my opinion is what might be termed an "inadequate personality". He has not demonstrated the fortitude which enables him to face up to the life as he has found it, both in civil life and in the Army, resulting in various attempts at escapism which have frequently landed him in trouble.

10. Bdr. H.S.Stone was called, and having been duly sworn, made the following statement:

I am H-5071, Bdr. H.S.Stone. Ever since Gnr. Thompson joined this regiment, he has been working with the samitary detail of which I am in charge; also any work given to me by the R.S.M. that I have passed on to him. He has done this work thoroughly and well, and I have never had any trouble with him. In fact, I could not wish for a better sanitary orderly.

11. Prosecutor is asked if he has any evidence as to character, and having been duly sworn, states :

I am Lieut. A.C.Patterson, 3 Fd.Regt., R.C.A., Acting Adjutant. I produce a certified true copy of M.F.M. 6 (Field Conduct Sheet) of the accused.

12. Court is closed for consideration of sentence.

[illegible] President.

ABSTRACT OF EVIDENCE IN THE CASE OF B 45745 GNR. THOMPSON, J.H., 3 CDN. FD. REGT.

Take notice that ~~after~~ at your trial, C 41977 L/Cpl. Boal, T.A., 1 Pro. Coy. R.C.M.P. will be called to prove that you were taken into custody at 2210 hrs 18 Apr. 42, at WORTHING.

F. A. Ford

(F.A. Ford)
Lieut-Col.,
O.C. 3 Cdn Fd Regt

Distribution:

Accused
President of the Court
Prosecuting Officer
Defending Officer
File.

3FR/5-4-3
20 Apr 42

H. Q., R. C. A.
1 Cdn Div

APPLICATION FOR FIELD GENERAL COURT MARTIAL
B-45745, Gnr. Thompson, J. H.

1. The accused, the m/n soldier, has stated that he wishes the services of Lieut. A. L. Currie, of this Regiment, in his defence when he appears before a F. G. C. M.

(F. A. Ford) Lt.-col.,
Comd., 3 Fd. Regt., R. C. A.



Summary of evidence in the case of No. B-45745, Gnr. Thompson, J.H. Special Increment 3 Cdn Fd Regt.

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st Witness for the Prosecution

No. H-5008, R.S.M. (W.O.I) R. A. Cairns, 3 Cdn Fd Regt, having duly been sworn, states:

Gnr. Thompson was due back at reveille 4 Apr 42 from seven days' privilege leave. His name was called with the "Q" Group that morning by the N.C.O. i/c, Sgt. Kinahan, who reported him absent. He was reported absent daily thereafter until he was turned over to the Unit at 2230 hrs 18 Apr 42 by the R.C.M.P. who had apprehended him in WORTHING at approximately 2200 hrs that day. From the time he went absent until he was received into our custody had ~~not neither~~ neither seen nor heard of him.

The accused declines to cross-examine this witness.

R A Cairns RSM

(R. A. Cairns) R. S. M.
3 Cdn Fd Regt.

2nd Witness for the Prosecution

No. K-7039, Sgt. Kinahan, J. A., 3 Cdn Fd Regt, having duly been sworn, states:

At the 0830 hrs. parade on 4 Apr 42 I was N.C.O. i/c "Q" Group of which Gnr. Thompson is a member. I called his name at that parade and he failed to answer, neither was he reported as being on duty. I immediately reported him absent to the R.S.M. I reported him absent every morning up to and including 18 Apr 42 at each 0830 hrs parade. From the time he went absent until he returned I had neither seen nor heard of him.

Cross-examined by the accused:

Q-1 - As I am employed on permanent duty firing the boilers and in the kitchen, would you know by a rollcall on parade whether I was absent or not?

A-1 - I know you are employed that way but I am provided with such a list of men and each morning I check to find out if they are employed and excused parade; also I have the names of men on leave and when they should return and each morning before parade I check to see that they have.

J A Kinahan Sgt

(J. A. Kinahan) Sgt.
3 Cdn Fd Regt

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this twentieth day of April 1942 at R.H.Q. 3 Cdn Fd Regt.

A C Patterson

(A. C. Patterson) Lieut
O. C., 3 Cdn Fd Regt.

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-45745	Gunner	THOMPSON, J. H.	Spl Inc 3 Cdn Fd Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15 (1) A. A.	6 times	7 times.
For Sec 40 A. A.	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* [redacted]

3. The accused is not under sentence at the present time, *or* [redacted]

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 2 days in military custody, making a total of 2 days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 29 years

6. The date of his commission / attestation specified in his record of service / attestation paper is n.a.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n.a.

8. The accused is entitled to deferred pay or gratuity in respect of n.a. service.

9. The accused is entitled to reckon n.a. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of n.a.

12. (*In the case of an officer.*) The accused holds in the army the rank of n.a., dated , and in his regiment (*or* corps *or* department) the rank of dated

(*16148) WL30249/862 75,000 12/40 A.S.R.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B45745 Rank Fus. Name Thompson J.H. of 3 Coy 7th Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.
		nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of April 1942.

Lt. Col.
Comdg. 2 Field Regiment, R.C.A., C.A.S.F.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of n.s. years

In the rank of ..... years.

(INSTRUCTIONS—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. B45745 Name Thompson, J.H. Sqn., Battery or Company 11 Bty Corps 12 Fd Regt RCA Date of enlistment 29:1:41 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

MFM 6 (A.F.B. 128)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries 4:2:41					
Sussex NB	4 Mar 41	Gnr		AWL (20 days 18 hrs 20 Min)	Sgt Matheson	28 dys Det.	27 Mar 41	Col. G.T. Inch	21 dys pay under F R & I
Camp Sussex	16-6-41	Gnr		AWL 11 days 10 hrs	Sgt Richie	Ffts 20 days ffts 12 days under F.R.&I.	5:7:41	Lt Col Inch	
Camp Sussex	12-7-41	Gnr		AWL 2 days 30 min.	Sgt Tancock	7 days pay	15-7-41	Lt Col Inch	Ffts 3 dys pay F.R.&I.
Camp Sussex	15-7-42	Gnr		AWL 7 hrs 16 min.	L/Sgt Jones	7 days C.B. 2 days pay	15-7-41	Lt Col Inch	Ffts 1 dys pay F.R.&I.

(P.T.O.)

Place	Date of offence	Rank	Cause of Stoppages	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cmp Leipzic	13-8-41	Gnr		AWL from 2359 hrs 13-8-41 to 1715 hrs 14-8-41(17 hrs 16 min)	Gnr Finnie	Ffts 2 dys pay and awarded 7 dys. C.B.	20-8-41	Lt Col G.T. Inch	Forfeits 1 days pay F.R.&I.
Priors Hatch	4-11-41			AWL 6 hrs 30 min	Bdr Weber, N.	Ffts 3 dys pay.	10-11-41	Lt Col G.T. Inch	Ffts 1 days pay under F.R.&I.
Priors Hatch	4-11-41			Conduct to prejudice	Bdr Weber, N.	Admonished	10-11-41	Lt Col G.T. Inch	
Priors Hatch	18-11-41			AWL (3 hrs 50 min)	L/Bdr Robb, R.	3 dys C.B.	21-11-41	Major J.G. Spotton	

CERTIFIED TRUE COPY OF ORIGINAL MEM 6 OF NO. B-45745 GNR. THOMPSON, J.H. A.A. Atkinson Lieut.

333-151

SPR THOMPSON L

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Sigmn Lorne Thompson

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

WWP ~~At present under sentence for~~ ~~Beginning on~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for 50 days and to forfeit 50 days pay.

(Sgd) W.P. Shirreff Jr Judge-Advocate, if any. 25 Jan 44 Date awarded. (Sgd) V.R. Feld President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

I ~~DO NOT CONFIRM THE FINDING AND SENTENCE~~ (1) WW

(1. AA 57A. Delete if not used.)

(Sgd) F.F. Worthington

(F.F. WORTHINGTON) Maj-Gen

Date JAN 28 1944 Commanding 4 Cdn Armd Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C64593 Sigmn Thompson, L.	31 Jan 44	(W.P. Shirreff) Lt Offy Gremd Sigs 4 Cdn Armd Div.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

B88-157

CFA96 (In lieu of AFA3) 40/P&S/1098 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of F.F. Worthington Maj-Gen Comdg 4 Cdn Armd Div dated 24 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C64593	Sigmn	Lorne	Thompson	4 Cdn Armd Div Sigs

PROCEEDINGS REVIEWED

Rshirreff Capt

15 Feb 44

REVIEWING OFFICER, JAG BRANCH, CMHQ.

PROCEEDINGS REVIEWED Date 21 Feb 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) WWP The Court is satisfied that it is properly convened and constituted(2), accused is ~~sure~~ amenable to military law, and WWP each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0935 hours trial commences. WWP

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) WWP ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) WWP WWP

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to no interpreter? Ans~~ WWP

~~The Interpreter is sworn.~~ (1) Do you object to Sgt K.R. Truite as shorthand writer? Ans NO WWP

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col	V.R. Feld	HQ 4 Cdn Armd Div
Member	Lieut	G.A. Campbell	29 Cdn Armd Recce Regt
Member	Lieut	J.S.W. O'Leary	8 Cdn Fd Sqn RCE
Judge-Advocate	WWP	W.P. Shirreff	HQ 4 Cdn Armd Div
Prosecutor	Lieut	J.W. Pinturel	4 Cdn Armd Div Sigs
Defending Offr	Lieut	O. Baamet	4 Cdn Armd Div Sigs

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Sigmn Lorne Thompson before arraignment make(s) (no) ~~(or)~~ plea WWP (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. WWP

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WWP A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. nil.(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part 1 of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 65(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. RP 113. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. nil

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. AFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, then my defending officer. See M

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7.12

(1. When several accused tried separately see RP 46. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offence, by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

First Charge
Sec 15 (1)
Army Act

The accused, C64593 Signalman Lorne THOMPSON, 4 Cdn Armd Div Sigs, a soldier of the Canadian Army Overseas, is charged with, W.C.A.S.:-

Absenting himself without leave, in that he,

In the Field, on 10 Jan 44, did absent himself without leave from 0700 hrs 10 Jan 44 until 2230 hrs 10 Jan 44 (Total time absent 15 hrs 30 mins.)

W.F. Sherriff

(W.F.Sherriff)Lt.-col.,
Comd Sigs4 Cdn Armd Div.

In the Field
18 Jan 44.

To be tried by FGCM.

F.F. Worthington

(F.F. Worthington) Maj-Gen,
GOC 4 Cdn Armd Div.

In the Fd
24 Jan 44.

O.R. Fees
Lt-Col
JAG

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA33)
40(FA8)1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 64593	Sigmn		Lorne	THOMPSON	4 Cdn Armd Div Sigs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 24 Jan 44 endorsed by me, ~~(or by an offr of my staff for me)~~ to be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~ FPC
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ FPC ~~attached hereto~~.
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	V R FELL		HQ 4 Cdn Armd Div

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lt	G A CAMPBELL		29 Cdn Armd Recce Regt
Lt	J S M O'LEARY		8 Cdn Fd Sqn RCE

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Maj	W A D GUNN		HQ 4 Cdn Armd Div

On Active Service in the Fd

in England (Country.)

7-7 Brayton (Signed personally. RP 105 fn 2.)

Maj-Gen (Rank.)

Dat 24 Jan 44

Commanding GOC 4 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

V.R. Fell
Lt-Col
Pres.

THIS CERTIFIES THAT I HAVE EXAMINED C64593 Sigmn THOMPSON, L

AND FIND HIM fit TO UNDERGO TRIAL BY

COURT-MARTIAL.

D. Chisholm Capt RCAMC

In the Field
25 Jan 44

O/C Tech
Det

"M" Exhibit

plea in mitigation for the Prisoner

The defense is based upon three main headings, which will try to show, that Sigan Thompson L. is not totally responsible of the crime as charged against him.

1. Age factor
2. Crime sheet history factor
3. psychological factors

1. Sigmn Thompson L. was under age when he first enlisted- and yet- after 2 years and 5 months of service in the Armed Forces,- he is still under age.

When he was signed up- his age was given as being 19 years old. When the recruiting Officer made enquiries from the Registrar's Office at Toronto, and asking to forward the birth certificate of Sigmn Thompson L., the clerk from the Registrar's Office had written on the document sent, and seen by Thompson L., that he had looked up years 22 23 and 24, and that he had not found any trace of the mentioned person, and then went on suggesting that the birth had not been registered.

Now if that official had looked as far forward as 1926- very likely he would have found the person's name and the information requested by the recruiting Officer- which information would have made the recruit only 16 years of age, and thus, not eligible for military service.

First mistake made by a civil official, permitting a young impulsive immatured, adventure-seeking lad to be accepted in the Canadian Army. If the right information had reached the recruiting Officer this boy would have been refused, and to-day- he would not be here standing trial.

2. Since 4 may 42 up to now- this boy has 11 cases of AWL 4 of which are in the field. Now, had this boy been dealt with, more severely in the past while at his third ~~whuba~~ or fourth offense, it is very likely that he would not be here to-day. There is such a thing as being good and " too good"-- This " being too good" often becomes a lack of firmness- of authority- and often it is found to be the cause of more harm than good.

It's just like spoiling a child, and the first one to suffer often is the child himself.

3. Very impulsive- bored-under nervous tension- and of mediocre morale and of immatured character, this boy should not be here. Well- he has been more of a liability to the Army than an active asset. Employed as a batman, this boy very frequently had to work late in the evening, and the place where he is billetted is about four miles from the nearest town, where one can have certain amount of relaxation.

Now, gentlemen, try and picture a young lad leaving his home for the first time, just when life takes a new meaning to him, at an irresponsible age, being enregimented with some others of a wider experience of the world and life. There is bound to be a shock for him, and he feels insecured until he gets accustomed to his new surroundings. Even when that stage has been reached, he will get lonesome if proper relaxation and entertainment is not available at periodical times.

The human being is so made that the familiar things lose the power of being entertaining, and so, in order to get out from under the impending boredom, he must do something different; leaving habit aside he acts with determination or impulsiveness. Such is a man taking a furlough. This boy had his last furlough last November 43, since then he had a couple of short week ends, and on 8 Jan 44, he met a friend of his on a 9 days furlough, with plenty of money and who was going up North. Both of them had a little celebration and then went on seeking for " friendly interest in the big town of London, which interest they found.

Adventure is thrilling, especially if there are the things in the back of one's mind to which he was hoping for. And so, in a "pub" the two friends made contact with two alluring forms which, in no time, had managed to impress their desires unto the two soldiers. The rest is old history. But then, how quick time goes, and soon the quartet had to come to reality again, and the boys to find that the last train back to camp had been missed by an hour or so, and then on, as before, the judgement of this man was wronged- by fear(as being AWL)- by

by boredom(as having to come back to the same grind)- by thrill and the sensation of adventures(in the acquaintance of new feminine understanding) and by uncertainty (in not being able to resolve one'self to seek some other means of transportation in the early morning.)
The sense of guilt was much lessened on account of the previous offenses of the same nature already committed and entered on the crime sheet of this boy.
If less lenient sentences had been delivered previously- perhaps to-day this ordeal would have been spared, would have been averted.

Now a sentence is about to be passed upon a boy who is under age, under military age; a boy very impulsive- bored- disliking the army- a misfit almost and with not totally his fault- a boy lacking enough education and experience when he was signed up- a boy, who, when life takes a new meaning for him has a few"flings" at life in emotional and sentimental affairs- seeking in such adventures understanding and friendly affection, which he has been missing since he was 16, when he signed up.
With his dreams shattered to bits and desillusionned he awaits sentence for something for which HE IS NOT TOTALLY TO BE BLAME FOR.
It is always hard and difficult to administer justice, but in view of the history of this case, may I suggest a little leniency, and also that this man's case be studied later on and steps be taken so as to help him recapture self respect.
I thank you.

SUMMARY of EVIDENCE

in the case of C64593 Signalman Thompson L. 4 Cdn Armd Div Signals charged with:-

1. AA 15 (1) When on active service, absenting himself without leave, in that he, in the field, on 10 Jan 44 did absent himself without leave from 0700 hrs 10 Jan 44 until 2230 hrs 10 Jan 44 (Total time absent 15 hrs 30 mins).

Officer Commanding directs that evidence be taken on oath.

The accused has his rights with reference to taking of the summary of evidence explained to him.

First witness:-

B31943 A/Sjt Cole, J.D. 4 Cdn Armd Div Sigs having been duly sworn gives evidence:

Q. Will you state your number, rank, name and unit please?
A. I am B31943 A/Sjt Cole J.D. 4 Cdn Armd Div Sigs.
Q. Do you recognise the accused?
A. Yes sir, he is Signn Thompson, L.
Q. What are you employed at in this unit?
A. I am Mess Steward in the Officer's Mess.
Q. On the 8th Jan 44 and subsequently, why did Signn Thompson come under your juridiction?
A. He is a batman and I am responsible for their administration.
Q. Did you hand Signn Thompson a pass on 8 Jan 44?
A. Yes sir.
Q. For what period did the pass entitle Signn Thompson to be absent from his quarters?
A. After Duty 8 Jan 44 until 2359 hrs 9 Jan 44.
Q. When did you find that Signn Thompson had not returned?
A. At approx 0700 hrs 10 Jan 44.
Q. How did you find then that he had not returned?
A. I went to the batmen's quarters and called the roll. Signn Thompson was not present.
Q. Did you call the tattoo roll at 2230 hrs on 10 Jan 44?
A. Yes sir.
Q. Was Signn Thompson then present?
A. No sir.
Q. When did you first know that Signn Thompson had returned to his quarters?
A. At roll call approx 0700 hrs 11 Jan 44.
Q. Did he at that time tell you when he had returned?
A. Yes sir. He stated he had returned at approx 2300 hrs 10 Jan 44.

.....
B31943 A/Sjt Cole, J.D.
4 Cdn Armd Div Sigs.

The accused declines to cross examine this witness.

Second witness:

E 30601 Signn Frost, D.M. 4 Cdn Armd Div Sigs having duly sworn gives evidence:-

Q. Will you state your number, rank and name and unit, please?
A. I am E30601 Signn Frost D.M. 4 Cdn Armd Div Sigs.
Q. Do you recognise the accused?
A. Yes sir, he is Signn Thompson, L.
Q. What are you employed at in the unit?
A. As a helper of the Mess Steward in the Officer's Mess.
Q. When did you first know that Signn Thompson was absent?
A. At about 1215 hrs 10 Jan 44.
Q. How did you discover he was absent?
A. He failed to be on duty as a waiter in the Officer's Mess.
Q. Did you at that time look around to see if he was in or near [illegible]
quarters?
A. Yes sir, he was not around.
Q. When did you first know that Signn Thompson had returned to [illegible]
quarters?

/Cont'd

SUMMARY of EVIDENCE

in the case of C64693 Signalman Thompson L. 4 Cdn Armd Div Signals charged with:-

1. AA 15 (1) When on active service, absenting himself without leave, in that he, in the field, on 10 Jan 44 did absent himself without leave from 0700 hrs 10 Jan 44 until 2230 hrs 10 Jan 44 (Total time absent 15 hrs 30 mins).

Officer Commanding directs that evidence be taken on oath.

The accused has his rights with reference to taking of the summary of evidence explained to him.

First witness:-

B31943 A/Sjt Cole, J.D. 4 Cdn Armd Div Sigs having been duly sworn gives evidence:

Q. Will you state your number, rank, name and unit please?
A. I am B31943 A/Sjt Cole J.D. 4 Cdn Armd Div Sigs.
Q. Do you recognise the accused?
A. Yes sir, he is Signn Thompson, L.
Q. What are you employed at in this unit?
A. I am Mess Steward in the Officer's Mess.
Q. On the 8th Jan 44 and subsequently, why did Signn Thompson come under your juridiction?
A. He is a batman and I am responsible for their administration.
Q. Did you hand Signn Thompson a pass on 8 Jan 44?
A. Yes sir.
Q. For what period did the pass entitle Signn Thompson to be absent from his quarters?
A. After Duty 8 Jan 44 until 2359 hrs 9 Jan 44.
Q. When did you find that Signn Thompson had not returned?
A. At approx 0700 hrs 10 Jan 44.
Q. How did you find then that he had not returned?
A. I went to the batmen's quarters and called the roll. Signn Thompson was not present.
Q. Did you call the tattoo roll at 2230 hrs on 10 Jan 44?
A. Yes sir.
Q. Was Signn Thompson then present?
A. No sir.
Q. When did you first know that Signn Thompson had returned to his quarters?
A. At roll call approx 0700 hrs 11 Jan 44.
Q. Did he at that time tell you when he had returned?
A. Yes sir. He stated he had returned at approx 2300 hrs 10 Jan 44.

.....
B31943 A/Sjt Cole, J.D.
4 Cdn Armd Div Sigs.

The accused declines to cross examine this witness.

Second witness:

E 30601 Signn Frost, D.M. 4 Cdn Armd Div Sigs having duly sworn gives evidence:-

Q. Will you state your number, rank and name and unit, please?
A. I am E30601 Signn Frost D.M. 4 Cdn Armd Div Sigs.
Q. Do you recognise the accused?
A. Yes sir, he is Signn Thompson, L.
Q. What are you employed at in the unit?
A. As a helper of the Mess Steward in the Officer's Mess.
Q. When did you first know that Signn Thompson was absent?
A. At about 1215 hrs 10 Jan 44.
Q. How did you discover he was absent?
A. He failed to be on duty as a waiter in the Officer's Mess.
Q. Did you at that time look around to see if he was in or near his quarters?
A. Yes sir, he was not around.
Q. When did you first know that Signn Thompson had returned to his quarters?

/Cont'd

Second Witness - E30601 Sigmn Frost D.M. 4 Cdn Armd Div Signals (Cont'd)

A. When I checked the batman's quarters at approx 2359 hrs 10 Jan 44. Sigmn Thompson was present.
Q. Did he at that time tell you when he had returned?
A. No sir.

D.M. Frost
E30601 Sigmn Frost D.M.
4 Cdn Armd Div Sigs.

The accused declines to cross examine this witness.

Third Witness:

C28734 Cpl Dunlay J.R. RCOC att 4 Cdn Armd Div Sigs having duly sworn gives evidence:-

Q. Will you state your number, rank, name and unit please?
A. I am C28734 Cpl Dunlay J R RCOC att 4 Cdn Armd Div Sigs.
Q. Do you recognize the accused?
A. Yes sir, he is Sigmn Thompson.
Q. In what capacity were you acting from 1800 hrs 10 Jan 44 until 1800 hrs 11 Jan 44?
A. I was Squadron Orderly Sergeant.
Q. Did Sigmn Thompson report to you when he returned off pass?
A. No sir.
Q. When did you first know that Sigmn Thompson had returned to his quarters?
A. At approx 0700 hrs 11 Jan 44, when I checked the batmans' quarters and found Sigmn Thompson present.
Q. Did he at that time tell you when he had returned?
A. Yes sir, he stated he had returned at 2300 hrs 10 Jan 44.

J.R. Dunlay
C28734 Cpl Dunlay JR
RCOC att 4 Cdn Armd Div Sigs.

The accused declines to cross examine this witness.

Fourth Witness:

M 65943 Cpl MacLean H.E. 4 Cdn Armd Div Sigs having duly sworn gives evidence:

Q. Will you state your number, rank, name and unit please?
A. I am M65943 Cpl MacLean J.E. 4 Cdn Armd Div Sigs.
Q. Do you recognize the accused?
A. Yes sir, he is Sigmn Thompson.
Q. In what capacity were you acting as from 0800 hrs 10 Jan 44 ?
A. I was Guard Commander from 0800 hrs 10 Jan 44 until 1800 hrs 17 Jan 44.
Q. Did Sigmn Thompson turn in a pass or report at the guard room between 0800 hrs 10 Jan 44 and 0700 hrs 11 Jan 44?
A. No sir.

H.E. MacLean
M65943 Cpl MacLean H.E.
4 Cdn Armd Div Sigs

The accused declines to cross examine this witness.

Question to the accused:

Do you wish to make any statement or to give evidence upon oath? You are not bliged to say anything or give evidnce unless you wish to do so, but w hatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.

No sir.

C64593 Sigmn Thompson L.
4 Cdn Armd Div Sigs.

I certify that Rules of Procedure 4(C),(D),(E) and (F) have been complied with.

Taken down before me in the presence of the accused, in the field, this 22nd day of January 1944.

J.W. Rintoul
(J.W.Rintoul)Lt.,
4 Cdn Armd Div Sigs.
Officer taking Summary of Evidence.

M.F.M. 6
(A.F. B.122)
20/P & /8146 (2863)

No. C-64593 Name Thompson, L. Sqn., Battery, or Company Corps RCSignals Date of enlistment 22-8-41 G.C. Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine AF N/A Sheet No. One Signature O.C. Company, etc. R.H. ?????? Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kingston	20-4-1942	Sigmn		AWL from 0600 hrs 20-4-42 to 2030 hrs30-4-42. (Absent 10 days 14 hrs 30 min.) (Cost of apprehension $8.87)	Documentary	11 days C.B. Placed under Stop of pay for cost of Apprehension	4-5-42	Lt-Col F G Malloch	Forfeits 11 days pay.
Camp Borden	10-8-42	Sgm		A.A. Sec 15 (1) Absent without leave from 0600 hrs 10-8-42 to 0820 hrs 10-8-42 . Absent: 2 hrs 20 minutes	L-22437 L/Cpl R H Green	2 days C.B.	10-8-42	?????	Capt.
Camp Borden	31-8-42	Sgm		AWL from 0600 hrs 31-8-42 to 1520 hrs 31-8-42 Absent: 9 hrs 20 minutes	M-50581 L/Cpl ???????? RH	1 days pay FR&I 149 (1)(a) 5 days CB	1-8-42	????????	Capt.
Camp Borden	26-10-42	Sgm		AA Sec 15 (1) AWL from 0600 hrs, 26-10-42 to 2030 hrs 27-10-42. Absent: 1 day 14 hrs 30 mins.	C-42925 L/Cpl Jackett, RH K-70521 Cpl Rudland, E.L.	2 days pay FR&I 149 (1) (a) 5 days pay FR&I 149(2) 10 days C.B.	28-10-42	??????????	Capt.

Ed Y. Coy. Field Adjt

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	1-3-43	Sigmn		AA Sec 40 Conduct to the prejudice of Good Order and Military Discipline did fail to arise at Reveille.	L-51160 Sgt Egolf, G	1 days pay ?? 3 days CB	1-3-43	?????????	Maj.
Camp Borden	18-3-43	Sigmn		AA Sec 40 Did fail to turn in a pair of boots that needed repair	P-40238 SQMS Lean M T.	2 day C.B.	18-3-43.	??????? Maj	Cost of boots if condemned.
Camp Borden	6 Apr 43	Sigmn		AA Sec 15(1) AWL from 0100 hrs 6 Apr43 to 1225 hrs 6 Apr 43 Absent 11 hrs 25 mins	C-36075 A/Sgt Prend, HB	4 days CB 2 days Pay AA 46 FR&I 149 (2)	6 Apr 43.	?????????	1 days pay FR&I 149 (1) (a)
UK	28 Jun 43	Sigmn		AA Sec 40 Conduct to the prejudice did fail to arise at reveille	L-51160 A/Sgt Egolf, G.	3 days CB	28 Jun 43		
Camp Borden	19 Apr 43	Sigmn		AA Sec 15 (1) Absent without leave from 0600 hrs 19 Apr 43, till apprehended by #32 Provost Coy, at Barrie, Ont, on 3 May 43, at 1910 hrs. In Close Arrest from 1910 hrs 3 May 43. Absent : 14 days 13 hrs 10 mins.	Documentary.	21 days Detention	4 Apr 43	?????? Maj	15 days pay FR&I 149 (1) (a).

M.F.M. 6
(A.F. B.122)
40-P-8-5130 (2965)

No. C-64593 Name THOMPSON, L. | Sqn., Battery, or Company | Corps RCSignals | Date of enlistment 22-8-41 | G.C. Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. FJ Isbister Maj

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Camp Borden	1-6-43	Sigmn		AA Sec 15(1) AWOL from 1200 hrs 1-6-43 until 1635 hrs 1-6-43 Absent: 4 hrs 35 minutes.	C-86075 A/Sgt Prond.	2 days pay	1-6-43	???????? Maj.	
U.K.	19Jul43	Sigmn.		AA Sec 40 Conduct to the prejudice, did fail to have a note book in his possession after being warned to do so.	K-70521 Cpl E.L. Rudland	2 days C.B.	19 Jul 43	???????Maj.	
Field	7Aug43	Sigmn		1 Aug 43 Certified all entries ???? Major OC #2 Arm'd Bde Sigs. AA Sec 15(1) WOAS AWL from 2300 hrs 7 Aug 43 until 0800 hrs 9 Aug 43. Absent 1 day 9 hrs	A/Cpl Belanger JA B-32266 Documentary	14 days C.B.	10 Aug 43.	Lt-Col WO Peffers,	Forf 2 days pay under FR&I
Field	22Aug 43	Sigmn		AA Sec 15(1) WOAS AWL from 2300 hrs 22 Aug 43 until 0200 hrs 26 Aug 43	Documentary B-32266 Cpl Belanger, J.A.	10 days F.P. 10 days pay	27 Aug 43.	A Gillingham Maj.	Forf 4 days pay under FR& I 149

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11Sep43	Sigmn		AA Sec 15(1) WOAS absented himself without leave from 2200 hrs 11 Sep 43 until 2330 hrs 12 Sep 43. Absent 1 day, 1 hr 30 mins.	C-101349 A/Cpl Savage, J	14 days F.P. 14 days Pay	13 Sep 43	A Gillingham, Maj	Forfs 1 days pay FR&I 149.
Field	7Oct43	Sigmn		AA Sec 15(1) WOAS AWL from 2200 hrs 7 Oct 43 until apprehended by CMP in King George Service Club, Manchester at 0500 hrs 15 Oct 43 Absent 7 days, 7 hrs. Cost of apprehension £1/11/7		21 days F.P. 21 days pay. 8 days forf of pay FR&I 149	18 Oct 43	Major R.J. Burgess.	

Certified True Copy

(G.G. Thomson) Capt.,
Sigs 4 Cdn Armd Div.

Ex X -UP Field Force pres.

M.F.B 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C64593	Signalman	Lorne THOMPSON	4 Cdn Armd Div Sigs

1. The following is a fair and true summary of the entries in the Field ~~[illegible]~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
~~For~~Under AA Sec 40	4	times	Under AA Sec 40	4 times
For AWL AA Sec 15(1)	6	times	AWL AA Sec 15(1)	10 times
For		times		times
For		times		times

~~[illegible]~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~[illegible]~~

3. The accused is not under sentence at the present time.

~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~[illegible]~~ three days in military custody, making a total of ~~three~~ 14 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21 years

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 22 Aug 41

~~[illegible]~~

9. The accused is in possession of or entitled to no ~~[illegible]~~ military decoration, or ~~[illegible]~~ military reward ~~[illegible]~~

~~[illegible]~~

10. ~~[illegible]~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank..... Name..... Regiment of.....

NOTE:—A verbatim extract from the Regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of January 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Officer i/c records

47-108

B. S. M. – Thompson L. G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused H31035 BSM Lewis George THOMPSON H LAA Regt RCA

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Not Guilty	Guilty	
2nd A.A Sec 19	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the Ranks. and to undergo detention for Six Months.

(Sgd) ..... Judge-Advocate, if any. 26 Jan 1945 Date awarded. (Sgd) D de Volpi Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date 20 Jan 45 Commanding A/GOC 3 Corps Tps NW Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. BSM Date. Signature of Offr.
H31035 THOMPSON, L.G. 30 Jun 45

The provisions of Army Act 162 (3) have been explained to the accused.

D.A.G. Hartmann Major
T/C 4 H.A.A. Regt. R.C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160, WT-108

CANADIAN PRINTING BUREAU (AFAS) 4/38B

FIELD GENERAL COURT-MARTIAL

Convening Officer H.S. Griffin Comd 3 Cdn Div Dated 26 Jan 45

ACCUSED.

(Use separate sheet for trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H31035	BSM	Lewis George	Thompson	H LAA Regt RCA

PROCEEDINGS REVIEWED Frank Stevens Capt.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 26 JAN 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 21/90-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt L De Klerk as interpreter? Ans No

The Interpreter is sworn. (~~Do you object to ..... as shorthand writer? Ans .....~~ The shorthand writer is sworn.(1))
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D L de Volpi	1st Cdn Recce Regt
Member	Lieut	F W Doyle	C H of O
Member	Lieut	L Dibber	13 Fd Regt RCA
Judge-Advocate	—		
Prosecutor	A/Capt	M W Murray	4 LAA RCA
Defending Offr	Capt	D M Gillis	14 Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (3)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused H-31035 BSM Lewis George Thompson before arraignment make(s) (no) ~~a~~ plea ..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D – E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the [illegible] charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Make a Statement. Do you intend to call witnesses on your behalf ? Ans. None. Are they witnesses as to character only ? Ans. N/A.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), (if any, of Not Guilty) and states to the accused that the finding(s) of the Court on the.....charge(s) being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P 1 and Ex P 2 respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(TB), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

A-31035, BSM Lewis George THOMPSON, 4 Light Anti-Aircraft Regiment, R.C.A., a soldier of the Canadian Army Overseas is charged with

FIRST CHARGE
A.A. Sec. 40

Conduct to the prejudice of good order and military discipline

in that he

in the field on the 19 Jan 45 did cause a disturbance in a public place, i.e. a public air raid shelter.

SECOND CHARGE
A.A. Sec. 19

When on active service, drunkenness

in that he

in the field on the 19 Jan 45 was drunk.

(C.E.Woodrow) ED, Lt-Col.
Officer Commanding
4 Lt. A.A. Regt., R.C.A.

23 Jan 45

TO BE TRIED BY FGCM

(H.S.Griffin) Lt Col
A/CRA 3 Cdn Div

In the Field
Holland
24 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 31035	BSM	Lewis George	THOMPSON	4 LAA Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed by me, (date) 23 Jan 45, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. (AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D L DEVOLET	7 Cdn Recce Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	F W DOYLE	C H of O
Lieut	I DILLER	15 Fd Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	W D TROTTER	3 A Tk Regt RCA

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Dat 24 JAN 45

(Signed personally. RP 105 fn 2.) (H.S.Griffin) (Rank.)

Commanding A/CRA 3 Cdn Inf Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

. . .

a Light [illegible], R.C.N.
Canadian Army, Overseas.

Re A 30035 BSM Thompson L.G.

This is to certify that the m/n has been Medically examined 6 days
and is free from infectious disease and physically fit to
undergo trial by court martial.

Date 26/Jan/45

Capt., R.C.[illegible].C.
Medical Officer
a Light [illegible], RCN.

1

First Witness Maarnus Wilhelmus Schuurman - Civilian
38 A Grootestraat Nijmegen - having been duly sworn
states

Q Do you recognise the accused
A Yes
Q Where have you seen him before
A I saw him in cellar and the identification
parade
Q Do you know the address of this cellar you mention
A Grootestraat
Q - Tell the court all you know about the ~~accused~~ time
you saw the accused with the time of day - day -
month and year
A 14 of Jan 1945 I came from Peters a friend of mine where
we had a game of cards - at 10 hrs P M I went home
I went into the cellar because my mother was
sleeping there and I wanted the keys of our house
I went home and saw two Canadian soldiers
who went into the cellar - I saw what they
were going to do. One of the soldiers said
to me open the door - I said it is impossible
because the door has been locked inside one
of the soldiers siezed the collar of my
coat and would beat me. They said to me
that they wanted to sleep - I took them with
me to my own house - and one of the soldiers
would lie down in my bed I said to him
that it was impossible because I had to
sleep there. They ~~wanted~~ wanted to go to the girls
I showed them the way to Kapucijnen I went
back and waited for a couple of minits, the soldiers
came back again I locked the door they
went into the cellar again - they knocked
and kicked at the door of the cellar. I went

outside and locked the door of my house - I went to the pontoon bridge to the Military Police. The MP, and a soldier went with me to the cellar - We were near the cellar and the soldier was standing in the street. The Military Police went up to him and spoke to him. The soldier and the MP went with me into the cellar. Vanding said to me that he was kicking at the door again - The policeman and the soldier went with me out of the cellar and looked for the soldier. The soldier who was drunk had a torch with him so that we had no difficulty to find him - The MP took him with him. I went home again. That is all

Q Who is the soldier whom you say was drunk and had the torch with him

A The same soldier that I saw at the identification parade

Defense

Q Where do you live

A - 28A Grootestraat

Q - What is the address of the cellar

A - 28A Grootestraat

Q - Do you know the time of curfew

A - Yes 1100 hrs PM.

Q How do you know that one of the soldiers was drunk

A - Because they had fallen several times on the street and I could smell it

Q - Could smell what

A - I could smell that they had been drinking

Q - Do you know what they had been drinking

A I do I could not say

Q How do you know that the two soldiers you saw on the street were Canadian
A I saw it by their hats
Q What did you see in that hat that would indicate that they were Canadian soldiers
A I could see it by the badge
Q Do you remember what the weather was like on the evening of the 19th of January
A It was slipping moonlight and mild.
Q Was it snowing on the evening of the 19th of January
A No it was not
Q How can you be sure that it was not because the road was slipping that the soldiers fell down
A There was no snow on the place where they fell it had been removed
Q Do you speak English
A No
Q Do you understand any English
A A few words
Q How did you understand what the soldiers said to you
A I could make out what they meant
Q How far is it from your house to the cellar
A 20 25 metres
Q Is your house on the same side of the street as the cellar
A Yes it is
Q You said in answer to a question that you saw the accused in the cellar and yet in your statement there is no evidence of the accused having been in the cellar with you

A I saw him down stairs in that part of the cellar quite close to the entrance which is not that part of the cellar where people are sleeping.

Q Was a door open to that part of the cellar in which people were sleeping

A No it was closed

Q How many electric lights in the cellar to

A two one in the front part and one in the back

~~Q I do not want to say that~~

Q - When the door is closed is it possible for either of the lights to show in that part of the cellar when the witness saw the accused

A - No not when the door is closed

Q - If the door was closed how was it possible to see the accused

A I saw him upstairs when he went home with me

Q What do you mean by the statement I saw what they were going to do

A ~~I saw~~ they wanted to go into the cellar

Q - When did it happen that one of the soldiers seized the witness by his coat

A - Down stairs we were standing by the door

Q - If it was dark in the cellar how do you know which soldier seized you by the coat

A I was quite close to him and I could see who it was

Q When you went in your house and locked your door you say the soldiers returned and went the cellar again - How do you know they went into the cellar again

a - I locked the door because I was afraid that they would come back and I stood by the window and saw that they went down stairs into the cellar

q - Could you see from the window of your house the soldiers entering the cellar

a I was standing by a window when they passed my house but as soon as possible I went outside again and saw that the soldiers went down stairs

q - Did you see the soldiers kicking at the door

a - No I could hear it

q - At the identification parade were you present

a - Yes I was

q - Did you see the accused on the day of the identification parade before the actual parade itself

a - Yes

q How was the accused dressed on the day of the identification parade

a - The usual dress

q - How was the accused on the evening of the 19th of January

a I do not remember exactly

N

Cross examination

q - You mention two soldiers was it easy to distinguish between the two soldiers

a Yes One was smaller

q Do you know if accused is the smaller or the larger of the two

a The larger

q You said you saw the soldiers fall did you see the accused fall -

a Yes both of them

6/

Q - Did the accused fall more than once
A - Only once
Q - Besides the soldiers falling and smelling that they were drinking was there any other way that you could tell that they were as you state drunk
A - I could smell that they had been drinking alcoholic beverages I saw them fall
Q - How were the soldiers marching or walking
A - Just like a man who is drunk unsteady walk
Q - On the days of the identification parade beside the accused did you see anyone else drive up in vehicles while you were waiting
A - No
Q - Did you see any other soldiers walking around
A No

KO 83B complied with
Second Witness - 063499 Sgt GTM VanDenBerg - Canada Frontier Guard Coy - Nijmegen Having been duly sworn states
Q Do you recognize the accused
A Yes
Q Where and when have you seen him before
A I saw him the first time in the cellar the 19th of January - I was with my family in the cellar to sleep there - I undressed, when my father who is in charge of the air raid shelter shouted there are two drunk Canadians here The Canadians came in to the shelter and one was so drunk that he fell down at the bench by the door where he fell asleep. I saw that one of the two Canadians was a Sgt Major. The Sgt Major came into the cellar and went to the last bed on the right side There was a girl of about 16 years her name is Dina Hunkins

The Sgt Major sat down on the bed stead. he turned round and grabbed the girls leg with his right hand on the top of the bed covers. He said "I will fuck where is your mother" The girl said that her mother was in Hospital he did not believe it but I told him that it was the truth. I tried to explain to him that her mother was suffering from V.D.

The Major said I fight with you and I put his foot on my stomach I said to the Sgt Major that I did not like to fight with allied soldiers. The Sgt Major left the cellar. first he woke up the soldier who was asleep and we helped the Sgt Major to get this soldier out of the cellar. We were my father the Sg Major and I - I went back to the cellar and after five or ten minuts they came back again the soldier sat down on the same place and the Sgt Major went to the second part of the air raid shelter - He said I look for a girl. In the second part of the cellar was a girl of about 21 years asleep, she was ill, The Sgt Major saw her and said that is a good girl for me - he went to her bed and opened his Greatcoat and his tunic He said to him that the girl was ill and placed ourselves between him and the bed - Children began to cry and women were scared - The Sgt Major said you fucking Dutch Soldier - We told him that he had better go away. I forgot something - When the Sgt Major was the first time in the shelter he said to me go away but I answered that he had better go away because it was already 10.00 PM and people wanted to sleep.

The Sgt Major did not say anything and went to the front part of the cellar

We woke up the soldier again and they left the cellar – We locked the door, after about 15 minuts we heard someone knocking at the door We did not open the door and went to bed. It was about 15 past 1200 P.M (0015 hrs) when my father and an MP and an English soldier came in my bed. The MP asked me if I had seen what had happened in the cellar I said "Yes". Next Morning the MP took me with them to his H.Q. where I gave a statement of what had happened. At 1300 hrs I had to come back for the identification parade I pointed out the soldier who I recognised as the Sgt Major who had been in the cellar the night before – he wore the uniform of a W/Sgt.

Q. What is the address of the air raid shelter
A. Groote straat 22
Q. What kind was the condition of the Sl M in the air raid shelter
A. Drunk
Q. Why do you say he was drunk
A. By the smell of alcohol and his staggering walk

A.

Defence How many people normally sleep in the shelter at night

A. 85
Q. How could you identify the soldier as Canadian
A. He had on a Badge of Canada on his sleeve
Q. What was the weather like on the 19th of Jan
A. Snowy

9/

Q How was the Sgt Major dressed
A - In uniform
Q - What kind of a uniform
A - Battle Dress and leather Coat or Great Coat
Q - In your opinion was the Sgt Major drunk
A - He was not as drunk as the other soldier who fell down on the bench but the Sgt Major had been drinking.
Q - You said in your statement that the women were scared What makes think they were scared
A - Some women got out of their beds and went to one of the rests of the shelter
Q When you attended the identification parade at the Provost HQ did you see the Sgt Major drive up to the building in a military vehicle
A Yes
Q Did you see the Sgt Major get out of the vehicle and walk into the bldg
A I saw him get out of the vehicle but not go into the building
Q - How was he dressed on that occasion
A I don't remember exactly but I saw / on his face that he was the Sgt Major
Q Was he wearing Lt/Col Crowns
A I did not see
Q To whom did your father say there are two drunk Canadians
A - He said to everybody

RD 83 Completed with

10/

Third witness Miss Hendrina Maria Hunkens - Cuntsan Grootstroot 208 Hyanigan - having been duly sworn states.

Q Have you ever seen the accused before
A Yes
Q Where have you seen him before
A Down below in our cellar
Q Have you seen the accused since then
A Yes at the identification Parade Friday 19th
Q Do you remember the night of ~~Thursday~~ 18th of January 1945
A Yes

He came into the cellar and he was drunk for he sat down on my bed - I was sleeping but he fell from the foot of my bed and that is why I woke up - He swore my dog and I swore his hand and pushed him back - About six men took him away from the foot of my bed to the entrance of the shelter - and he woke up another soldier who was sleeping on a bench by the door. He He went out of the cellar, I do not know what happened in the street because I could not see it. Sometime after they had left they came back again and one of the soldiers went to the second part of the shelter I heard children crying - and shouting and they ran into our cellar - but of course I could not see what happened there. I have only seen what has happened in the first shelter and that is all I can tell you about that night.

Q Who were you referring to when you said they ran into our cellar
A The children who were sleeping in the second part of the shelter
Q Did you see anyone come out of the second part of the shelter
A - Children - Women and

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Q Did the soldiers stay there
A He did not stay there all night long he came back perhaps 10 minutes afterward
Q Did you see him leave the shelter
A - Yes The men who were in the shelter tried to get him out
Q - Do the accused the soldier who was in the second part of the cellar
A - Yes
Q - You said "two soldiers came in and that they were drunk" How did you know they were drunk
A - I could see, one fell down and the other one came staggering up to my bed.
Q - You previously said he fell from the foot of my bed and that is why I woke up
A - It was the second time he came in, then I saw him not the first time
Q - Did you attend an identification parade on the following day
A Yes
Q - Were you able to identify anyone on that parade
A Yes I recognised him
Q Who do you refer to as him
A The Accused
Q - ~~Did you see the soldiers~~

Cross
Q Do you speak English
A No
Q Had you ever seen any English soldiers in the shelter before
A - Yes They sometimes came in to ~~see~~ if there were girls - if there were no girls they would go away again

Q Did you ever notice whether any of these Soldiers who came in had been drinking or not
A Sometimes I could see it by them walk or smell that they had been drinking
Q What did you do when the two soldiers left the cellar for the first time
A We were all awake but I could not sleep I stayed in my bed
Q From the identification parade did you see the accused drive up to the HQ in a Military Vehicle
A Yes I was sitting in a room and saw him drive up in an open vehicle

Court Q Do the people have to go through first part of the shelter to get to the second part
A Yes

Witness Recalled for the Defence
Q - When the accused rubbed your leg was his hand on the top or below the bedcovers
A - On the top of the covers

1 U 82 B Completed with

Fourth Witness Mrs M J Mesu Barsch of Cuckoo 34 Brookstraat Nijmegan having been duly sworn states.
Q - Have you ever seen the accused before
A - Only the evening of Friday when he came into our shelter the 19th of January —
He came to the bed where I was sleeping with my daughter and my little son he rubbed the leg of my daughter with his hands on the top of the bedcovers and I said to him go away because my daughter was ill — He sat down on the bed

next to ours and he un buttoned his leather Coat and his time — Three men came to help us and as the children in the cellar began to cry and to shout he rose from the bed and said "no good" He took his gloves and went out of the cellar that took — a man came to get his torch which he had left on my bed that is all that happened in our cellar

Q Do you know what made the children start shouting and crying

A The children were awakened by the noise in the cellar and perhaps they were afraid because the soldiers were there and that is why they began to cry.

Q How was the soldier behaving

A He was very quiet

Defense Q Had there at any time previously been other soldiers in the cellar.

A Not that evening but it happened some times before that Soldiers came into our cellar while we were sleeping there

Q - On the evening of the 19th of January was there only one soldier entered the part of the cellar where you were sleeping

A Yes only one

Q Were you afraid when the Soldier entered in to the room where you were sleeping

A I was not afraid but I thought it was strange that he urged my daughters leg.

G 83 Completed with

5th Witness Mr Van den Ing 9 Jr Grootestraat 28 Nymegen having been dulysworn states:

g- Have you ever seen the accused before
a- In the cellar
g- What cellar
a- In the air raid shelter in Grootestraat
g- What is the No
a- 22
g- Who is in charge of the shelter
a- I Am
g- On whose authority are you in charge of this shelter
a- Dutch Civil Defence Authorities
g- Is this shelter a public shelter
a- Yes it is Public - but not for Military
g- Well you tell us the time day month that the accused was in the shelter
a- 10 PM - I do not remember if it was Fridays Saturday
g- Can you remember the date
a- I am not sure of the date
g- What happened that night in the shelter
a- Two soldiers came in the cellar - one of them sat down on a bench - the other one said to me I want to see a Lady and pointed a bed on the right side of the shelter - He went to the last bed on the right side of the first shelter. He stood before the bed grabbed with his hands in the bed and the girl cried "Mother no not here" She stayed there a few minuts talked with my son went to the entrance awakened the other soldier and the by Major my son and took the other soldier out of the shelter. About 15 minuts afterwards they returned and the by major went to the second part of the cellar there was a girl of about 18 years sleeping on

a bed — He went up to her and said "that is a good lady" perhaps he used another word I do not remember exactly. He swung his hand and sat down on the next bed opened his coat and tunic whereupon the children began to cry. The Sgt Major rose from the bed left the shelter with the other soldier who had been sleeping on the bench beside the door — We locked the door — after about 20 minutes they came back again knocked at the door about 9 or 10 minutes About 20 Minuts afterwards we heard somebody say open the door here is the military police — Mrs opened the door and the M.P. came in and asked where they were — I told them that we had heard them knocking about 2 or 3 minuts ago The police went away and we went to bed and I do not know what happened after that

Q — What conclusions were the two soldiers — when they came in to the cellar

a — they were both drunk one more than the other

Q How do you know when a man is drunk

a I could see it because he walked Zig Zaggy and I could smell it.

Q — Just you said in your evidence that one soldier went to sleep by the door the other stood by the bed — Which was the S.M.

a — The one who was standing in front of the bed

Q And you send for the M.P.

a — Yes — I told some body I do not remember who

Q — It was to go to the M.P

Q Was this after the two soldiers left the shelter
A No it was when they were in the shelter
Q You say both the soldiers were drunk but one was more drunk than the other which was the more drunk
A - The one who fell asleep on the bench but I do not know him
Q How many electric lights are there in the cellar
A two one by the entrance of 40 watt and one in the doorway between the two cellars of 100 w
Q What was the weather like
A It was or had been snowing
Q - Do soldiers frequently come to the air raid shelter
A - It depends on the circumstances sometimes 4 per day some days none of possible I do not allow them in the shelter
Q Had there on any previous evening been soldiers in the cellar
A - Almost every night there are two soldiers who come into the shelter and stay there for some hours
Q - What were the two soldiers drinking
A - I do not know

I C 82 D Complied with

17/

Smith Witness F 5 0184 H/Gpl Degarmond P.C. 13 Cdn Pro Coy
Having been duly sworn states

Q Have you ever seen the accused before
A Yes - on the night of ~~the~~ Mar 19 at approximately
~~October~~ 2400 hrs I was on duty at the pontoon bridge
at Nijmegan when I was called by a civilian.
~~who told me that two soldiers~~. I went with
the civilian to 284 Grootestraat Nijmegan
where I saw a soldier standing outside who
proved to be A 31035 B.S.M. Thompson R.S
I asked him what he was doing there at that time
of night " He told me that he was on his way
home " a short distance from where he was
standing was an air raid shelter a civilian
called me from the doorway of the shelter and
took me to Sgt Van Dinteng of the Netherlands Army
from what the Sgt told me I then left the
shelter and found B.S.M. Thompson still
standing outside I asked him to accompany me
to the pontoon bridge which he did we were
driven to my company HQ by H/Gpl Evans
#13 Pro Coy - I searched the soldier and found
in his ~~possession~~ two cans of Corn beef 55 Sticks
and some change - This man had been
drinking, but I would not say he was drunk
Acting upon the instructions from Lt M
McCallum 13 Lt Pro Coy I placed him in
the detention room.

Defence - Q Do you know who the civilian was that called
you
A His name was Schuurman
Q Who was the civilian who called you
from the door of the Air Raid Shelter
A I do not know his name but know him to see

Q What was Sgt Thompson doing when you first saw him that evening

A Standing outside the air raid shelter and the civilian Schumman house which are close together

Q Do you recall the No of the shelter

A No I do not

R.P. 83 B Cumpleduth

Seventh Witness C-41965 L/Sgt McCallum H - 13 Obs Group Corp having been duly sworn states

Q - Have you seen the accused before

A Yes Sir - on the 20th of January 1943 I was in charge of an identification parade held at 13 Obs Corp HQ at Nigg at which 7 soldiers including rfn No A 31033 L/Sgt Thompson L G were on the parade - L/Sgt Thompson took up the same position as the other members of the parade - Witnesses - Mrs Jenkins a civilian - Mr Schumman civilian and Sgt Van Den Berg Dutch Interpreter were in a room adjoining the parade - Each of these witnesses were called out separately and identified without hesitation L/Sgt Thompson as the soldier they had seen the night before - I was assisted on the identification parade by Sgt Cowan 13 Obs Corp and Cpl. Bloomer Northumberland Police

Q Please - after you had taken the civilians separately before the parade were they allowed to return to the room where they were waiting

A Yes but Constable Bloomer was present

Q Was the position of B S M Thompson changed during the parade

A - We do A quite often - I do not think it was does

Q - Was the door open between the room where the civilians were waiting and the parade was held

A - The door was open but the parade was not visable to the civilians in the other room

Q Did the civilians have the opportunity to see B S M Thompson arrive at or enter the Bldg

A I do not know

Prosecution

Q Do you recall who was the first to appear in front of the identification parade

A - I am not certain

Q - Were the other soldiers about the same size as the B S M

A Yes about the same size

RCMP Cautions complied with

Statement by the accused not under oath

In this statement is just a few of the points of this case which I myself would like to bring out one witness claims that I fell down on the street that is so and also quite possible as I was wearing rubber boots

Witness # 2 Claims that I was wearing a Canada patch on my short coat - That is how he knew I was a Canadian but there never has been a canada patch on the coat I was wearing that night

Another Witness Claims that although I was drunk I was still able to help my friends up and out of the shelter -

My third try to the shelter that night was to get back the belt off my coat which I had lost somewhere in the shelter.

Now my original try to the shelter was for a reason somewhat the same as the other two soldiers that visit the air raid shelter quite frequently that Mr Van Dieman has told us about. That is all I think

Defending Officers Closing address

This case as in civil law the accused must be proved guilty beyond a ~~reasonable~~ doubt. In my mind on this case there is a reasonable doubt he is charged in the first instance under section 40 of the Act - and I call your attention to the note thereunder which is to the effect that the conduct proved must be to the prejudice of both good order and military discipline I do not believe that the accused has made a breach of military discipline - one point I would bring out in regard to evidence - nearly all witnesses were most sure as to the date of the occurance but there was a considerable variance of opinion as to the weather on that date and as it was the accused was dressed. With respect to the charge of drunkenness I submit there is not sufficient evidence for a conviction on this charge - the only evidence being that he fell down once was a little unsteady on his feet and the smell of alcoholic beverages. It is quite possible that the accused fell down because he slipped on the road. It is admitted that the accused may have had a few drinks but certainly not ~~admitted~~ admitted that he was drunk

evidence of this effect has been given by S/Cpl Desmond. He was also quite capable of assisting another soldier up the stairs on at least two occasions that evening as to the alleged disturbance. evidence has been given by the 4th witness of the prosecution that Sgt Major Thompson was quiet and she was not afraid. She left the witness for the prosecution stated that the accused left the shelter as soon as the Children began to cry. Sgt Major Thompson admits he entered the shelter on this particular evening a shelter which according to the evidence is frequented by soldiers and Mr Van Dung himself has stated that two soldiers frequently stay there for part of the night With respect to this charge I submit that the prosecution has not established the fact that Sgt Major Thompson created a disturbance inasmuch as only one witness gave evidence of kicking at the door but there is no evidence that it was Sgt Major Thompson and it might well have been the other soldier referred to in the evidence perhaps he was somewhat indiscreet in entering the building but yet he did leave when he was asked and upon the arrival of the relieving police he made no attempt to get away from that locality even though he had ample opportunity to do so.

(See closing Address of the Prosecutor (page 21A attached)

Statement in Mitigation of Sentence

I would like to call to the attention of the court the accused only 25 years of age - he enlisted in the army 5th Sept 1939 landed in England Sept 1941 - Disembarked in France on June 6th D day he held the rank of WO II since the first of June of this year - throughout the

Campaign through France Belgium and Holland. It is rather unfortunate that Sgt Major Thomson became involved as he ~~did not~~ did which resulted in the not too serious charges laid against him.

Closing Addrs

Summing up in the Case of Pte Thompson A.B.

Prosecution 1

Granted

21A

The evidence put before the court has been given in a clear and straight forward manner by the witness. There have been some small differences in the statements that is natural no two people will ever remember every detail of the same event they have witnessed.

The Evidence of all witnesses but two, Cpl Sigamore and Mrs Barrick state that the accused was drunk and have cast the charge of drunkenness. R & M McCallum is another exception he even withdrew the classification parade.

The Charge under section forty is borne out by the witnesses

① A disturbance was created in the shelter by a soldier identified as Pte Thompson. Children were awakened and crying, nursing mothers were awakened from their sleep and the statements show that for some considerable time the people in the shelter were not able to rest due to the presence of Pte Thompson. Certainly the cause of such conduct as military discipline when the lives of civilians are disturbed by the conduct of an allied soldier.

A few comments on the accused statement not given under oath

① Rubber heels I have always found quite on a much surer footing than the normal steel studs & hobnailed boots

② From everyone experience we can no doubt recall efforts of intoxicated and drunken people to assist a comrade then in turn been helped by other sober people.

③ Certainly the evidence shows that the presence of the accused was not desired in the shelter

I suggest that the evidence before the court has proved the first charge and the second charge without there being any reasonable doubt

26 Jan 45

MW Murray Capt

P1.

ARMY FORM B 208.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A-21022	B.S.M.	THOMPSON, L.G.	4 CDN. LT. A. A. REGT R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—(1) A trial by field general court martial this summary may be completed from the field conduct sheet.

The numbers therein mentioned should be produced in court with this statement but not annexed to the proceedings.)

† See para. 877, K.R., 1949.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offences in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 11	No times	One times.
For Sec 40	No times	One times.
For Sec 15 (1)	No times	One times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on~~ the ~~day of~~.

4. The accused has been in confinement, awaiting trial on the present charges, for NO days in civil custody, and 6 days in military custody, making a total of 6 days, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 25 years

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ is 5 Sep '39

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of service.~~

9. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of L/Sgt

12. ~~(*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (or corps or department) the rank of , dated .~~

(*25800) Wt.34898/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(26906) Wt.35934/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. S 51022 Rank BSM Name THOMPSON, L.G. of 4 CDN LT A A Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
CIVIL COURT	PEMBROKE Ont. Canada 8 Jan. 141	INTOXICATION	GUILTY: 2 days in PEMBROKE JAIL	
CIVIL COURT	Ontario Canada 21 June 1941	BEING IN UNLAWFUL POSSESSION OF A CAR	GUILTY: $50.00 & Costs	
F.G.C.M.	IN THE FIELD	(i) Sec 6 Leaving his post without orders from his superior officer (ii) Sec 19 Drunkenness	GUILTY: reduced to the ranks.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of January 1945

M W Murray Q/Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of A/L/BDR Date of Promotion 2 JULY 43

In the rank of BDR ONE MONTH, NO years, 13 JULY 43

In the rank of WO II (CSM) FOUR MONTHS, NO years 12 NOV 43

In the rank of TEN MONTHS, NO years. 5 Sept 44

In the rank of FOUR MONTHS, NO years.

(INSTRUCTION—If any matter in any of the above five couplets cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. A-31035 Name Sgt. Thompson, L.T. | Regt., Battery, or Company | RCA Corps | Date of enlistment 5th Sept. 39 | Badges | Service or Proficiency Pay N/A | 3/17 MFM 6 (AFB 122) 10/7/38/150 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk 1-4 Jan 41 | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc BF Gossage Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
			SHEET	DESTROYED 16th June 42 . Last entry 14 June 41					
			1	Case of Drunkeness 4 Jan. 41.					
Field.	15 Nov 42	Sgt.	/	(1) A.A.Sec.11. Neglecting to obey Camp Standing Orders in that he drove W.D. Vehicle C.L.+ 4215261 without proper authorisation.	A-31101 Gnr. Munn. A-31204 Gnr.Phillips	Severe Reprimand.	19 Nov42	Lt.-col. J.F.Plow "JFP"	"BF Gossage" Major
				(2) A.A.Sec.40. Conduct to the prej. etc. Failed to halt when ordered to do so by the sentry.	H-59880 Gnr.Welgush A-28501 Gnr. Schmidt.				
Field	18Mar43	Sgt	/	A.W.L. Sect 15(1) A.A. absent without leave from 2359 hrs 18 Mar 43 until 2240 hrs 19 Mar 43 (22 hrs 41 mins)	Bdr Cooks Bdr Cooper	Severe Reprimand	20Mar43	Lt-Col C.E Woodrow	Forfeits 1 days pay FRI 19/3/43 (A

OVER

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Field	29Apr43	Sgt	/	D.S.C.M.: First Charge: Sec.6(2)f. Leaving post without orders from his superior officer. Second Charge: A.A.Sec 19. Drunkeness (2nd Offence)	Capt. D.M. Dunlap Sgt.Watt L/Bdr. Schertzberg	Reduced to the ranks	Findings & Sentence confirmed on 4 May 43	by Lt.-Col. H.A. Sparling, A/C.R.A. 3 CDN. DIV. "CE Woodrow Ltcol"	

CERTIFIED TRUE COPY AS AT 24 JAN45: M W Murray Capt
(M. W. MURRAY) A/CAPT.
ADJT 4 LT AA REGT RCA

SUMMARY OF EVIDENCE IN THE CASE OF

A-31035 BSM. Lewis George THOMPSON

By direction of the Commanding Officer, the Summary of Evidence is taken under oath.

FIRST WITNESS Marinus Wilhelmus Schuurman, 28A Grootestraat, Nijmegen, having been duly sworn states through interpreter L. De Klerk, having been duly sworn:

I am Marinus Wilhelmus Schuurman, 28A Grootestraat, Nijmegen. On the evening of 19 January 1945 I had a game of cards at a friends home. At about a quarter to eleven I went home. I had no key so I went to an air raid shelter 22A Grootestraat where my mother was sleeping and asked for the keys to the house. When I came out the door of the shelter to come home I saw two Canadian soldiers who were drunk. I walked up the stairs to the street. The two soldiers began kicking and knocking at the door into the shelter. I went down the stairs to see what they were going to do. The smaller of the two soldiers said to me to open the door. I said this was not possible. The same soldier said to me that he wanted to sleep here. I took them with me to my house and he wanted to sleep in my bed. I told him that it was not possible because it was the bed where I slept. Then he wanted to go to the girls. I showed him to the Pipergas where I knew a girl. After that I went home again. I waited by the door for some time because I thought they might come back again. I saw them coming back. I went inside the house, locked the door and stood at the window watching to see where they were going. The went to the entrance to the air raid shelter and down the steps. I left the house and went to the military police near the pontoon bridge . The military policeman brought a soldier and came with me. When we arrived at the shelter a soldier was standing in the street just outside the entrance to the stairs. The military policeman talked with him for a little. Then the military policeman and the soldier he had brought with him from the bridge went with me to the cellar. Van Ing came up to us and told the M.P. that a soldier was kicking at the door in the street. We went upstairs again to see if somebody was in the street. The soldier had a torch with him and so it was easy to see where he was standing. The M.P. took him with him. I went home.

At 9 o'clock on Saturday the military police picked me up and I gave a statement of what had happened on the previous night. At one o'clock in the afternoon I had to go back again and a Dutch policeman took a statement in Dutch. I also attended an identification parade. There were three of us all civilians in a room. I was taken out of the room and asked through an interpreter if I could identify any of the soldiers who where standing in line in a corridor as one of the soldiers I had seen the previous night near the air raid shelter. There were ten or twelve soldiers standing there. I pointed out one of the soldiers as one who had been kicking and knocking at the door and who I had been talking with. I do not know what happened to the other soldier.

M W Schuurman

Marinus Wilhelmus Schuurman

The accused cross examines the witness as follows:

...../2-

First Witness (cont'd)

Q. - Was the soldier who came upstairs with you and the M.P. the same soldier that you identified on the identification parade.

A. - Yes

Q. - When you were waiting in the room at the Provost H.Q. did you see the soldier that you identified drive up to the H.Q. in a jeep with a military policeman.

A. - Yes.

SECOND WITNESS 083499 Sgt. G.T.M. Van Den Ing, Dutch Frontier Guard Coy, Nijmegen 1 Sector 4 having been duly sworn states through interpreter, Lieut. L. De Klerk having been duly sworn states:-

I am 083499 Sgt. G.T.M. Van Den Ing, Dutch Frontier Guard Coy Nijmegen 1 Sector 4. On Friday the 19th of Jan 45 at about ten o'clock in the evening I went to the air raid shelter Grootestraat 22 to sleep there with my family. I was undressing myself when the man in charge of the shelter Van Den Ing G.J.A. my father shouted "here are two drunk Canadians". They came into the shelter, a Sgt Major and a private. The private sat down on the bench beside the door and fell asleep. The Sgt Major went to the last bed on the right side of the cellar, there was a girl sleeping. He name is Dina Hurkins. He sat down on the bed with his back to her, then he stood up and placed his hand on her leg outside the bed covers and said to the girl, "I will fuck and asked her where her mother was. She said "my mother is in hospital". The Sgt Major would not believe it but I told him in broken English, "her mother is in hospital". I tried to explain to him that the mother was suffering from venereal disease. The Sgt Major said "Go away". He may have said more but I only remember the words "go away". I said "No, it is better that you go for it is ten o'clock and people want to sleep here". The Sgt Major said again "I fight with you" and I felt his fist on my stomach. I told him that I don't like to fight with an allied soldier. After that the Sgt Major went to the door. We woke up the other soldier and took him upstairs with the Major and my father. About ten minutes later the Sgt Major and the soldier came back. The soldier sat down in the same place by the door. The Major said "I am looking for a girl". He went to the second part of the shelter and there was a girl of about 21 years who was ill, "a good girl for me" he said and went and stood beside the bed. The Major unbuttoned his great coat and tunic. I and two men stood between the Sgt Major and the bed. The children shouted and women were scared. I told him to go away and after some minutes he went to the door again. He asked for his coton, I gave it to my father and he handed it to the Major. We woke the soldier again and both went upstairs. We locked the door and after approx fifteen minutes we heard a knock at the door. We could hear that the same persons were there again. We did not open the door and I had gone to bed, at about 1215 an M.P. and English soldier came in. They went up to my father who is in charge of the shelter and they came to my bed because my father could not understand whey they said. The M.P. asked me if I spoke English. I answered "yes a little bit". He asked me if I had seen what happened. I told him "yes". Next morning at 0930 he picked me up with a jeep, took me to Oude Heeschlaan where I gave a statement. At one o'clock I attended an identification parade.

which he had left on the bed.

...../3.

SECOND WITNESS (cont'd)

In the hall were eight or ten soldiers and I could identify the Sgt Major as soon as I saw him though he wore the uniform of a Lance Corporal. I pointed to the Sgt Major as the soldier who was in the air raid shelter on the night of the 19th.

Oosgaard Maj

Oo3499 Sgt G.T.M. Van Den Ing

THE ACCUSED CROSS EXAMINES THE WITNESS AS FOLLOWS:

Q.- During our conversation was I talking to you quickly and with a thick tongue or was my voice clear.

A.- With a thick tongue and quickly.

Q.- In the shelter did I hit you with intent to hurt or was it just a shove.

A.- ~~He~~ You had not the intention to hurt me.

Q.- Would you say my manner was that of a soldier trying to make trouble or simply having a little fun?

A.- In my opinion it was not ~~his~~ your intention to make trouble.

THIRD WITNESS

Oosgaard Maj

Miss Hendrina Maria Hurkens, Grootestraat 22A, Nijmegen, having been duly sworn states through interpreter Lieut. De Klerk, having been duly sworn:

I am Hendrina Maria Hurkens, age 18, Grootestraat 22A, Nijmegen. In the evening of 19 Jan 45 I was sleeping in an air raid shelter at 22A Grootestraat, at about half past nine. Two soldiers came into the shelter. They were drunk. One of the soldiers sat down on the side of my bed and I woke up. I was afraid; my mother is in hospital, my female cousin was leaping beside me. The soldier who sat down on my bed behaved very strangely. He grabbed my right leg with his right hand, just below the knee and I seized his right hand to try and push his hand away. About six men came very quickly and took the soldier to the entrance of the shelter. His pal was asleep just inside the entrance of the shelter and he woke him up. When the other soldier was awake the men took both soldiers out of the shelter and they closed the door. The two soldiers went upstairs (the shelter is built in the cellar of the house). Both the soldiers came back into the shelter very soon, one of the soldiers went to sleep on a bed near the entrance, the other soldier went further into the second room of the shelter. About six men who were in first part of the shelter cellar where I was went into the second part of the ~~shelter~~ cellar. I could not see anything until the men came back out of the second room pushing the soldier towards the entrance. I saw that he was very drunk. He was staggering and walking very zig-zag he had a bottle in the pocket of his overcoat. The soldier woke the sleeping soldier and they were forced by the men to go outside. He kicked or knocked at the door and used words in English that to me meant "I will sleep here". The men who had forced him to go out of the shelter said "there are too many people living here to allow you to sleep here" . The military Police came for me the next day the 20th of Jan 45. My cousin and another man, and I went with the M.P. and I made a statement of what had happend. The M.P. held an identification parade at about one o'clock where I pointed out a soldier standing with about ten other men.

..../4-

THIRD WITNESS (cont'd)

The soldier I pointed out is the soldier who was sitting on my bed and grabbing me by the leg in the air raid shelter on the night of 19th January 1945.

H Hurkens

Hendrina Maria Hurkens,

The accused cross examines the witness as follows:-

Q.- When I sat on your bed and had my right hand on your knee was my hand underneath or on top of the covers.

A.- On top of the covers.

Q.- Do you understand English or the English language.

A.- Just a little bit. I only learned it since English soldier come here.

H Hurkens

FOURTH WITNESS

F-50164 L/Cpl. Deyarmond, P.C. 19 Can Provost Coy having been duly sworn states:-

I am F-50164 L/Cpl Deyarmond, P.C. 19 Cdn Prov Coy. I have to report that on the night of 19 Jan 45 I was on duty at the Pontoon bridge in Nijmegen when I was called by a civilian who informed me that a soldier had entered his house and wished to fight with him. I went with this civilian to his home and found a B.S.M. standing just outside. I asked this BSM what he was doing there at this time of night and he informed me that he was on his way home. While I was talking to him I was called to an air raid shelter on Grootestraat, Nijmegen, by another civilian. I followed the civilian into the air raid shelter where he took me to Sgt G.T.M.Van Den Ing of the Netherlands Army who spoke a little English. This Sgt told me that a BSM and a soldier came into the shelter and assaulted women and that they had persuaded the BSM and soldier to leave on some occasions but that they had kept coming back into the shelter and kicking and hammering on the door of the shelter. I then left the shelter and found the BSM standing in the doorway just outside the shelter. I asked him to accompany me to the pontoon bridge which he did. We were then driven to my Coy H.Q. by L/Cpl Evans, 19 Can Prov Coy. I found in his possession two cans of canned beer, 99 guilders and some change in cash. On instructions from the RSM I placed the Sgt Major in the detention room. The Sgt Major had been drinking but was not drunk when I placed him in the detention cell.

L/Cpl [illegible]

F-50164 L/Cpl.Deyarmond,P.C.

The accused declines to cross examine the witness.

FIFTH WITNESS

C-41965 RSM. McCallum, H. 19 Cdn Prov Coy having been duly sworn states:-

I am C-41965 RSM McCallum, H. 19 ~~Cdn~~ Prov Coy stationed at Nijmegen. At 1330 hrs 20th Jan 45 I was in charge of an identification parade held at HQ 19 Cdn Prov Coy in Nijmegen. Seven soldiers including A31085 BSM Thompson, L.G. were present. BSM Thompson wore a Lance Corporal's tunic, the same as the other members of the parade. Three witnesses, Mr Schuurman, Miss Hurkens (civilians) and Sgt Van Den Ing of the Dutch Army were in a room adjoining the parade. They were called out separately and placed before the parade. Each witness unhesitatingly identified BSM Thompson as the soldier they had seen the night before at the air raid shelter ..../5-

FIFTH WITNESS (Cont'd)

at 22A Grootestraat, Nijmegen. I was assisted on the identification parade by Sgt Cowan of 19 Can Prov Coy and Constable Bloomers, Dutch Civil Police Interpreter.

C-41963 RSM. McCallam, H.

The accused declines to cross examine the witness.

SIXTH WITNESS

Mrs M.J.Mesu-Barsch of Grootestraat 34, Nijmegen having been duly sworn states through Interpreter Lieut. L. De Klerk having been duly sworn.

I am Mrs M.J.Mesu-Barsch of Grootestraat 34, Nijmegen. On the evening of the 19th of January 1945 I was sleeping in the second part of the air raid shelter Grootestraat 22A. At about 2230 hrs a Canadian soldier came into the part of the cellar where I was sleeping. He came to the bed where I was sleeping with my daughter Elizabeth, 19 years old, and my little son, 4 years old. The soldier grabbed at the bed covers over my daughters legs. He threw his gloves and his torch on my bed and sat down on the bed next to ours. He unbuttoned his leather coat and his tunic. I was not afraid that he would do anything harmful, he just sat quietly on the bed. He had been drinking but did not appear drunk. The children in the shelter began to cry and shout. Three other men, my husband, Van Ing and his son who is a Sgt in the [illegible] came into the cellar where we were and told the soldier that he had better leave the cellar because the girl was ill and wanted to sleep. He answered "no good". Took off his gloves with him and went quietly away. It was not necessary to use force. Van Ing came back to his get his torch which he had left on my bed and I went to sleep again.

The accused declines to cross examine the witness.

M J. Mesu - Barsch

Mrs, M.J.Mesu-Barsch

SEVENTH WITNESS:

Mr. Van Den Ing G.J.A., Grootestraat 28 Nijmegen, having been duly sworn, states through interpreter Lt L de Klerk, having been duly sworn:

I am M Van Den Ing G.J.A., Grootestraat 28 Nijmegen. I am in charge of the Air Raid Shelter at Grootestraat 22A, Nijmegen. On Friday 19 Jan at about 2000 hrs two soldiers came into the Air Raid Shelter. They were drunk. One was drunk and could not even walk. He sat down and fell asleep. The other had been drinking for I saw that his walk was staggering, zig-zaggy and unsteady. One of the soldiers said to me: "I must have a lady" and he pointed with his finger to the back of the cellar. He went to a bed, the last bed in the first part of the shelter on the right side. He grabbed the girl who was sleeping there at her leg with his hand below the covers. I said to him in Dutch "the girl is too young and her mother is in hospital" and he went back to the door. Then he went back again to the second part of the shelter. I woke up my son. My son talked with him and after a few minutes the soldier left taking the soldier who was asleep with him. Soon they came back again, and one of them went into the second part of the cellar where a girl, Mrs. B Mesu, about 20

Seventh Witness (cont'd)

years old, was sleeping. First he seized her hand and said: "that is a lady for me." After that he sat down on a bed next to the one where the girl was sleeping and opened his great-coat and his tunic. The children in the cellar began to cry and the woman were scared. He took his gloves from the bed without saying a word and started to leave the shelter. At the exit he asked for his torch which he had left on the bed woke up his pal and both left the cellar. Later they came back again. The door was locked and they kicked at the door. Some minutes later the Military Police came with a civilian. They talked with my son but I don't know what they said for I had gone to bed and don't understand much English. There are often soldiers in our shelter and I have picked up a few words of English and I sometimes understand a few words of what they say.

The accused cross examines the witness:

Q: Are there many lights in the shelter?

A: There is one 45 watt, close to the entrance of the cellar and one 100 watt light on the ceiling of the doorway between the first and second parts of the shelter.

Q: When the Military Police came into the shelter with the civilian was there a soldier with them?

A: No.

Q: When the soldier went to the last bed on the right in the first shelter was he wearing gloves or not?

A: I don't know.

G.J.A. Van Den Ing

The accused having been duly cautioned in the words of Rule of Procedure 4 (E) declines to give evidence or make a statement and reserves his defence.

I certify that Rule of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused.

Dated in the Field.
this 22nd day of January 1945

M. W. Murray

(M. W. Murray) A/Capt., R.C.A.
Officer Taking Summary of Evidence

22 Jan 45

Commanding Officer
4 Cdn LAA Regt RCA

Sir:

I desire to have Major Douglas Watt, 6 LAA Regt RCA, defend me in my forthcoming trial by F.G.C.M., if he is available.

A-31035 BSM Thompson, LG

LIST OF WITNESSES IN THE CASE AGAINST

A-21309 S.S.M. THOMPSON, L.G.

First Witness - Marinus Wilhelmus Schuurman, 20A Grootestraat, Nijmegen

Second Witness - 003477 Sgt. Van Den Ing, G.T.M., Dutch Frontier Guard Coy, Nijmegen 1 Sector 4.

Third Witness - Miss Hendrina Maria Hurkens, 22A Grootestraat Nijmegen.

Fourth Witness - F-50104 L/Cpl. Deyarmond, P.C. 19 Can Provost Corps

Fifth Witness - C-41909 R.S.M.McCallam, H. 19 Can Provost Corps

Sixth Witness - Mrs. M.J. Mesu-Barsch, Grootestraat, Nijmegen

SEVENTH WITNESS- G. J. A. Van Den Ing, 28 Grootestraat, Nijmegen

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.31035 BSM Lewis George Thompson 4 LAA Regt RCA

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Not Guilty	Guilty	
2nd AA Sec 19	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Appeal against conviction/sentence/finding/order~~ ~~lodged/not lodged~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the Ranks and to undergo detention for six months.

(Sgd) ..... Judge-Advocate, if any. 26 Jan 1945 Date awarded. (Sgd) D L de Volpi Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I remit the sentence for execution/postponement/dispensation/mitigation/remission/commutation~~ HSG (1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... H.S. Griffin Lt-Col

Date 28 Jan 45 Commanding A/CRA 3 Cdn Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A31035 BSM THOMPSON, L.G.	30 Jan 45	(Sgd) PAL Charlesworth Major T/OC 4 LAA Regt RCA

The provisions of Army Act 182 (3) have been explained to the accused.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4/7/108

FIELD GENERAL COURT-MARTIAL

CFAM 1 (to lims of AFAS) (D/P & R/1608-1/40(6)) 4/38B

Convened by Order of H.S. Griffin Comd CRA 3 Cdn Div dated 24 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 31035		BSM	Lewis George	THOMPSON	4 LAA Regt RCA

CERTIFIED TRUE COPY
D.L. Thompson Capt
D. J. A.
Cdn Sec G.H.Q. 2 Echn 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 26 Jan 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) ~~is~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1625 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused is directed to be tried by court-martial without delay by the XCO.~~(1)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt L deKlerk as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to the Prosecutor as Interpreter? Ans~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.L. de VOLPI	7th Cdn Reece Regt
Member	Lieut	F.W. DOYLE	C E of O
Member	Lieut	L. DILLER	13 Fd Regt RCA
Judge-Advocate			
Prosecutor	A/Capt	M.W. MURPAY	4 LAA RCA
Defending Offr	[illegible]	D.M. GILLIS	14 Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A31035 BSM Lewis George THOMPSON before arraignment make(s) (no) ~~is~~ objection(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D-E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

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B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

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C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1) Dr dev

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is cleared, and considers the submission(3). The Court is re-opened, and the President announces that the submission is sustained on the charge(s), and allowed on the charge(s), and that accordingly, the trial is adjourned on the charge(s), but continues on the charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Make a statement. Do you intend to call witnesses on your behalf? Ans. None. Are they witnesses as to character only? Ans. N/A

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

X X DM

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), and asks if the accused that the finding(s) in relation to the charge(s) is (are) correct. (If any plea of Guilty is changed to Not Guilty, all charges will be proceeded with.) (If the finding is Not Guilty on all charges, or Guilty on all charges on which sentence may be awarded by the Court, and that the proceedings are accordingly terminated.) (If the finding is Guilty on one or more charges, but not on all charges on which sentence may be awarded by the Court, and that the proceedings are accordingly terminated.)(1)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P1 and Ex P2 respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes X X DIdeV

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DLdeV

CHARGE SHEET

A-31035 BSM Lewis George THOMPSON, 4 Light Anti-Aircraft Regiment, R.C.A., a soldier of the Canadian Army Overseas is charged with

FIRST CHARGE
AA Sec 40

Conduct to the prejudice of good order and military discipline

in that he

in the field on 19 Jan 45 did cause a disturbance in a public place, i.e. a public air raid shelter.

SECOND CHARGE
A.A. Sec 19

When on active service, drunkenness

in that he

in the field on the 19 Jan 45 was drunk.

(Sgd) C.E. Woodrow Lt-Col
Officer Commanding
23 Jan 45 4 Lt AA Regt, RCA

TO BE TRIED BY FGCM

(Sgd) H.S. Griffin Lt-Col
A/CRA 3 Cdn Div

In the Field
Holland
24 Jan 45.

DL dev

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 31035		BSM	Lewis George	THOMPSON	4 LAA Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 JAN 45 endorsed by me, (or by my predecessor in command), "To be tried by Field General Court-Martial". HSG

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable that the trial be postponed to a superior qualified auth) HSG
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons that have HSG
actuated me.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate the Offr mentioned hereunder. HSG
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	D L DEVOLTI		7 Cdn Recce Regt

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lieut	F.W. DOYLE		C H of O
Lieut	L. DILLER		13 Fd Regt RCA

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	W.D. TROTTIER		3 A Tk Regt RCA

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(Sgd) H.S. Griffin (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date

Commanding A/CRA 3 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAOS (In lieu of AFA3) 40/P & S/1697 (4693)

(See overleaf for oaths and notes for use on trial.)

DLde V

4 Light A.A.Reg't RCA
Canadian Army, Overseas

Re A31035 BSM THOMPSON, L.G.

This is to certify that the m/n has been medically examined today and is free from infectious disease and physically fit to undergo trial by court martial.

Date 26 Jan 45

(Sgd) A ? Doyle Capt
Medical Officer
4 Light AA Regt RCA

1st WITNESS: Marinus Whihelmus Schuurman,- civilian 28A Grootestraat Nijmegen - having been duly sworn states:

Q. Do you recognize the accused?
A. Yes
Q. Where have you seen him before?
A. I saw him in cellar and the identification parade.
Q. Do you know the address of this cellar you mention.
A. Grootestraat.
Q. Tell the court all you know about the time you saw the accused with the time of day - day - month and year.
A. 19 of Jan 1945 I came from Peters a friend of mine where we had a game of cards - at 1045 pm. I went home. I went into the cellar because my mother was sleeping there and I wanted the keys of our house. I went home and saw two Canadian soldiers who went into the cellar - I saw what they were going to do. One of the soldiers said to me open the door - I said it is impossible because the door has been locked inside, one of the soldiers sie.ed the collar of my coat and would beat me. They said to me that they wanted to sleep - I took them with me to my own house and one of the soldiers would lie down in my bed I said to him that it was impossible because I had to sleep there. They wanted to go to the girls. I showed them the way to Pepergas. I went back and waited for a couple of minutes, the soldiers came back again I locked the door - they went into the cellar again. They knocked and kicked at the door of the cellar. I went outside and locked the door of my house - I went to the pontoon Bridge to the Military Police. The M.Ps and a soldier went with me to the cellar - We were near the cellar and the soldier was standing in the street. The Military Police went up to him and spoke to him. The soldier and the MP went with me into the cellar. Van Ing said to me that he was kicking at the door again. The policeman and the soldier went with me out of the cellar and looked for the soldier. The soldier who was drunk had a torch with him so that we had no difficulty to find him. The MP took him with him. I went home again - that is all.

Q. Who is the soldier whom you say was drunk and had the
A. torch with him.
A. The same soldier that I saw at the identification parade.

Defence

A. Where do you live.
A. 28A Grootestraat.
Q. What is the address of the cellar?
A. 22A Grootestraat.
Q. Do you know the time of curfew?
A. Yes 1100 hrs PM.
Q. How do you know that one of the soldiers was drunk?
A. Because they had fallen several times on the street and I could smell it.
Q. Could smell what?
A. I could smell that they had been drinking.
Q. Do you know what they had been drinking?
A. No, I could not say.
Q. How do you know that the two soldiers you saw on the street were Canadian.
A. I saw it by their hats.
A. What did you see in that hat that would indicate that they were Canadian soldiers?
A. I could see it by the badge.
Q. Do you remember what the weather was like on the evening of the 19 of January?
A. It was slippery moonlight and mild.
Q. Was it snowing on the evening of the 1th of January?
A. No it was not.

Q. How can you be sure that it was not because the road was slippery that the soldiers fell down?
A. There was no snow on the place where they fell, it had been removed.
Q. Do you speak English?
A. No
Q. Do you understand any English?
A. A few words.
Q. How did you understand what the soldiers said to you?
A. I could make out what they meant.
Q. How far is it from your house to the cellar?
A. 20 - 25 Meters.
Q. Is your house on the same side of the street as the cellar?
A. Yes it is.
Q. You said in answer to a question that you saw the accused in the cellar and yet in your statement there is no evidence of the accused having been in the cellar with you.
A. I saw him down stairs in that part of the cellar quite close to the entrance which is not tthat part of the cellar where people are sleeping.
Q. Was a door open to that part of the cellar in which people were sleeping?
A. No it was closed.
Q. How many electric lights in the cellar.
A. Two, one in the front part and one in the back.
Q. When the door is closed is it possible for either of the lights to show in that part of the cellar where the witness saw the accused?
A. No not when the door is closed.
Q. If the door was closed how was it possible to see the accused?
A. I saw him upstairs when he went home with me.
Q. What do you mean by the statement I saw what they were going to do?
A. They wanted to go into the cellar.
Q. Where did it happen that one of the soldiers siezed the witness by his coat?
A. Down stairs we were standing by the door.
Q. If it was dark in the cellar how do you know which soldier siezed you by the coat?
A. I was quite close to him and I could see who it was.
Q. When you went in your house and locked your door you say the soldiers returned and went to the cellar again. How do you know they went into the cellar again?
A. I locked the door because I was afraid that they would come back - and I stood by the window and saw that they went down stairs into the cellar.
Q. Could you see from the window of your house the soldiers entering the cellar.
A. I was standing by a window when they passed my house but as soon as possible I went outside again and saw that the soldiers went downstairs.
Q. Did you see the soldiers kicking at the door.
A. No I could hear it.
Q. At the identification parade were you present?
A. Yes I was.
Q. Did you see the accused on the day of the identification parade before the actual parade itself?
A. Yes.
Q. How was the accused dressed on the day of the identification parade?
A. The usual dress.
Q. How was the accused dressed on the evening of the 19th of January?
A. I do not remember exactly.

Prosecution

Q. You mention two soldiers was it easy to distinguish between the two soldiers?
A. Yes, one was smaller.
Q. Do you know if accused is the smaller or the larger of the two?
A. The larger.
Q. You said you saw the soldiers fall - did you see the accused fall?
A. Yes both of them.
Q. Did the accused fall more than once?
A. Only once.
Q. Besides the soldiers falling and smelling that they were drinking was there any other way that you could tell that they were as you state drunk?
A. I could smell that they had been drinking alcoholic beverages I saw them fall.
Q. How were the soldiers marching or walking?
A. Just like a man who is drunk - unsteady walk.
Q. On the day of the identification parade beside the accused did you see anyone else drive up in vehicles while you were waiting?
A. No.
Q. Did you see any other soldiers walking around?
A. No.

R.P. 83 (B) complied with.

21. WITNESS - 063499 Sgt G.T.M. Van Den Ing - Dutch Frontier Guard Coy Nijmegen, having been duly sworn states:

Q. Do you recognize the accused?
A. Yes.
Q. Where and when have you seen him before?
A. I saw him the first time in the cellar the 19th of January I was with my family in the cellar to sleep there. I undressed, when my father who is in charge of the air raid shelter shouted there are two drunk Canadians here. The Canadians came in to the shelter and one was so drunk that he fell down at the bench by the door where he fell asleep. I saw that one of the two Canadians was a Sgt Major. The Sgt Major came into the cellar and went to the last bed on the right side. There was a girl of about 16 years her name is Dina Burkens. The Sgt Major sat down on the bed stead, he turned around and grabbed the girls leg with his right hand on the top of the bed covers. He said "I will fuck where is your mother". The girl said that her mother was in Hospital he did not believe it but I told him that it was the truth. I tried to explain to him that her mother was suffering from V^. The Major said I fight with you and I felt his fist on my stomach. I said to the Sgt Major that I did not like to fight with allied soldiers. The Sgt Major left the cellar. First he woke up the soldier who was asleep and we helped the Sgt Major to get this soldier out of the cellar. We were my father the Sgt Major and I. I went back to the cellar and after five or ten minutes they came back again the soldier sat down in the same place and the Sgt Major went to the second part of the Air Raid shelter. He said I look for a girl. In the second part of the cellar was a girl of about 21 years asleep, she was ill. The Sgt Major saw her and said that's the girl for me. He went to her bed and opened his greatcoat and his tunic. We said to him that the girl was ill and placed ourselves between him and the bed. Children began to cry and women were scared. The Sgt Major said you Fucking Dutch Soldier. We told him that he had better go away. I forgot something - When the Sgt Major was the first time in the shelter he said to me go away but I answered that he had better go away because it was already 1000 pm

and people wanted to sleep.

The Sgt Major did not say anything and went to the front part of the cellar. We woke up the soldier again and they left the cellar. We locked the door, after about 15 minutes we heard someone knocking at the door. We did not open the door and I went to bed. It was about 15 minutes past 1200 pm (0015 hrs) when my father and an MP and an English soldier came to my bed. The MP asked me if I had seen what had happened in the cellar I said "Yes"."Next morning the MP took me with them to his HQ where I gave a statement of what had happened. At 1300 hrs I had to come back for the identification parade, I pointed out the soldier who I recognized as the Sgt Major who had been in the cellar the night before - he wore the uniform of a L/Cpl.

Q. What is the address of the air raid shelter?
A. Grootestraat 22.
Q. What was the condition of the SSM in the Air Raid Shelter.
A. Drunk.
Q. Why do you say he was drunk?
A. By the smell of alcohol and his staggering walk.

Defence

Q. How many people normally sleep in the shelter at night?
A. 85
Q. How could you identify the soldiersas Canadians?
A. He had a badge of Canada on his shoulder.
Q. What was the weather like on the 19th of January.
A. Snowy.
Q. How was the Sgt Major dressed.
A. In uniform.
Q. What kind of a uniform?
A. Battle dress and leather coat or Great coat.
Q. In your opinion was the Sgt Major drunk?
A. He was not as drunk as the other soldier who fell down on the bench but the Sgt Major had been drinking?
Q. You said in you statement that the woman were scared - what makes you think they were scared?
A. Some women got out of their beds and went to one of the exits of the shelter.
Q. When you attended the identification parade at the Provost HQ did you see the Sgt Major drive up to the building in a military vehicle?
A. Yes.
Q. Did you see the Sgt Major get out of the vehicle? and walk into the bldg?
A. I saw him get out of the vehicle but not go into the building?
Q. How was he dressed on that occasion?
A. I don't remember exactly but I saw from his face that he was the Sgt Major.
Q. Was he wearing L/Cpl Tunic.
A. I did not see.
Q. To whom did your father say here are two drunk Canadians.
A. He said it to everybody.

R.P. 82 (B) complied with?

3rd WITNESS Miss Hendrina Maria Hurkens - Civilian Grootestraat 22 A Nijmegen having been duly sworn states:

Q. Have you ever seen the accused before?
A. Yes.
Q. Where have you seen him before?
A. Down below in our cellar?
Q. Have you seen the accused since then?
A. Yes at the identification parade.
Q. Do you remember the night of Friday 19th of January 1945?
A. Yes
He came into the cellar and he was drunk. He sat down on my bed. I was sleeping but he fell from the foot of my bed and that is why I woke up. He siezed my leg and I siezed his hand and pushed him back. About six men took him away from the foot of my bed to the entrance of the shelter and he woke up another soldier who was sleeping on a bench by the door. He went out of the cellar, I do not know what happened in the street becasue I could not see it. Sometime after they had left they came back again and one of thesoldiers went to the second part of the shelter. I heard children crying and shouting and they ran into our cellar - but of course I could not see what happened there. I have only seen what has happened in the first shelter and that is all I can tell you about that night.

Q. Who were you referring to when you said they ran into our cellar?
A. The children who were sleeping in the second part of the shelter.
Q. Did you see anyone come out of the second part of the shelter?
A. Children - Women.
Q. Did the sodiers stay there?
A. No he did not stay there all night long - he came back perhaps 10 minutes afterward.
Q. Did you see him leave the shelter?
A. Yes the men who were in the shelter tried to get him out.
Q. Is the accused the soldier who was in the second part of the sellar?
A. Yes.
Q. You said "two soldiers came in and that they were drunk" How did you know they were drunk?
A. I could see, one fell down and the other one came staggering up to my bed?
Q. You previously said he fell from the foot of my bed and that is why I woke up?
A. It was the second time he came in, then I saw him not the first time.
Q. Did you attend an identification parade on the following day?
A. Yes.
Q. Were you able to identify anyone on that parade?
A. Yes I recogniz ed him.
Q. Who do you refer to as him?
A. The accused.

Defence

Do you speak English?
A. No
Q. Had you ever seen any English soldiers in the shelter before?
A. Yes they sometimes came in to see if there were girls - if there were no girls they would go away again.
Q. Did you ever notice whether any of these soldiers who came in had been drinking or not?
A. Sometimes I could see it by their walk or smelt that they had been drinking.
Q. What did you do when the two soldiers left the cellar for the first time?
A. We were all awake but I could not sleep I stayed in my bed.

Q. Prior to the identification parade did you see the accused drive up to the HQ in a Military Vehicle?
A. Yes I was sitting in a room and saw him drive up in an open vehicle.

Court

Q. Do the people have to go through first part of the shelter to get to the second part.
A. Yes.

Witness Recalled for the Defence.

Q. When the accused siezed your leg was his hand on the top or below the bedcovers?
A. On the top of the covers.

R.P. 83 (B) complied with.

4th WITNESS Mrs M.J. Mesu Barsch - Civilian 34 Groodestraat having been duly sworn states:

Q. Have you ever seen the accused before?
A. Only the evening of Friday when he came into our shelter the 19 of January.
He came to the bed where I was sleeping with my daughter and my little son, he siezed the leg of my daughter with his hands on the top of the bedcovers and I said to him go away because my daughter was ill. He sat down on the bed next to ours and he unbuttoned his leather coat and his tunic. Three men came to help us and as the children in the cellar began to cry and to shout he arose from the bed and said "no good". A man came to get his torch which he had left on my bed - that is all that happened in our cellar.
Q. Do you know what made the children start shouting and crying?
A. The children were awakened by the noise in the cellar and perhaps they were afraid because the soldiers were there and that is why they began to cry.
Q. How was the soldier behaving?
A. He was very quiet.

Defence

Q. Had there at any time previously been other soldiers enter the cellar?
A. Not that evening but it happened some times before that soldiers came into our cellar while we were sleeping there.
Q. On the vening of the 19 of January was there only one soldier entered the part of the cellar where you were sleeping?
A. Yes only one.
Q. Were you afraid when the soldier entered into the room where you were sleeping?
A. No I was not afraid but I thought it rather strange that he siezed my daughters leg.

R.P. 83 (B) complied with.

5th WITNESS Mr Van Den Ing GJA Grootestraat 28 Nijmegen having been duly sworn states:

Q. Have you ever seen the accused before?
A. In the cellar.
Q. What cellar?
A. In the air raid shelter on Grootestraat?
Q. What is the No.
A. 22.
Q. Who is in charge of this shelter?
A. I am.
Q. On whose authority are you in charge of this shelter?
A. Dutch Civil defence authorities.

Q. Prior to the identification parade did you see the accused drive up to the HQ in a Military Vehicle?
A. Yes I was sitting in a room and saw him drive up in an open vehicle.

Court

Q. Do the people have to go through first part of the shelter to get to the second part.
A. Yes.

Witness Recalled for the Defence.

Q. When the accused siezed your leg was his hand on the top or below the bedcovers?
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R.P. 83 (B) complied with.

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Q. Do you know what made the children start shouting and crying?
A. The children were awakened by the noise in the cellar and perhaps they were afraid because the soldiers were there and that is why they began to cry.
Q. How was the soldier behaving?
A. He was very quiet.

Defence

Q. Had there at any time previously been other soldiers enter the cellar?
A. Not that evening but it happened some times Before that soldiers came into our cellar while we were sleeping there.
Q. On the vening of the 19 of January was there only one soldier entered the part of the cellar where you were sleeping?
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Q. Were you afraid when the soldier entered into the room where you were sleeping?
A. No I was not afraid but I thought it rather strange that he siezed my daughters leg.
R.P. 83 (B) complied with.

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A. In the cellar.
Q. What cellar?
A. In the air raid shelter on Grootestraat?
Q. What is the No.
A. 22.
Q. Who is in charge of this shelter?
A. I am.
Q. On whose authority are you in charge of this shelter?
A. Dutch Civil defence authorities.

Q. Is this shelter a public shelter?
A. Yes it is public - but not for military.
Q. Will you tell us the time day month that the accused was in the shelter.
A. 10 PM - I do not remember if it was Friday or Saturday.
Q. Can you remember the date?
A. I am not sure of the date.
Q. What happened that night inthe shelter?
A. Two soldiers came into the cellar - one of them sat down on a bench. The other one said to me I want to see a lady and pointed to a bed on the right side of the shelter. He went to the lastbed on the right side of the first shelter. He stood before the bed, grabbed with his hands in the bed and the girl cried "Mother is not here." He stayed there for a few minutes talked with my son went to the entrance awakened the other soldier and the Sgt Major my son and I took the other soldier out of the shelter. About 15 minutes afterwards they returned and the Sgt Major went to the second part of the cellar, there was a girl of about 21 years sleeping in a bed. He went up to her and said "that is a good lady perhaps he used another word. I do not remember exactly. He siezed her hand and sat down on the next bed opened his coat and tunic whereupon the children began to cry. The Sgt Major arose from the bed left the shelter with the other soldier who had been sleeping on the bench beside the door. We locked the door after about 20 minutes they came back again knocked at the door for about 8 or 10 minutes. About 20 minutes afterwards we heard somebody say open the door here is the Military Police. We opened the door and the MPs came in and asked where they were. I told them that we had heard them knocking about 2 or 3 minutes ago. The police went away and we went to bed and I do not know what happened after that.
Q. What conditions were the two soldiers in when they came in to the cellar?
A. They were both drunk one more than the other.
Q. How do you know when a man is drunk?
A. I could see it because he walked zig zaggy and I could smell it.

Defence

You said in your evidence that one soldier went to sleep by the door the other stood by the bed - which was the SSM.
A. The one who was standing in front of the bed.
Q. Did you send for the MP.
A. Yes - I told somebody - I do not remember who it was to go to the MP.
Q. Was this after the two soldiers left the shelter?
A. No it was when they were in the shelter.
Q. You say both the soldiers were drunk, but one was more drunk than the other which was the more drunk?
A. The one who fell asleep on the bench but I do not know him.
Q. How many electric lights are there in the cellar?~~in the door way between the two cellars and~~
A. Two one by the entrance of 40 watt and one in the doorway between the two cellars of 100 w.
Q. What was the weather like?
A. It was or had been snowing.
Q. Do soldiers frequently come to the air raid shelter?
A. It depends on the circumstances sometimes 4 per day some days none. If possible I do not allow them in the shelter.
Q. Had there on any previous evenings been soldiers in the cellar?
A. Almost every night there are two soldiers who come into the shelter and stay there for some hours.
Q. What were the two soldiers drinking?
A. I do not know.

R.P. 83 (B) complied with.

6th Witness F.50184 L/Cpl Deyarmond, P.C. 13 Cdn Pro Coy having been duly sworn states:

Q. Have you ever seen the accused before?
A. Yes - on the night of Jan 19 at approximately 2400 hrs I was on duty at the pontoon bridge at Nijmegan when I was called by a civilian. I went with the civilian to 28A Grootestraat Nijmegan where I saw a soldier standing outside who proved to be A.31035 BSM Thompson, L.G. I asked him what he was doing there at that time of night. He told me that he was on his way home, a short distance from where he was standing was an air raid shelter, a civilian called me from the doorway of the shelter and took me to Sgt Van Den Ing of the Netherlands Army from what the sgt told me I then left the shelter and found BSM Thompson still standing outside. I asked him to accompany me to the pontoon bridge which he did we were driven to my company HQ by L/Cpl Evans, 13 Pro Coy. I searched the soldier and found in his possession two cans of corn beef 53 Gldrs and some change. This mand had been drinking, but I would not say he wasdrunk. Acting uponthe instructions from RSM McCallum 13 Pro Coy I placed him in the detention room.

Defence

Q. Do you know who the civilian was that called you?
A. His name was Schurerman.
Q. Who was the civilian who called you from the door of the air raid shelter?
A. I do not know his name but know him to see him.
Q. What was Sgt Major Thompson doing when you first saw him that evening?
A. Standing outside the Air Raid Shelter and the civilian Schuurman house which are close together.
Q. Do you recall the no of the shelter?
A. No I do not.

R.P. 83 (3) complied with.

7th Witness C.41965 RSM McCallum, H. 13 Cdn Prov Coy having been duly sworn states:

Q. Have you seen the accused before?
A. Yes Sir - on the 20th of January 1945 I was in charge of an identification parade held at 13 Pro Coy HQ at Nijmegan 7 soldiers including Regt No A.31035 BSM Thompson, L.G. were on the parade. BSM Thompson wore a L/Cpls tunic the same as the other members of the parade. 3 witnesses - Mrs Hurkins a civilian, Mr Schuurman civilian and Sgt Van Den Ing, Dutch Frontier Guard were in a room adjoining the parade. Each of these witnesses were called out seperately and identified without hesitation BSM Thompson as the soldier they had seen the night before. I was assisted on the identification parade by Sgt Cowan 13 Pro Coy and Crist Bloomers interpreter Dutch Police.

Defence

Q. After you had taken the civilians seperately before the the parade - were they allowed to return to the room where they were waiting.
A. Yes but constable Bloomers was present.
Q. Was the position of BSM Thompson changed during the parade?
A. We do it quite often - I do not think it was done.
Q. Was the door open between the room where the civilians were waiting and the parade was held?
A. The door was open but the parade was not visable to the the civilians in the other room.
Q. Did the civilians have the opportunity to see BSM Thompson arrive at or enter the bldg?
A. I do not know.

Prosecution

Q. Do you recall who was the first to appear in front of the identification parade?
A. I am not certain.
Q. Were the other soldiers about the same size as the BSM.
A. Yes about the same size.

R.P. 83 (8) complied with.

Statement by the accused not under oath

Sir this statement is just a few of the point of this case which I myself would like to bring out. One witness claims that I fell down on the street, that is so and also quite possible as I was wearing rubber boots.
Witness No 2 Claims that I was wearing a Canada patch on my short coat. That is how he knew I was a Canadian but there never has been a Canada patch on the coat I was wearing that night.
Another witness claims that although I was drunk I was still able to help my friend up and out of theshelter. My third trip to the shelter that night was to get back the belt off my coat which I had lost some where in the shelter.
Now my original trip to the shelter was for a reason somewhat the same as the other two soldiers that ~~xxxx~~visit the air raid shelter quite frequently that Mr Van Den Ing has told us about. That is all I think.

Defending Officers closing address.

This case as in civil law the accused must be proved guilty beyond a reasonable doubt. In my mind on this case there is a reasonable doubt he is charged in the first instance under Section 40 of the AA and I call your attention to the note thereunder which is to the effect that the conduct proved must be to the prejjudice of both good order and military discipline. I do not believe that the accused has a made a breach of military discipline. One point I would bring out in regard to evidence - nearly all witnesses were most sure as to the date of this occurance but there was a considerable variance of opinion as to the weather on that date and as to how the accused was dressed. With respect to the charge of drunkeness I submit there is not sufficient evidence for a conviction on this charge. The only evidence being that he fell down once was a little unsteady on his feet and the smell of alcoholic beverages. It is quite possible that the accused fell down because he slipped on the road. It is admitted that the accused may have had a few drinks but certainly not admitted that he was drunk evidence to this effect has been given by L/Cpl Beyarmond. He was also quite capable of assisting another soldier up the stairs on at least two occasions that evening as to the alleged disturbance, evidence has been given by the 4th witness of the prosecuion that Sgt Major Thompson was quiet and she was not a fraid. The fifth witness for the prosecution stated that the accused left the shelter as soon as the children began to cry. Sgt Major Thompson admits he entered the shelter on this particular evening a shelter which according to the evidence is frequented by soldiers and Mr Van Den Ing himself has stated that two soldiers frequently stay there for part of the night. With respect to this charge I submit that the prosecution has not established the fact that Sgt Major Thompson created a disturbance inas much as only one witness gave evidence of kicking at the door but there is no evidence that it was Sgt Major Thompson and it might well have been the other soldier referred to in the evidence. Perhaps he was somewhat indiscreet in entering the Bldg but yet he did ~~xxxx~~ leave when he was asked -

and upon the arrival of the Military Police he made no attempt to get away from that locality even though he had ample opportunity to do so.

(See closing Address of the Prosecutor Page 21 A attached)

STATEMENT IN MITIGATION OF PUNISHMENT

I would like to call to the attention of the court the accused is only 25 years of age - he enlisted in the Army 5th Sept 1939 landed in England Sep 1941 - Disembarded in France on June 6th "D" day - he held the rank of WO"I since the first of June of this year - throughout the Campaign through France Belgium and Holland. It is rather unfortunate that Sgt Major Thompson became involved as he did which resulted in the not too serious charges laid against him.

Closing Address Prosecution.

Summing up in the case of BSM Thompson, L.G.

General

21 A The evidence put before the court has been given in a clear and straight forward manner by the witnesses. There have been some small differences in the statements That is natural no two people will ever remember every detail of the same event they have witnessed.

The evidence of all witnesses but two, Cpl Deyarmond and Mrs Barrck state thatthe accused was drunk and bear out the charge of drunkenness. RSM McCallum is another exception he only witnessed the identification parade.

The charge under section forty is born out by the witnesses.

(1) A disturbance was created in the shelter by a soldier identified as BSM Thompson. Children were awakened and crying, Young women were awakened from their sleep and the statements show that for some considerable time the people in the shelter were not able to rest due to the presence of BSM Thompson. Certainly a breach of good conduct and military discipline when the lives of civilians are disturbed by the conduct of an allied soldier.

A few comments on the accused statement not given under oath.

(1) Rubber boats I have always found give one a much surer friction then the normal steel shod and leather boots.

(2) From everyones experience you can no doubt recall effects of intoxicated and drunken people to assist a comrade then in turn being helped by other sober people.

(3) Certainly the evidence shows that the presence of the accused was not desired in the shelter.

I suggest thatthe evidence before the court has proved the first charge and the second charge without there being any reasonable douby.

26 Jan 45 M W Murray Capt

P1 ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A-31035	BSM	THOMPSON L.G.	4 Cdn Lt AA Regt RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereinafter stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Sec 11	One times.
For	Sec 40	One times.
For	Sec 15(1)	One times.
For		times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~No previous convictions are recorded against the accused.~~

~~No previous convictions are recorded against the accused.~~ ~~None~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 6 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 25 years

6. The date of his ~~attestation~~ is 5 Sep '39

~~enlistment~~

7. ~~No entries which have been awarded to the accused~~

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the ~~regiment~~ rank of A/L/Bdr 1 mo	9 July 43
In the ~~regiment~~ rank of A/Bdr 4 mo	13 Aug 43
In the ~~army~~ rank of Bdr 10 mo	12 Nov 43
WO II BSM 4 mos	6 Sep 44

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(75072) Wt.30721/3701 82,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Court	Pembroke Ont Can 8 Jun 41	INTOXICATION	GUILTY: 2 days in PEMBROKE JAIL	
Civil Court	[illegible] Canada 12 Jun41	BRING IN UNLAWFUL POSSESSION OF .. CAR	GUILTY: $50.00 & Costs	
F.G.C.M.	IN THE FIELD	(i) Sec 6 Leaving his post without orders from his superior officer. (ii) Sec 19 Drunkenness.	GUILTY: reduced to the ranks.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27 day of January 1945 (Sgd) MW Murray A/Capt

P2

No. A31035 Name Sgt Thompson, L. | Sqn, Battery, Company | Corps RCA | Date of enlistment 5 Sep 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAM/12/1413

Date of last entry in Company Conduct Sheet | No. and date of last drunk 1-4 Jan 41 | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | BF Gossage Major Glenwater

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of court dissolving with trial	By whom awarded	Remarks
				SHEET DESTROYED 16th June 42 Last entry 14 June 41					
			1	Case of Drunkenness 4 Jan 41	A 31101 Gnr Munn A 31204 Gnr Phillips				
Field	15 Nov 42	SGT		(1) AA Sec 11 Neglecting to obey Camp Standing Orders in that he drove W.D. Vehicle CL 4215261 without proper authorization.		Severe Reprimand	19 Nov 42	Lt-Col J.F. Plow	FB Gossage Major
				(2) AA Sec 40 Conduct to the prej etc Failed to halt when ordered to do so by the sentry.	H 59880 Gnr Welgush A 28501 Gnr Cooks Bdr Cooper				
Field	18 Mar 43	Sgt		AWL Section 15(1) AA absent without leave from 2359 hrs 18 Mar 43 until 2240 hrs 19 Mar 43 (22 hrs 41 mins)		Severe Reprimand	25 Mar 43	Lt-Col C.E. Woolrow	Forfeits 1 days pay FR&I 149(1)

OVER

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Apr 45	Sgt		F.C.C.M. First Charge Sec 6(2) f. Leaving post without orders from his superior officer. Second Charge: AA Sec 19 Drunkeness (2nd Offence	Capt D.M. Dunlap Sgt Watt t/Bdr Schertz berg	Reduced to the ranks	Findings confirmed by Lt-Col H.A Sparling, A/CRA 3 Cdn Div	"CE Woodrow Lt-Col"	

Certified true copy as at 24 Jun 45 (Sgd) M.W. Murray A/ Capt
Adjt & Lt AA Regt RCA.

DD-88

SGT THOMPSON L.G.

Correspondence to be PINNED here.

DS-88 "G"

Army Form A.3. RK MacKenzie Major Pres.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 1st day of May, 19 43

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 3 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ NB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint:—~~ NB

*~~(1.—Three Officers to form the Court.)~~ NB

*~~(2.—A Field Officer as President.)~~ NB

~~for the following reasons, namely:—]~~ NB

* Omit if not applicable.

1 May 43

(a)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.K.MacKenzie	13 Fd Regt.RCA.

Members.

Rank.	Name.	Regiment.
Capt.	J.A.Egan	14 Fd Regt.RCA.
Lieut.	A.G.Richardson	3 A.Tk.Regt.RCA.
Waiting Member Lieut.	J.A. Gunn NB	4 Lt.A.A.Regt.RCA.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.A.Sparling

Commanding (H.A.Sparling) Lt.Col. A/CRA. 3 Cdn. Div.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A 31035 Sgt. THOMPSON, Lewis George. 4 Lt.A.A.Regt.RCA.	(1) Sec.6 (2)f A.A.	Guilty	Guilty	Confirmed. 4 May 43 H.A.Sparling Lt.Col. A/C R A. 3 Cdn. Div.
	(2) Sec.40 A.A.	withdrawn		
	(3) Sec.19 A.A.	Guilty	Guilty To be reduced to the rank of Gnr. 3 May 43. R.K.Mackenzie Maj. President	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on a separate sheet if necessary*) :—

(Signed) H.A.Sparling (H.A.Sparling) Lt.Col. *Commanding* A/CRA.3 Cdn.Div — *Convening Officer* (*e*)

(Signed) R.K.Mackenzie Major *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~ RMM.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 3rd day of May 1943.

R.K.Mackenzie Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ RMM.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be sent committed to prison or detention barrack until further orders.~~ HMS

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this fourth day of May 1943.

H.A.Sparling Lt.Col.
A/C R A. 3 Cdn. Div.
Confirming Officer.

Promulgated and extracts taken in the case of A31035 Sgt Thompson L.G.

(*a*) (Dated) 5 May 43 (Signed) H.Watson Capt & Adjt 4 A.A.Regt RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.T. 47797/1937 20 M. 5/41 KJL/9285(2) Gp. 698.3

CHARGE SHEET

A-31035, Sgt. Lewis George THOMPSON, 4 Lt. A.A. Regt., R.C.A., a soldier of the Canadian Army Overseas, being on active service, is charged with:

FIRST CHARGE
A.A.Sec.6(2)f — Leaving his post without orders from his superior officer

in that he

in the field, between 2010 hrs. and 2220 hrs. on 29 April, 1943, while in charge of a Lt. A.A. Gun Site, left his site without permission from his Troop Commander.

SECOND CHARGE
(ALTERNATIVE)
A.A. Sec. 40 — Conduct to the prejudice of good order and military discipline

in that he

in the field, between 2010 hrs. and 2220 hrs. on 29 April, 1943, while in charge of a Lt. A.A. Gun Site, left his site without permission from his Troop Commander.

THIRD CHARGE
A.A. Sec. 19 — Drunkenness

in that he

in the field, at about 2220 hrs. on 29 April, 1943, when on duty in command of a Lt. A.A. Gun Site, was drunk.

C. E. Woodrow

(C. E. Woodrow) E.D., Lt-Col.,
Officer Commanding,
4 Lt. A.A. Regt., R.C.A.

Place: Bucks Green Camp, Sussex.

Date: 30 Apr 43.

"B"

TO BE TRIED BY
F.G.C.M.

H.A.S. Parling

(H.A.S. Parling) Lt.Col.
A/CRA.3 Cdn Div.

In the Field
1 May 43

R. Macdonald Maj
President

A31035

Sgt. Thompson L.J.

3-5-43

Wm Saunders
W A Regarden
Commanding
Major Pres.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field
on the 31st day of May 1943 by order of
LT. COL. H.A. SPARLING. R.C.A.
Commanding A/CRA. 3 CANADIAN DIVISION.
dated the 1st day of May 1943

President.
MAJOR. R.L. MACKENZIE. 13 FD. REGT. R.C.A.

Members.
CAPT. J.A. EGAN. 14 FD. REGT. R.C.A.
LT. J.A. GUNN. 4 L.A.A. Regt. R.C.A.

Trial of* , ~~Judge Advocate~~
No. A 31035 SGT. THOMPSON, LEWIS GEORGE.
4TH L.A.A. REGT. R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that LT. A.G. RICHARDSON 3 A/TK REGT. R.C.A. is not available to serve owing to MILITARY DUTY.
LT. J.A. GUNN 4 L.A.A. Regt. R.C.A. waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† CAPT. H.W. SISSON 4 L.A.A. Regt. R.C.A.

Counsel‡ or defending officer† LT. E.W. BELL 4 L.A.A. Regt. R.C.A.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked "G" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. W1.W16639/78. 35,000 sets. 6/40. S. & H., Ltd. G667/11. Forms A 9/55.

RCM.

B

RKM

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

MAJ. F.J. GILMOUR. HQ. 3 CDN. DIV.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

withdrawn *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty. *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to 1st and 3rd charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

RKM

CC

Proceedings on Plea of Guilty.

RCM.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again:]~~

The accused No. A31035 SGT. L.G. THOMPSON is found guilty of the 1st and third charge.

†The summary (or abstract) of evidence is read, marked "H" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

At the time I left the post I had no idea it was such a serious offense.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

RCM.

DD

The depositing officer addresses the court in mitigation of sentence, a copy of which appears attached marked "K" and signed by the president.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

YES

Answer.

Evidence as to character.

FIRST CHARACTER WITNESS. MAJOR. B.F. GOSSAGE. 4 L.A.A. Regt RCA.
duly sworn states:- "I have known the accused two years.
Here reads a written statement handed in, marked "L" and signed by the president.

RKMc

I have known the accused Sgt. Thompson for more than two years and he has been in the Battery I ~~have the privilege to~~ command for the greater portion of that time.

In my opinion his one and only weakness is drink. He is an excellent soldier and instructor and has the knack of bring-ing out the best in any detachment or body of men put in his charge.

Except at irregular intervals over which neither he, or anyone else seems to have any control, his conduct and work leaves nothing to be desired.

"L"

R.K. Mackenzie Maj
President

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the~~ accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

CAPT. H. W. STEVENS. 4 L.A.A. Regt. R.C.A. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES. Cert. Copy MFM 6 and AF. B. 296.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked I and J, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. YES

Cross-examined by the accused. N/A

[Instruction.—If in order to the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by sentence, the prosecutor must call the Court the prosecutor must call the attention of the Court to the fact, and the Court must enquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* N/A.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused

No. A-31035 Sgt. L. G. THOMPSON

To be reduced to the ranks.

Sentence.

Reduced to the ranks.

3 May 43.

R. K. Mackenzie Major.

President.

Presiding officer's statement in mitigation of sentence

The manning of L.A.A. guns sites in England involves long hours of living work with very little hope of engaging the enemy. Sgt. Thompson did not leave his post in face of the enemy and he did return immediately the alert was sounded when there was a possible chance of an engagement.

In view of the excellent character references given by Major B.F. Gossage and the fact that since his enlistment on 6 Sept 1939 Sgt. Thompson has only two entries on his M.F.M. 6 I ask the court to show great leniency in passing sentence on the accused.

Ex. ref. Field Amb.
69/4 L.A.A. R.C.A.

"K".

R K Mackenzie Major
President

SUMMARY OF EVIDENCE IN THE CASE OF
A-31035 SGT. THOMPSON, Lewis George

By direction of the Commanding Officer, the Summary of Evidence is taken under oath.

FIRST WITNESS for The Prosecution

Capt. D. M. DUNLAP having been duly sworn states:-

I am Acting Troop Commander of "p" troop, 69th Light A. A. Battery and was so acting on the night of 29th April 1943. Sgt. Thompson, the accused, is a detachment commander in my troop. On the 29 April 1943,69 Lt. A. A. Battery was employed in an operational role in WORTHING, Sussex, and the accused and his detachment were posted to a site on the Worthing Pier. The tour of duty was from half an hour before the time that blackout ceased in the morning until half an hour after blackout came on at night. This covered his hours from about 0530 hours until about 2215 hours.

On making my rounds of "p" troop gun sites, I arrived at Sgt. Thompson's site at about 2010 hrs, Sgt Thompson was not there, I returned in about half an hour and Sgt Thompson was still not there. I asked L/Bdr Schertzberg, who had been left in charge in Thompson's absence, where Sgt Thompson had gone and as a result of his reply, I later returned at about 2215 hrs with Sgt Watt. Sgt Thompson was still absent and as we left the Pier we met Sgt. Thompson returning. He was under the influence of liquor, his speech was thick, his breath smelt of liquor and his walk was unsteady. On my asking him whether he was drunk or not, he replied that he was drunk. I ordered him to go to bed and together with Sgt Watt proceeded to Battery Headquarters and reported the matter to Major Gossage, the Officer Commanding.

The events above described occurred on 29 April 1943.

At each of the times when I visited the above site, it was properly manned and a guard had been posted at night. Sgt Thompson did not apply to me to be relieved of his duties on 29 April 1943.

The accused declines to cross examine this witness.

D McDunlap

SECOND WITNESS for The Prosecution

B.8117 Sgt. WATT, A. K., having been duly sworn states:-

I am troop Sergeant of "p" troop in 69 Light A.A. Battery and held that appointment on 29 April 1943.

On 29 April 1943 I returned to billets at about 2205 hrs at which time Capt. D. M. Dunlap asked me to accompany him to the Pier site. We went to the Pier site and Sgt Thompson (the accused) who was the Detachment Commander for that site, was not there.

On returning to our vehicle we met Sgt Thompson who was very jovial in his manner and speaking thickly and when asked if he was going back to sleep at the site, he said, he definitely was. As Sgt Thompson walked away from us I observed that he was walking unsteadily.

(to sheet #2)

"H"
R Mackenzie Major
President

SECOND WITNESS for The Prosecution

It was a part of Sgt Thompson's duty to be on the Pier site at the time when we went down there, as his detachment had been assigned to that site and he, as detachment commander should have remained with them until properly relieved as he was in charge of the Light Anti-Aircraft Gun on that site. Proper relief consists of turning over to a full Bombardier after first obtaining permission from the Troop Commander.

Cross examined by the Accused

Q. - Has the turning over ever been done before without permission from the Troop Commander ?

A. - Officially, No.

Q. - But it has been done ?

A. - Yes it has, but contrary to Orders.

Q. - Has it been done very often that you know of ?

A. - No.

Q. - Do you think that the men left in charge of this equipment under a L/Bdr or Bdr are competent to take care of it ?

A. - No, not in my opinion.

A.K. Watt

THIRD WITNESS for THE PROSECUTION

A.8015 L/Bdr. SCHERTZBERG, L. having been duly sworn, states:-

I am a member of "D" troop of 69th Light A.A. Battery and am the No. 1 gunner on No. 2 Detachment in that troop. I was so employed on 29 April 1943 and Sgt Thompson (the accused) was my detachment commander.

On the evening of 29 April 1943 at about 1800 hrs the Sergeant said he was going out for a walk and that I was to take charge while he was gone. At about 1905 hrs the Sergeant returned while an alert was on and we were on "Stand to" but he left again when it was over. At 2220 hrs we stood down and I posted a guard and went to bed. I did not see Sgt. Thompson again that night.

Cross examined by the Accused

Q. - Have I ever left you in charge of my detachment before ?

A. - Yes.

L Schertzberg

The accused having been duly cautioned in the words of Rule of Procedure 4 (E) declines to give evidence or make a statement and reserves his defence.

I certify that Rule of Procedure 4 (C) (D), (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused.

Dated in the Field, this 30th day of April 1943.

(H. A. Ritchie) Captain
Officer Taking Summary of
Evidence.

No A-31035 Name THOMPSON, L.G. Sqn., Battery, or Company 69 LAA RCA Corps R.C.A. Date of enlistment 5 Sep 39 Badges

CERTIFIED TRUE COPY [signature] 30 Apr 43

Date of last entry in Company Conduct Sheet — No. and date of last drunk 1-4 Jan 41 Period not reckoning towards freedom from extra fine — Sheet No. 1 Signature O.C. Company, etc. — Service or Proficiency Pay — Character

M.F.M. 6 A.F.B. 122 (This 7-41 (2319-20) H.Q. (172-39-1852

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			SHEET 1	DESTROYED 16th June 42. Last entry 14 June 41 Case of Drunkenness 4 Jan. 41.					
Field.	15 Nov 42	Sgt.		(1)A.A.Sec.11. Neglecting to obey Camp Standing Orders in that he drove W.D. Vehicle C.L.-4215261 without proper authorization.	A31101 Gnr. Munn. A31204 Gnr.Phillips	Severe Reprimand	19Nov42	Lt.-Col. J.F. Plow	
				(2)A.A.Sec.40. Conduct to the prej. etc. Failed to halt when ordered to do so by the sentry.	H59980 Gnr.Walgush A28501 Gnr. Schmidt.				

over

(P.T.O.)

CERTIFIED TRUE COPY 30 Apr 43

M.F.M. 6
(A.F.B. 122)
17151 7-41 (1215-26)
H.Q. 1777-39-1052

No A-31039 Name THOMPSON, L.G. Sqn., Battery, or Company 69 LAA Corps R.C.A. Date of enlistment 5 Sep 39 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk 1-4 Jan 41 — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			SHEET 1	DESTROYED 16th June 42. Last entry 14 June 41 Case of Drunkenness 4 Jan. 41.					
Field.	15 Nov 42	Sgt.		(1)A.A.Sec.11. Neglecting to obey Camp Standing Orders in that he drove W.D. Vehicle C.L. 4215261 without proper authorization.	A31101 Gnr. Munn. A31204 Gnr.Phillips	Severe Reprimand	19Nov42	Lt.-Col. J.F. Plow	
				(2)A.A.Sec.40. Conduct to the proj. etc. Failed to halt when ordered to do so by the sentry.	H59880 Gnr.Welgush A28501 Gnr. Schmidt.				

over

PTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18Mar43	Sgt		A.W.L. Sect 15(1)A.A. absent without leave from 2359 hrs 18 Mar 43 until 2240 hrs 19 Mar 43(22 hrs 41 mins)	Bdr Cooks Bdr Cooper	Severe Reprimand	25Mar43	Lt-Col C.E. Woodrow	Forfeits 1 days pay FRI 149(1)(a)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
A-81035	Sgt	Thompson L G	C[illegible] R[illegible] Regt Coy

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R. 1940.

* The numbers herein stated should correspond with the entry of *nil* in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

	* Within last 12 months.	*Since Enlistment.
For AASC II	1 times	times.
For AA Sec do	1 times	times.
For AA Sec CSEO	1 times	times.
For	times	times.
For	times	times.

Instruction.—If the sheets is for drunkenness the entries for drunkenness must be stated separately and dated.

~~Number of instances of gallantry or distinguished conduct~~ Nil

or

~~There are no entries in the conduct sheets of the accused~~ Nil

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~ Nil

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~ Nil

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and No days in military custody, making a total of No days, of which No days were spent in hospital

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 (8 Apr 19[illegible])

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 Oct 37

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 236 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 239 days service.

9. The accused is entitled to reckon 3 yrs 236 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of, or entitled to claim any military decoration or reward)~~ Nil

11. ~~*(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of~~ Nil

12. ~~*(In the case of an officer.)* The accused holds in the army the rank of~~ Nil ~~dated~~

~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

(*18250) W1/3882/183 125,000 6/41 A.&E.W.Ltd. Gp.698

RCM

"J"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A 3035 Rank Sgt Name Thompson L.C. of 4 A.A. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of Apr 43

W. Sinclair Capt & Adj.

14 The accused has served as a non-commissioned officer continuously, ~~without reduction~~, to the present date

In the rank of Sgt. for 10 ~~months~~ years. Date of Promotion 16 Oct 42

In the rank of [illegible] 1 years 13 Jan 41

In the rank of Sgt. 3 ~~mos~~ years 11 Mar 41

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

XX-8
SPR THOMPSON M-G

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Guilty	Cost of apprehension not proven.
2nd		Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of one hundred and twenty (120) days.

15 Nov 43 (Sgd) W.R. Fletcher Lt Col

(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the convictions on the first and second charges in these proceedings are invalid, I hereby direct that the record of the conviction on the said charges be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

10 Dec 43 296

In the field
7 Dec 43.

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

Promulgated : Extracts Taken.
C 5649 SAC Hamilton M.G.L.C. 9 Dec 43.

Date Signature of Offr.

C-5649 SAC Hamilton M.G.L.C. 17 Nov 43 Hugh F. McLachlan Maj

ENTERED PART II ORDERS
DATE 280 22 Nov 43

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED
No. 1 Cdn. Engineers' Holding Unit. C.A.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P.A.C.S./1608 (2864)

Convened by Order of Col H.R. Tyner Comd B Gp CRU dated 13 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
C-5649	Spr	Neil Gordon Leslie George	Thompson	1 CERU.

Proceedings Reviewed Exhibits sent 16 Dec 43 Signature

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 15 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1643 hours trial commences.

A4. ~~The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)~~ ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to~~ as interpreter ? Ans

~~The interpreter is sworn.(1)~~ ~~Do you object to~~ as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Na Fin.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col	W.R. Fletcher	1 Cdo RU.
Member	Capt	P.H. Hingley	1 CERU.
Member	Lieut	J.H. Colosimone	1 Cdo RU.
Judge-Advocate			
Prosecutor	Lieut	H.B. Wainberg	1 CERU.
Defending Offr	Lieut	M.J. Neff	1 CERU.

List of offrs under instruction attached

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

No. 1 Cdn. Engineers' Holding Unit. C.A.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J A see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first & second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first & second charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 69(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans No Do you intend to call witnesses on your behalf ?
Ans No Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or,~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Any my Defending Offr (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/10
(*1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-5649 Spr. THOMPSON, Mell, Gordon, Leslie, George, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with, when on Active Service,

First Charge
AA 15(1) ABSENTING HIMSELF WITHOUT LEAVE, WHILST A DEFAULTER

in that he

In the field, absented himself without leave whilst a defaulter from 1800 hrs 25 Oct 43 until surrendering himself at St. Austell, at 2100 hours 31 Oct 43.

(Absent 6 days 3 hours)
(Cost of apprehension £2.11.0)

Second Charge
AH(40) CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the field, on 3 Nov 43 was in possession of a document purporting to be a genuine M.B.M. 1, well knowing that it was not genuine.

(A.S. RUTHERFORD) Lt.-Col.
Officer Commanding,
No. 1 Trg. Wing,
No. 1 C.E.R.U.

In the Field
6 Nov 43

To be tried by Field General Court Martial.

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units.

12 Nov 43

W.C. Hutchinson Lt Col

MEDICAL OFFICER'S Certificate

A.F.B. (C.41) Forms 252

I certify that I have this morning examined

No. 6 36 49 Spr. Thompson. M.

of No. 1. C. E.R.U. and in my opinion he

is fit ~~unfit~~ to undergo trial by Court Martial.

Station. Cairo.

Date. 15. Nov. 42.

R Wrotsh capt.
Medical Officer.

7.

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA81)
40/PAM/1697 (2nd/68)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-5649	Spr	Nell, Gordon, Leslie, George	THOMPSON	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 13 Nov 43 endorsed by me, (~~or by an offr of my staff~~ for me), "To be tried by Field General Court-Martial". ✓

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) ✓

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. ✓

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ ✓

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ ✓

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	W.C. Fletcher		1 CASCRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by		1 CERU
Lieutenant	to be detailed by		1 CASCRU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 13 Nov 43

H.R. Tyner Col (Signed personally. RP 105 fn 2.) (Rank.)

A/Commanding "B" Gp Can Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

W.C.F. W.C.F. W.C.F.

C5649. Spr Thompson NA. 1 CERU

First Charge. 'E 3'

First Witness Prosecution

M5384 S/Sgt Scharrett. 1 CERU

Sworn.

I am employed as Regtl police wo. and detailed out my duty as to call defaulters roll call. I did this on 21 Oct 42. at 1800 hrs I called roll and Spr Thompson was absent. and also at following roll calls. I turned it into ~~exhibits~~ 'E' roll.

I do not know him very well.

Hour. The 21st was the first roll so he did not answer roll call previously. As the opinion of the Court R.P. 138 need not be complied with.

Defence. Need there be no prima facie 'E 3'

No evidence produced as to whether Thompson should be on defaulters parade.

Prosecution

Can be produced if required by roll call defaulters for days in question.

C 5647. Thompson Range. 7 C.C.R.U.

'E 3'

Second charge)

Find written. Prosecution.

M.5/45/56 Capt Osborne. C.A. C.C.R.U.

Sworn

On 2nd Nov I was assigned as D/Coy orderly officer and had charge of prisoners. Had no prisoners [illegible] Thompson for purpose of making an entry. He was kept there till 3rd Nov. I told Capt at Detention Camp to send up the prisoners. I turned over the one and the one in the Office to the 2/c Coy. The first came from either Thompson or the section leader. The other from detention. The one I had was the original book. received to [illegible] (Identify Exhibit 4 or not) Identify Exhibit 4, or the one I had. [illegible] from Det Camp.

(Is in the Opinion of) THIS COURT that R.P. 83(B) need not be complied with.

7

'E 3'

7

44 C 5649 Thompson & Co. 'E 3'

Defence

No [illegible] that
Exhibit 'B' [illegible]
of [illegible]
No [illegible]
Application [illegible] Not allowed

Prosecution

Did not know that defendant would
[illegible]
Does prove that Exhibit 'B' would
have been in possession [illegible]
on that date.

7

Lap Thompson

E 3

Defense Council

Accused in Army 4 years

1st pt of charge admits absence more mistaken

last 6 mos to avoid ways

In my opinion she cannot yet be trusted

for maximum [illegible] to do not pt here

and is FED up. The is common to hundreds

the accused that by A.W.O.L. after she

is doing damage and will use Future

will do her best to reform.

7

E3

Reference

Precautions

OFFICERS UNDER INSTRUCTION

2

1st. Lt	Woodin	#1	CERV
1st. Lt	PM Ackley	#1	CERV
1st. Lt	A Hodgkinson	#1	CERV
1st. Lt	FM Zimmerman	#1	CERV
1st. Lt	KW Snyder	#1	CERV
1st. Lt	FE Moore	#1	CERV
1st. Lt	JH Alexander	#1	CERV
1st. Lt	EH Petry	#1	CASC RV

OFFICERS UNDER INSTRUCTION

Lieut.	A. Hodgkinson	#/ C.E.R.U.
"	P. Mackley	"
"	H. Vodden	#/ C.S.R.U.
"	K.W. Gryple	#/ C.E.R.U.
"	F.N. Zimmerman	"
"	F.E. More	"
"	J.H. Alexander	#/ C.A.S.C.R.U.
"	E.H. Petry	

EXHIBIT "C"

I CERTIFY that the man whose personal description is given below surrendered himself to *P.C. 54 Ollerenshaw at St Anstell at (hour) 4 pm. on the 31st day of October, 1943, as being No. C 5649 (Rank and Name) Sapper Hall Gordon THOMPSON a deserter (or absentee without leave) from No 1 C.E.R.U. Cove, Nr Aldershot and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 22 Height 5 Feet 10 Inches

Complexion Fresh Hair Dk Bro. Eyes Brown

Marks Scar L. leg.

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	18.3.40 Peterborough. Ontario
Probable Date of Desertion or beginning of absence, and from what place	25.10.43 Cove, Nr Aldershot. Hants.

Signature of Officer of Police in charge of St Anstell Station.

1/8/43 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

NIL

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(12929) Wt.40807/337 20,000 12/39 A.& E.W.Ltd. Gp.698 Forms/O.1617/12

LIST OF WITNESSES

List of Witnesses in the case of C-5649 Spr. THOMPSON, Mell, Gordon, Leslie, George, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

(1) M-5384 L/Cpl. SHERRITT, T.A. - Regimental Police, No.1 C.E.R.U.

(2) Documentary - A.F. C 1617 - Certificate of Surrender to the Civil Police of a Deserter or Absentee Without Leave.

(3) M-54525 Cpl. OSBORNE, C.L., No. 1 C.E.R.U.

(4) M-100205 L/Cpl. SCHNEDLER, K., No. 1 C.E.R.U.

(5) Documentary - MPM I Exhibit "A"

(6) Documentary - MPM I Exhibit "B"

FOR THE DEFENSE

Nil.

LIST OF EXHIBITS

EXHIBIT "A" - MPM I - found in possession of accused.

EXHIBIT "B" - MPM I - found in possession of accused.

EXHIBIT "C" - A.F. C 1617 - Certificate of Surrender to the Civil Police of a Deserter or Absentee without Leave.

Summary of Evidence

Third Witness for the Prosecution — documentary — M.F.M.I Pt. I, II, III, bearing the name of Thompson Mell Gordon Leslie George marked Ex hibit "A"

Fourth Witness for the Prosecution — documentary M.F.M.I Pt. I, bearing the name of Thompson, Mell Gordon. Marked Ex hibit "B"

The accused was cautioned as follows; do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The Accused declines to make a statement, or give evidence

I certify that the foregoing summary of Evidence, consisting of three pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) and 7 have been complied with

In the Field
~~Shubenacadie Barracks~~
6 Nov. 43

Capt. Adjt. Lieut. R.C.O.C.
Officer detailed to take summary of Evidence

Second Charge

First Witness for the Prosecution

M54525 Gpl Osborne D.L., Royal Canadian Engineers, Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows;

At E Coy Orderly Room on 24 Oct 43 I received the MBMI Pt. I, II, and III of Gpr Thompson, and because the owner of the Pay Book was AWL, I retained it on file until 2 Nov 43 when I turned it over to Lieut D.K. McRae of E Coy along with the other MBMI bearing Gpr Thompson's name. Previously, on 2 Nov 43 at about 1000 hours, I had phoned Unit Detention enquiring if they wished to have MBMI I part I and II of Gpr Thompson. On being advised that he had a Pay Book, I asked that it be sent up to E Coy Orderly Room.

The Accused declined to cross examine the witness.

M54525 Osborne Gpl.

Second Witness for the Prosecution

M100205 L/Cpl Schneider K, Royal Canadian Engineers, Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows;

" At Unit Detention 1 CERU on 2 Nov 43 at approx 0025 hours Gpr Thompson was brought in to detention by Sgt James 2nd Bn Sgt James gave me the MBMI Pt. I bearing the name of Gpr Thompson, which he had taken from Thompson. I checked it and saw that there was no Pt II and III, and notified E Coy of this fact. I made an entry on the detention file that I had received the MBMI Pt I, and locked it up in the box.

The Accused declined to cross examine the witness.

M100205 K. Schneider. L/Cpl.

Summary of Evidence

By direction of the Commanding Officer, the Summary of Evidence is taken on oath

Summary of Evidence in the case of C5649 Gnr Thompson, Mell Gordon Leslie George, Royal Canadian Engineers, on strength of Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

First Charge

First Witness for the Prosecution

19538 4 Spr Sherritt J.A. Royal Canadian Engineers, Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

"At unit detention on 25 Oct 43, I called the roll at 1800 hours, 1900 hours, 2000 hours and 2130 hours C5649 Gnr Thompson, who was a defaulter, did not answer to name. I marked him absent and sent documentary evidence to E Coy that he was absent on defaulter roll call"

The accused declines to cross examine the witness

19538 J.A. Sherritt Spr

Second Witness for the Prosecution

Documentary AF 01617 - Certificate of surrender to the civil police of a deserter or absentee without leave, dated 1 Nov 43, and signed and stamped by the SO Austell Police. Marked Exhibit "C"

The accused was cautioned as follows "do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence"

Accused declined to make a statement or to give evidence.

7

A 7

SUMMARY OF EVIDENCE

By direction of the Commanding Officer, the summary of evidence is taken on Oath.

Summary of Evidence in the case of C-5649 Spr. THOMPSON, Mell, Gordon, Leslie, George, Royal Canadian Engineers, on strength of Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

FIRST CHARGE

FIRST WITNESS
For the prosecution M-5384 L/Cpl. SHERRETT, T.A., Royal Canadian Engineers, Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army Overseas, Having been duly sworn, states as follows:

"At Unit Detention on 25 Oct 43, I called the roll at 1800 hours, 1900 hours, 2000 hours and 2130 hours. C-5649 Spr. THOMPSON, who was a defaulter, did not answer his name. I marked him absent and sent documentary evidence to "E" Coy that he was absent on defaulter roll call".

The accused declines to cross examine the witness.

M-5384 T.A. SHERRETT, L/Cpl.

SECOND WITNESS
For the prosecution Documentary A.F. O 1617 - Certificate of Surrender to the Civil Police of a deserter or Absentee without leave, dated 1 Nov 43, and signed and stamped by the St. Austell Police. Marked Exhibit "C".

The accused was cautioned as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence".

The accused declined to make a statement or to give evidence.

SECOND CHARGE

FIRST WITNESS
For the prosecution M-54525 Cpl. OSBORNE, G.L., Royal Canadian Engineers, Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At "E" Coy. Orderly Room on 24 Oct 43 I received the MBM I, Pt.I,II and III of Spr. THOMPSON, and because the owner of the Pay Book was A.W.L., I retained it on file until 2 Nov 43 when I turned it over to Lieut. D.K. McRAE of "E" Coy., along with the other MBM I bearing Spr. THOMPSON's name. Previously, on 2 Nov 43 at about 1000 hours, I had phoned Unit Detention enquiring if they wished to have MBM I, Part I and II, of Spr THOMPSON. On being advised that he had a Pay Book, I asked that it be sent up to "E" Coy. Orderly Room.

The accused declined to cross examine the witness.

M-54525 G.L. OSBORNE, Cpl.

SECOND WITNESS
For the prosecution M-100205 L/Cpl. SCHNEDLER K., Royal Cana dian Engineers, Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

"At Unit Detention 1 C.E.R.U. on 2 Nov 43 at approx. 0025 hours Spr. THOMPSON was brought into Detention by Sgt. JAMES 2nd Bn. Sgt. JAMES gave me the MBM I, Pt.I bearing the name of Spr. THOMPSON, which he had taken from THOMPSON. I checked it and saw that there was no Pt. II and III and notified "E" Coy of this fact. I made an entry on the Detention file that I had received the MBM I, Pt. I, and locked it up in the box.

The accused declined to cross examine the witness.

M-100205 K. SCHNEDLER, L/Cpl.

THIRD WITNESS
For the prosecution Documentary - MPM I, Pt.I,II,III, bearing the name of THOMPSON, Mell, Gordon, Leslie, George.
Marked Exhibit "A".

FOURTH WITNESS
For the prosecution Documentary - MPMIPt.I, bearing the name of THOMPSON, Mell, Gordon.
Marked Exhibit "B".

The accused was cautioned as follows: Do you wish to make any statement or to give evidence upon oath? you are not obliged to say anything or to give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing summary of evidence, consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with

In the Field
6 Nov 43

(C.F. MEDHURST) Lieut., RCE
Officer detailed to take
Summary of Evidence.

OLD SHEET DESTROYED 18 Sep 40 (W.F. McEwen) Lieut.,

No. C.5649 Name THOMPSON, M.G. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 18 Mar 40 C. Badges — Service or Proficiency Pay — Character

M.F.M. 6
(A.F. B.122) - 40/P & /8138. (2965)

Date of last entry in Company Conduct Sheet: Nil — No. and date of last drunk: Nil — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.: (W.F. McEwen) Lieut.,

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	21 Dec 40	Pte		A.A.40 Conduct to the Prej.etc	Sgt Dixon L/C Chandler	21 days F.P.	31 Dec40	O.C. Unit	Forf 21 dayPa FR&I 149(1)(b)
Field	6 Feb 42	Spr		A.A.40 Having a dirty rifle	Sgt Engler CSM Spear	3 days C.B.	7 Feb 42	Major W.K Macdonald	
Field	5 Oct 41	Spr		A.A.15(2) Absent from place of Parade	Sgt Green	7 days C.B.	8 Oct 41	Maj. A.J. Flood	
Field	20 Apr 43	Spr		A.A.40 Found asleep when he should have been on duty	Sgt Lebeau CSM Spear	7 days C.B.	21 Apr 42	Maj. W.K. MacDonald	
Field	9 May 42	Spr	(1)	A.A.15(1)AWL from 2100 hrs 9/5/42 until 2215 hrs 9/5/42(Absent 1 hr 15 mins)	L/S Given(1) Lieut. Slessor	Admonished Forf 7 days pay FR&I 149(2)	11 May 42	Major W.K. MacDonald	
			(2)	A.A.40 Left the guard room without permission while on duty		Forf 1 day pay FR&I 153(b)			

(P.T.O.)

OLD SHEET DESTROYED 18 Sep 40 (W.F. McEwen) Lieut.,

M.F.M. 6
(A.F. B.122) -
40/P.A./8138 (2965)

No. C.5649 Name THOMPSON, M.G. Sqn., Battery, or Company Corps R.C.E. Date of enlistment 18 Mar 40 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. (W.F. McEwen) Lieut., Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Dec 40	Pte		A.A.40 Conduct to the Prej.etc	Sgt Dixon L/C Chandler	21 days F.P.	31 Dec40	O.C. Unit	Forf 21 day Pay FR&I 149(1)(b)
Field	6 Feb 42	Spr		A.A.40 Having a dirty rifle	Sgt Engler CSM Spear	3 days C.B.	7 Feb 42	Major W.K Macdonald	
Field	5 Oct 41	Spr		A.A.15(2) Absent from place of Parade	Sgt Green	7 days C.B.	8 Oct 41	Maj. A.J. Flood	
Field	20 Apr 43	Spr		A.A.40 Found asleep when he should have been on duty	Sgt Lebeau CSM Spear	7 days C.B.	21 Apr 42	Maj. W.K. MacDonald	
Field	9 May 42	Spr	(1)	A.A.15(1)AWL from 2100 hrs 9/5/42 until 2215 hrs 9/5/42(Absent 1 hr 15 mins)	L/S Given(1) Lieut. Blessor	Admonished Forf 7 days pay FR&I 149(2)	11 May 42	Major W.K. MacDonald	
			(2)	A.A.40 Left the guard room without permission while on duty		Forf 1 day pay FR&I 153(b)			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Jan 43	Spr		(1) A.A.15(1) AWL from 1530 hrs 7 Jan 43 to 0745 hrs 8 Jan 43 (Absent 16 hrs 15 mins)	Cpl. Haydock Documentary		11 Jan 43	Maj. W.K. MacDonald	Forf 1 day Pay FR&I 149(1)a
				(2) A.A.11 Failed to check out when leaving and failed to check in when returning to Barracks			11 Jan 43		Forf 3 days Pay FR&I 149(1)(a)
				(3) A.A.15(1) AWL from 0900 hrs 8 Jan 43 to 2359 hrs 10 Jan 43 Absent 2 days 14 hrs 59 mins.	L/Cpl. Haydock L/Cpl. Kergan				
				(4) A.A.40 Having an electric lamp belonging to H.Q. Sect.	Lt. Hammond Capt. Smith	28 days Detn	11 Jan 43	Major W.K MacDonald	Forf 28 days pay FR&I 149(1)(b)
				Released from Canadian Detention barracks 4 Feb 43 sentence having expired.					

No. C-5649 Name THOMPSON, M.G. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 18 Mar 40 | C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8136, (2965)

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Mar 43	Spr		A.A.15(1) AWL from 0800 hrs 14 Mar 43 to 2315 hrs 14 mar 43 (Absent 15 hrs 15 mins)	L/S Athey Cpl. Smith L/C Robinson	7 days C.B.	15 Mar 43	Capt. L.F. Wass	Forf 1 day Pay FR&I 149(1)a
Field	14 Mar 43	Spr		A.A.41 Committing a civil offence Stealing by finding a bicycle (E. Davis	W.H. Ramsey A.M. Nelson C.E. Lindsay H. Cooper S/Sgt Frost	105 days Detn	10 Apr 43	F.G.C.C.M.	Forf 21 days Pay FR&I 149 (2)c. Forf 105 days pay FR&I 149(1)b
				Released from Canadian Detention Barracks having earned 33 days of sentence remitted.					
Field	28 Jul 43	Spr		A.A.24(4) Wilfully damaging his clothing. Damaged Battle Dress Trousers	CQMS Taylor Spr McWilliams	5 days F.P.	30 Jul 43	Lt.Col. CN Mitchell	Forf 5 D. Pay FR&I 149(1)b
Field	11 Sep 43	Spr	(1)	A.A.15(1 AWL 10 hrs 30 mins					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
12	Sep 43	Spr		(2)A.W.L. 4 days 17 hrs 30 mins.	Cpl. Blanchard L/C Brazeau	7 days C.B.	20-9-43	Lt.Col Capelle	Forf 6 d pay FR&I 149 (1)(a) & 2 D.Pay FR&I 149(1)c
Field	12 Sep 43	Spr		(1)When in custody escaped (2)Having civillian in WD vehicle (3)Unlawful posses. of WD vehicle (4)Unauthorized journey (5)Driving in a reckless manner (6)Improperly dresses	L/C Brazeau L/C Linton	14 days pay FR&I 149(1)(2)	20 Sep 43	Lt.Col. Capelle	
Field	25 Oct 43	Spr		A.A.15(1)AWL from 2359 hrs 13 Oct 43 to 0900 hrs 22 Oct 43 (Absent 8 days 9 hrs 1 min)	Cpl. Gower Doc	24 days F.P. Forfts 24 days pay	25 Oct 43	Lt.Col.AS Rutherford	Forfts 9 days pay FR&I 149(1)(a) Tot. Forft 33 days Pay

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

H. McEwen Lt.

Officer having custody of the original document. 15 NOVEMBER 1943

B 7

M.F.B. 355
20M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-5649	Sgt	THOMPSON, M.G.L.	#1 CCRU

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 15(1)	5 times	AA 15(1) 7 times
For A.A.11	2 times	AA 11 2 times
For A.A.40	3 times	AA 40 3 times
For A.A.41	2 times	AA 41 2 times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~xxxxxxx~~ beginning on the ~~xxxxxxx~~ day of ~~xxxxxxx~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 ~~day~~ in Air Force civil custody, and 14 days in military custody, making a total of 15 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ service & casualty form attestation paper is 23 2/12 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ service & casualty form attestation paper is 18 Mar 40

7. The service which the accused is allowed to reckon towards discharge is 3 6/12 yrs

8. The accused is entitled to reckon 3 6/12 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~xxxxx~~ ~~possession of or entitled to~~. State any ~~air force~~ military decoration or reward.

~~10. If the accused is a warrant officer.~~ The accused before he was made a warrant officer ~~last held~~ ~~Air Force~~ the regimental rank of ~~xxxx~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ....., and in his regiment (or corps), the rank of ..... unit dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number C-5649 Rank Spr Name Thompson, M.G.I.G., of No. 1 C.E.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	12 Apr 43 U.K.	(1) AASec 41 (2) AA Sec 41 (3) AA Sec 40	105 days Detn.	33 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15 day of NOVEMBER 1943

Capt. Adjutant
No. 1 C.E.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

CC-35

SPR THOMPSON M.G.

Correspondence to be PINNED here.

CC-35

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this eighth day of April, 19 4;

Whereas it appears to me, the undersigned, an officer in Command of R.C.A. First Cdn Army Troops Canadian Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint:~~

*~~(1. Three Officers to form the Court,~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.W. Hunter	1 Fd Wksp RCE

Members.

Rank.	Name.	Regiment.
Captain to be detailed by C.O. 5 Fd RCE		
Captain to be detailed by C.O. 4 Fd RCE		
WAITING MEMBERS OR OFFICERS UNDER INSTRUCTION		
Lieut to be detailed by C.O. 5 Fd RCE		
Lieut to be detailed by C.O. 5 Fd RCE		

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Lt-Col

Commanding R.C.A. First Cdn Army Tps

Convening Officer.

No illegalities or irregularities to call our attention. Confirmation necessary.

13 Apr 44

[signature]

D.J.A.G. First Cdn Army

Judge Advocate

Capt R.F. Ibrden R.C. First Cdn Army

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C5649 Spr. Thompson, M.G.L.C. 1 Cdn Fd Svy Coy R.C.E.	First Charge A.A. Sec. 41 Committing a civil offence - stealing	not Guilty	Guilty	I confirm the findings and sentence of the court Lt Col. C.R.E. 1 Cdn Army Tps.
	Second Charge A.A. Sec. 41 (Alternative) Committing a civil offence - receiving	not Guilty	not Guilty	
	Third Charge A.A. Sec. 40 Conduct to the prejudice	not Guilty	not Guilty to undergo detention for a period of 105 Days. 12 Apr 43	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Lt-Col.
Commanding 1 Cdn Fd Svy Coy R.C.E. 1st Cdn Army Troops

(Signed) A.M. Hunter Major
Convening Officer (*e*)

K.G. Lumsden Capt
Judge Advocate
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12 day of April 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court and judge-advocate A.M.H.
2. The witnesses
*(3. ~~The interpreter)~~ A.M.H.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12 day of April 1943.

K.G. Lumsden Capt
Judge Advocate

A.M. Hunter Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 14 day of Apr 19 43.

Lt Col.
Confirming Officer. C.R.E. 1 Cdn Army Tps

Promulgated and extracts taken in the case of C5649 Spr Thompson M.G.L.C.

(*a*) (Dated) 15 Apr 43 (Signed) C.A. Smith Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W1. 47792/1937 50 M. 3/43 K.J.L./5265(2) Gp. 698/3

CHARGE SHEET

THE ACCUSED, C-5649, SPR. THOMPSON, M.G.L.G., 1 CANADIAN FIELD SURVEY COMPANY, R.C.E., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH

FIRST CHARGE
A.A. Sec.41

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING BY FINDING,

in that he

in the Field, on or about 14 Mar 43 stole, by finding, a Rudge Whitworth pedal cycle, value £10. 0. 0. or thereabouts, the property of W.H. Ramsey, of Hook, Surrey.

SECOND CHARGE
A.A. Sec.41
(Alternative)

COMMITTING A CIVILIAN OFFENCE; THAT IS TO SAY, RECEIVING STOLEN GOODS,

in that he

in the Field, on or about 14 Mar 43, did receive a Rudge Whitworth pedal cycle, value £10. 0. 0. or thereabouts, the property of W.H. Ramsey, of Hook, Surrey, knowing the same to have been stolen.

THIRD CHARGE
A.A. Sec.40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

in the Field, on or about 22 Mar 43, was in improper possession of one pair of black shoes; a number of small screwdrivers; a watchmakers eye-glass; a number of wrist watches and various watch-parts, the property of M-9021, Spr. McAllister-Thompson, G., 1 Cdn Fd Svy Coy, R.C.E.

C.H. Smith

(C.H. Smith) Capt
A/Officer Commanding
1 Cdn Fd Svy Coy
R.C.E.

In the Field
5 Apr 43

Approved for trial under
D.R. (Can) 5 (2), for Judge
Advocate General

J.C. Kelly Lt Col
a.j.a.g.
First Cdn Army

To be Tried by Field General Court Martial

In the field
8 Apr 43

(D.H. STONES) Lt Col
CRE
FIRST Cdn Army Tps

I certify that I have this morning examined

C5649 Spr. Thompson, M.G.L.G.

and in my opinion he is fit to undergo trial

by Court-Martial.

J. H. Beathe Capt

Medical Officer

1 Cdn. Fd. Svy. Coy., R.C.E.

12 Jan 43

Accused C5649 Spr. M.G.G. Thompson 1 Can Fd Coy RCE
(Number) (Rank) (Christian names) (Surname) (Unit)

Held in the Field in England on 12 Feb 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	H.M. Lumb	1 Bn RCE
MEMBERS:	CAPT	G.M. VanKoughnet	4 Bn RCE
	CAPT	F.X. Chabella	3 Bn RCE
JUDGE ADVOCATE: (If any)	CAPT	K.G. Morden MC	Fmd Can Regt
OFFICERS UNDER INSTRUCTION:	LIEUT	A. Content	3 Bn RCE
	LIEUT	J.S. O'Leary	1 Bn RCE

PROSECUTING OFFICER: LIEUT J.L. Thompson Lawyer? Ans no

DEFENDING OFFICER: LIEUT F.R. Dufton Lawyer? Ans no.

(The following procedure must be actually carried out)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Re P 17(2), 22(2)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1400 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to _____ as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? Ans _____

The shorthand writer is duly sworn. (Form of Oath on Page 10)

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 10)

The Charge Sheet(s) is (are) initialled by the President.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)
(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans No

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans N.A.D.
Q. Do you intend to call any other witness in your defence? Ans N.A.D.
Q. Is he a witness as to character only? (R.P.40(B)) Ans N.A.D.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117) (Record Finding on Page 2 of A.F.A.3)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F(M.6) signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "E", and "F", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.40(D).
Ans N.A.D. No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3) Overseas R.O. 3204 Complied with
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.46); sentence should be dated.

The sentence is not announced to the accused by the Court.

J.A.M. Hunter Major R.C.E.
(Signature of President)

Accused C5649 Spr. M.G.G. Thompson 1 Can Fd Coy RCE
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 12 Mar 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	H.M. Hunter	1 Bn RCE
MEMBERS:	CAPT	G.M. VanKoughnet	4 Bn RCE
	CAPT	F.X. Chabella	3 Bn RCE
JUDGE ADVOCATE: (If any)	CAPT	K.G. Morden	HQ First Can Army
OFFICERS UNDER INSTRUCTION:	LIEUT	A. Conlent	3 Bn RCE
	LIEUT	J.S. O'Leary	1 Bn RCE

PROSECUTING OFFICER: LIEUT J.C. Thompson Lawyer? Ans no

DEFENDING OFFICER: LIEUT F.R. Duston Lawyer? Ans no.

(The following procedure must be actually carried out)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (R.P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (s...49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1400 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to accused:~~
~~Do you object to _____ as Interpreter? Ans _____~~

The Interpreter is duly sworn.

~~Do you object to _____ as shorthand writer?~~

~~The shorthand writer is duly sworn. (Forms of Oath on Page 'D')~~

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans no.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D')

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court. (Art. 46(2))

(If special pleas/s in/re bar/s or motion/s for appropriate relief are/were submitted (Rs.D.60(2), 100); or if the jurisdiction of the Court (R.D.34); or in bar of trial (R.D.36), or if the accused's mental fitness to stand trial (Art. 120, R.D.67), requires such clear and evidence (if any) on record to be submitted by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.D.112). He pleads as follows:

First Charge Not Guilty

Second Charge Not Guilty

Third Charge Not Guilty.

Fourth Charge _____

Fifth Charge _____

Sixth Charge _____

Seventh Charge _____

Eighth Charge _____

(For procedure on alternative charges, see R.D. 37, fn 2)

Further proceedings are recorded on Page(s) hereof attached.

AWH

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
   Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans ~~No~~

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
   Q. Do you apply to give evidence yourself as a witness? Ans ~~No~~
   Q. Do you intend to call any other witness in your defence? Ans ~~No~~
   Q. Is he a witness as to character only? (R.P.40(B)) Ans ~~No~~

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117) (Record Finding on Page 2 of A.F.A.3)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F.(B.6) signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "E", and "F", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131)

11. President to accused:
    Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
    Ans ~~No~~ No cross-examination.
    (Recors address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3) Previous RO. 3704 Complied with
    (Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.F.48); sentence should be dated.

    The sentence is not announced to the accused by the Court.

J. M. Hunter Major RCE
(Signature of President)

Evidence for Prosecution

First Witness: William Henry Ramsey. 61 Rhondda Ave. Work Surrey. duly sworn & Facts.

I recognize the bicycle as mine. (Ex. A) On 14 Mar 43. I left it outside the small bar at Esher at about 10.15 in the morning. I came out about 10.40 h.m. and the cycle was missing. I was called over to Esher Police Station on 27 Mar 43 and there saw my cycle (Ex A) and identified it. The handlebars have been Turned up and the saddle altered and there Two things missing such as a lamp, pump, saddle bag and toe straps.

Cross-examination
It might have been 1025 or 1015 I went in It was at 1040 h.m I found the bike missing.

RP. 8c(B) complied with.

Second Witness: 433120 Sgt. Nelson, A.H. 1 Cdn Fd Sqn Coy RCE, duly Sworn, Facts.
I recognize the accused. I recognize Ex A. (bicycle). I saw I was on guard at about 1800 hrs 22 Mar 43, when the accused came along with the bicycle. This was the first time I saw it. I looked it over and saw it was in good condition. He asked me if I wanted to buy this cycle. During the previous week he had asked me regarding if I wanted to buy a bicycle. I told him at all Times no. I asked him what he wanted for it and he said £4-0-0. I told him it was worth twice that amount as it was in good running condition. He said he wanted to raise money for his leave.

Cross-examination
At no date I talked accused for 15 minutes. The distinguishing marks

A.H.N.

Which enabled me to recognize the
bicycle and the lights and the grass.

RP. 83(B) complied with

Third witness: George E. Hurst, Newsagent. The
Cottage, Oakham Park, Surrey. duly
sworn, states: I recognize the
accused, Sgt. Thompson. I recognize
Ex "A" the bicycle. On 15 March 43 about
7.00 a.m. I came out of my house
and I saw the bicycle in my garden
I came to work and Sgt. Thompson
asked me if I minded if anyone
else as if he left it in the camp
area others would ride it. I said
I did not mind. On the following
Sunday, Thompson asked me if I would
like to buy it. as the cycle belonged to
the young lady's father and he did not
want it and I saw it to Thompson. I
asked how much he wanted for the
cycle. He replied £5-0-0. I said I
did not want it as I already had
one. He said he would take it to Mr
Davies of Oakham. He returned with
the cycle and said Mr. Davies offered
him only £4-0-0. He again asked me
if I would buy it and I still refused
On Monday morning, he still had
the cycle and said he would let Mr.
Davies have it for £4-0-0 and would
take it down with him. In the
evening he took the cycle - and
returned saying that was no use at
home and would I lend him £5-0-0.
on the bicycle for his leave. I refused
to do this. So he asked me if I would
take it down to Mr Davies on the
following night and accept the £4-0-0
If so I could have 10/- for myself.
On the following morning Tuesday. the
Guard came and took the cycle to the
Guard room.

No Cross examination.

~~RP 83(B) complied with.~~

H.M.H.

Questions by the Court

I first saw the bicycle at 7.00 a.m. I didn't see it when the night began at 5.00 p.m. Thompson didn't say when he left the bicycle in my garden. He told me it belonged to his young lady's father.

RP 83(B) complied

Fourth witness: Mr Edward Davis, Ockham. Sworn, duly sworn. States: I recognise Exh B. I identify it by 3 things and the make. I recognise the accused whom I saw on a Sunday morning 4 weeks ago. He came in with the cycle and he asked me to buy it. I wasn't going to buy it at all. In conversing I asked him what he wanted for it. He said £5-0-0 - he was going away and wanted to get rid of it. I was made an offer for it.

No Cross-examination

RP 83(B) complied with

Fifth witness: P.C. Cooper Davis, Esher Police, duly sworn. States: I recognise the accused. At 10.45 a.m. on 24 March 43, I saw accused at Jumpers Road, Ockham. I told him I was a police officer and that I was making inquiries regarding a cycle which had been stolen from the Running Post Cafe, High Street, Esher between 10.25 and 10.40 p.m. 14 March 43 and that I understood that the cycle was found in his possession. I asked him if he cared to give me any explanation as to how it came into his possession and where he got it from. He replied

~~Cross examination~~

The evidence of the Defs witness was stopped. The Court closed to consider the admissibility of this evidence ~~not given~~ of statements of accused given without caution. The Court so ~~ordered~~ found. The accused was brought before the Court. The President ruled that the statements given upon caution was admissible but were not admissible.

No. Cross examination.

R.P. 83(B) complied with.

Sixth Witness: B 21172 S/Sgt Frost J.R. S.A.S.

Can the Corps, duly sworn, state: On 22 Mar 43, I received a complaint from 1 Sup Coy of theft of some personal kit of Sgt. Mc Allister. Thompson. In course of my investigations, I found certain evidence which pointed to Sgt. Thompson, which I now recognise as the accused. I placed him under arrest pending further inquiries. While under arrest, I received complaint of a theft of a bicycle from Eaton Police for which Sgt Thompson was brought to have been responsible. On night 24 Mar 43, I interviewed the accused at which time he made and signed a statement after being properly cautioned. I identify statement (marked Ex "B")

Cross examination.

The accused seemed calm - when I questioned him. There were some irregularities in his statement but he stuck to them even after I pointed them out to him. I was investigating three different matters at that time. The accused did not appear to be flustered or frightened.

R.P. 83(B) complied with.

Seventh witness: 19 9021 Spr McAllister Thompson Co
I can F-d Sup Coy RCE duly sworn
states:

About 3 weeks I was put further back. I asked for a 48 hr. pass. I left my kit on my bed. When I returned Monday morning I discovered quite a few personal belongings missing. I reported this to Sgt Sharman. The following are the articles - one pair black drivers, one wallet morocco leather with three compartments in it, one watch had a flap with snap button over it, one haversack with miscellaneous articles. Lizalin paste, watch makers tools, screw driver & eye piece and tweezers, watch case cover, five cased watches. I was present during kit inspection and there was nothing found. I identify shoes as mine which were stolen (marked Exh C.) I identify some miscellaneous watch parts as watch parts and stem as one which would fit one of my missing watches. (Exh D)

Cross examination:

There were two besides myself living in same room. Door was not locked. Anyone could have walked in & out. I was present when accused's kit was examined. None of my articles were in his kit. Sgt Sharman brought watch parts from accused's room. I identify the shoes the sand thing were found around the camp. No one knew I had these articles.

Questions by the Court.

The other occupants of my room were Spr. Thompson, the accused and one soldier. I returned from leave 24 hrs. I missed my kit the next day. I collect watches as a hobby - I am a watch maker. I am not an instrument maker. P.P 58 (B) Complied with.

AMA

4. 5th Witness: H52057 Spr. Hope. R.A.I Cdn Syy Coy R.C.E. duly Sworn States I know Spr. D. Hope about 2 weeks ago I was in L/Cpl Briggs room down at the Officers mess I was looking [illegible] window and noticed three parts of his window sill I knew Spr. Thompson working at the window sill with a number of watches he had a number of tools watch making type glass L.A.C. and the Shoes L/Cpl. Briggs found in his room in my presence About a week or so Spr. Thompson finished sill we same shoes they wearing the right size and so I wasn't interested

Cross-examination

There were no distinguishing marks, but Spr. Thompson does I don't know Spr. Matthews Thompson used tools during of his kit I can't identify L.A.C. as the shoes Spr. Thompson I put to sell me I saw him busy with watches in the kitchen as well

Re-examination

I handed some of the instruments in the kitchen to work on my watch

Re Cross-examination

he were alone in the kitchen

Questions by the Court

I know Spr. Matthews Thompson had lost some kit I can't describe the watches I saw I am sure they were not watches There were some screw drivers etc This was before I went on leave on Nov 26

RP 83(B) complied with

A.M.A

Ninth witness: K25981 L/Cpl Briggs F.C., 1 Coy Sup Coy
R.Eng, duly sworn, states:
I identify L & C boat work I went upstairs in the Officers mess & my room. I opened my cupboard door and found my shoes. Only the bottom on support & he in that room.

Cross examination
It is possible for others to get into my room

~~RP 83(B) complied with~~
Re-examination
Sgt. Thompson has seen a statement

RP 83(B) complied with

Prosecution closes.

Defending officer moves that Charges should be dismissed on the ground that prosecution has produced no evidence except circumstantial. They have produced no evidence that accused was on other than night & it was likely could have been ridden from Eshm, abandoned & picked up by the accused. No evidence that accused was actually in possession of any articles in these Charges. The identification of the articles. Many persons had access Cpl Briggs and the Adjutant. Thompsons evidence.

Prosecution. Refuse to accept Thompsons statement. He denied having practised tricks in Officers mess. Sgt Hope says he took watches parts found at place where Thompson was working.

Defending officer. Prosecution argument doesn't show accused was in possession of any articles mentioned in 3rd Charge.

Court closed to consider motion.

Court re-opens.

Court Accused is brought before the Court. President to the Accused. The Court has decided that the prosecution have not made out a prima facie case on the third charge and you are found not guilty of that charge. The matter with respect to the first and second charges is reserved.

Evidence for the Defence.

First witness: C5649 Spr. P.G.L.G. Thompson 1 Cdn Svy Coy RCE duly sworn, states:

When I found bicycle was inside the hedge I looked around to see if there was anyone around. The bicycle was leaning against a hedge in a ditch. I had been AWL, had been drinking, was tired and sorry bicycle was abandoned. I took it back to camp. It had one flat tire and chain kept coming off. Otherwise in perfect form & shape. It had a bag and tail light and bell on. They were with the bicycle when I first saw it.

Cross examination

I pumped the tire up. I first saw the bicycle on 10 Mar and last on 22 Mar. I had progression of it during that time. I was CB. - I didn't mention the fact of finding the bicycle to any police. I left barracks at 2200 hrs. - 2220 hrs. I arrived at Guilford I don't remember route I followed exactly from Guilford to Aptly. I rejoined unit on outskirts of Guilford. I found bicycle between 1115 and 1130 returned to camp 1145. I told the truth as I thought to my girl's father. I know this was incorrect. I knew that the bicycle was not mine.

Re-examination

Several of the boys told me they wanted to buy a bicycle. So I just fooled them by telling them I was going to sell it.

J.M.A.

Questions by Court

I was drinking in bushes: no with anyone. I came home with [illegible] sure if the items that night & found the bicycle ~~between~~ about a mile from a camp. I really tried to. I don't remember anything from by the Barracks Thursday.

R.P. 83(B) complied with

Second witness: Capt B. Jeffries, C.C. Corps.

Oath. I Anti-K Regt duly sworn, state I know the accused. I know him as #C.1.R.U. He belonged to Anti-K Regt he attended my service unit. He bad, as far as I know a good record in the Regt.

Cross examination

It was between 18-20 months that he was at #C.1.R.U. and it was about a year ago. I took a course for I can say Capt R.E.

RP. 83(B) complied with

Prosecution closing address.

Accused has admitted he was in possession of the bicycle. He made no effort to report it. His findings he has attempted to sell the bicycle the same questioned items as would

Defending Officer

The defence admits accused was in possession of the bicycle. Intent of the accused at time of finding. Improbably that accused took the bicycle from Barracks. Accused foolishly tried to sell it.

Judge Advocate sums up:

(a) onus of proof.
(b) Standing by finding Manual p. 119.
(c) Evidence
(d) alternative charges.

AWA

Closing Address of Departing Officer

The background of the accused. He didn't get out of public school. Before the war he was a laborer. Joined infantry 1st C.E. He behaved very well with the infantry. It is only when he came to his unit, his conduct increased. Being a non technical man he was given odd jobs general fatigue man. Got on his nerves. He started to go back gradually worked himself up to the position he is now. He is a single man. Assigned pay voluntary to his mother.

H.M. Hunter Major RCE

B
H.M.34

SPECIAL INVESTIGATION SECTION.
Canadian Provost Corps.

I have been duly cautioned by Sgt. Frost, Special Investigation Section, Canadian Provost Corps, that I need not say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be used in evidence. I understand this caution and wish to make the following statement.

Date 24/3/45 ..... D. H. Thompson .....

(1) About a year ago I sold a wrist watch to L/Cpl Haydock. I do not remember for how much. I do remember that it cost him 4 shillings to have it repaired. While sweeping the floors in the Sgt Quarters I found the watch. It wasn't my watch. I told the boys in my room that I had found a watch. I kept it for about three weeks before I sold it to L/Cpl Haydock. I have since found that the watch belonged to Sgt CARTER. I have returned the money to L/Cpl. Haydock and the watch to Sgt CARTER.

(2) On March 1st while A.W.L I left London at 2200 hrs by train and arrived at Guildford at 2220 hrs. I started to WALK from Guildford to Dunsham PK. I obtained a lift for about a mile. West of Ripley. While walking alone towards Dunsham I saw a Rudge Whitworth bicycle laying down near the hedge. It had racing type handlebars. This time I found it would be between 2310 hrs and 2000 hrs. There was no one about so I took the bike and rode in to camp arriving at 2346 hrs. I left the bicycle down the road at a cottage on the road into the camp. I went to this house the next morning and got the bike and kept it in the camp. It was still in my possession when arrested by Sgt. Frost. I did not report the finding to any authority but mentioned it to some of my own men. I asked one of the grounds gardeners, if he wanted to buy the bicycle. I asked him £6-0-0 or £5-0-0 for it. He didn't buy it. I may have asked another gardener to buy it. Although I knew that it wasn't my bike.

D H Thompson.

(3) Pte Thompson.

On the morning 22 MAR 1943 my KIT was inspected AT which time I LEARNT that Spr McALLISTER-Thompson had had taken from his KIT a number of watches and a pair of shoes. I sleep in the same room as McALLISTAR-Thompson. The KIT inspection was held AT about 0930 HRS. I was working in the Kitchen of the OFFICERS mess that day and started 0630 HRS. I had BREAKFAST there. I was called away from there for the K.I.T inspection. While in this Kitchen I saw Spr Hope, Spr Gilbert, E.S.,

I did not have in the OFFICERS MESS, any watches, Tools, or jewellers glass. I had on a pr civilian shoes which were given to me the night before by Spr. Spence. I also now remember seeing Spr Spence in the mess that morning.

The only bag I ever had was the one off the bicycle which contains bicycle tools. I had this bag in the Kitchen on Mon morning. The bag was left on the bicycle by me AT noon when I was put in the men's Kitchen.

I have never seen any of the things reported STolen by Spr. McALLISTER. Thompson.

(2)

Pte Thompson.

C-5647 Spr Mac MG
1 A RCE

SUMMARY OF EVIDENCE

In the case of C5649 Spr. Thompson, M.G.L.G., 1 Canadian Field Survey Company, Royal Canadian Engineers.

By direction of the Commanding Officer, the summary of evidence is taken under oath.

First Witness For The Prosecution — L33126, Spr. Nelson, A.M., 1 Canadian Field Survey Company, Royal Canadian Engineers, having been duly sworn, states:-

I, L33126, Spr. Nelson, A.M. was approached repeatedly by Spr. Thompson, M.G. during the period 15-21 Mar. 43 incl. who asked me if I knew anybody who wanted to buy a bicycle. On the 22 Mar. 43 at about 1800 hrs. while I was on guard, Spr. Thompson, M.G. showed me a bicycle and asked me if I wanted to buy it for £4-0-0. I looked the bicycle over. It was a "Rudge-Whitworth" machine in good condition with three speed derailleur type and open metal pedals. The handle bars, crank gear and rims were chromium plated. The bicycle had a pump and calliper type hand brakes. The seat was made by "Brookes". A dynamo type lighting system had been originally fitted on but only the rear lamp, and the front lamp standard on the fork remained.

I told Spr. Thompson that the machine was worth twice the amount he was asking for it but that I did not wish to buy it as I had one of my own. Spr. Thompson replied that he was trying to raise money for leave.

A.M. Nelson

The accused, C5649 Spr. Thompson, M.G.L.G. declined to cross examine the witness.

M. G. Thompson

Exhibit "A" For the Prosecution — Statement by George Ernest Linsey, The Cottage, Ockham Park, Surrey witnessed by P/C H. Cooper of the Surrey Constabulary, dated 24 Mar. 43. This was read to the accused and filed. The accused when given opportunity did not question the statement.

Exhibit "B" For The Prosecution — Statement by Edward Dawes, No. 1 New Cottage, Church End, Ockham, Surrey, witnessed by P/C H. Cooper of the Surrey Constabulary, dated 24 Mar. 43. This was read to the accused and filed. The accused when given opportunity did not question the statement.

Exhibit "C" For The Prosecution — Statement by P/C Harry Cooper, Esher, of the Surrey Constabulary, dated 24 Mar 43. This was read to the accused and filed. The accused when given opportunity did not question the statement.

Exhibit "D" For The Prosecution — Statement by Mr. Wm. Henry Ramsey, 61 Rhodrons Avenue, Hook, Surrey dated 27 Mar. 43. This was read to the accused and filed. When given opportunity, the accused did not question the statement.

Exhibit "E" For The Prosecution — Extract from statement by C5649 Spr. Thompson, M.G., made to B21172 Sgt. Frost, J.R., of the Special Investigation Division, Canadian Provost Corps, dated 24 Mar. 43.. This was read to the accused and filed. When given opportunity the accused did not question the statement.

Second Witness For The Prosecution — M9021 Spr. McAllister-Thompson, G., 1 Canadian Field Survey Company, Royal Canadian Engineers, having been duly sworn states:-

I am an instrument mechanic of the Special Increment of the 1 Canadian Field Survey Company, R.C.E. On the week-end following 19 Mar. 43, several articles were stolen from my kit-bag which was locked. These are the articles:- 1 pair black oxfords with blunt toes; 1 brown morocco leather wallet with three pockets; one with flap; one brown cloth bag (marked with my name) containing miscellaneous odds and ends such as screwdrivers, watch case

covering, watch parts, a watchmakers' eye-glass, and numerous other parts; a metal box approximately 5" x 3" x 1", containing 5 wrist watches of various size (2 shock proof lever movements with luminous hands and figures, 1 Ingersoll jewelled movement, one small rectangular brass cased movement with no make shown, a brightly polished brown face and the winding stem button missing and another movement having a nickel plated case with a square face; 1 R.E. brass cap badge, 1 pair watchmakers tweezers. During a kit inspection made by Lt. Hammond, in the presence of the Orderly Sergeant, Spr. M.G. Thompson and myself, I noticed two Sweet Caporal War Plane series cards in a wooden box belonging to Spr. M.G. Thompson. One of the cards had the corner torn off and represented a German "Stuka" dive bomber, the other was a "Hudson" bomber. Both of these cards were of a series that I have been collecting and I feel certain that they were in the pockets of my clothes which I packed in my kit bag on 19 Mar. 43.

Shortly after 1300 hrs. on 24 Mar. 43, I was shown a pair of black shoes that had been found by L/Cpl. F.C. Briggs at the Officers' Mess of this Company. They were my shoes. Inside the shoes there were also a number of the Sweep Caporal package backs illustrating war planes. These too belonged to me. At 1930 hrs. 2 Apr. 43 I was shown some watch parts that had been found by Spr. R. Hope in the Officers' Mess of this Company. Amongst them was a winding stem which, to the best of my knowledge belongs to one of the two lever movements which I lost.

Spr. G. McAllister-Thompson

M9021 Spr. McAllister-Thompson, G.

The accused C5649 Spr. Thompson, M.G.L.G., declines to cross examine the witness. Pte G Thompson

Third Witness For The Prosecution

M57054 Spr. Hope, R., 1 Canadian Field Survey Company, Royal Canadian Engineers, having been duly sworn, states:-

I am a Sapper of 1 Canadian Field Survey Company, Royal Canadian Engineers.

On the morning of 22 Mar. 43 I saw Spr. M.G.L.G. Thompson in the kitchen at the Officers' Mess at which time he was toying with a number of watches. He had one out of the case. He was using a number of small screwdrivers and an optician's glass. I used one of the screwdrivers myself and also the glass. Thompson stated that he had bought them.

I had never seen the watches or tools before. He asked me if I wanted to buy a pair of shoes, size 8. I did not buy them.

R.H. Hope

M57054 Spr. Hope, R.

The accused C5649 Spr. Thompson, M.G.L.G. declines to cross examine the witness. Pte G Thompson

Fourth Witness For The Prosecution

B29937 L/Cpl. Briggs, F.C., 1 Canadian Field Survey Company, Royal Canadian Engineers., having been duly sworn, states:-

I am a L/Cpl. in charge of the Officers' Mess of 1 Canadian Field Survey Company, R.C.E.

At approximately 1100 hrs., 24 Mar. 43, I found a pair of black

shoes in an out of the way corner of a closet in my room. I showed these shoes to Spr. Hope, who mentioned that they looked like the shoes Spr. M.G. Thompson, had tried to sell to him previously. These shoes were then sent to the Section Commander's room of the Company immediately after they were found, on an order from one of the officers.

H C Briggs

B29937 L/Cpl. Briggs, F.C.

The accused C5649 Spr. Thompson, M.G.L.G. declines to cross examine the witness. M G Thompson.

Third Witness For The Prosecution Recalled

M57054 Spr. Hope, R., having been recalled and duly sworn in, states:-

When, I, Spr. R. Hope had seen Spr. M.G. Thompson toying with the watches on 22 Mar 43, he was in L/Cpl. Briggs' room, in which I was sleeping while L/Cpl. Briggs was on leave. He also showed me the pair of black shoes there. On 24 Mar. 43 at approximately 1100 hrs., I was in the same room with L/Cpl. Briggs when he found a pair of black shoes which looked like the pair of shoes Spr. Thompson had offered to sell to me before. At approximately 1000 hrs. 2 Apr. 43, when glancing out of the window of L/Cpl. Briggs' room, I noticed some small watch parts on the window sill. These were placed in an envelope and taken to the Section Commander's room of the Company. The envelope was opened in the presence of Spr. McAllister-Thompson, and he identified a watch stem as being part of one of the watches he lost.

R S Hope

M57054 Spr. Hope, R.

The accused C5649 Spr. Thompson, M.G.L.G., declines to cross examine the witness. M G Thompson.

Exhibit "F" For The Prosecution

Statement by C5649 Spr. Thompson, M.G.L.G., 1 Canadian Field Survey Company, Royal Canadian Engineers, to Sgt. Frost, J.R. of the Special Investigation Division, Canadian Provost Corps on 24 Mar. 43. This was read to the accused and filed. The accused when given opportunity did not question the statement.

Exhibit "G" For The Prosecution

One pair of black oxford shoes, the property of Spr. McAllister-Thompson, found by L/Cpl. Briggs, F.C. in a closet in his room in the Officers' Mess, on 24 Mar. 43.

Exhibit "H" For The Prosecution

One envelope containing various watch parts, found by Spr. R. Hope on the window sill of L/Cpl. Briggs' room in the Officers' Mess on 2 April 43.

(Having regard to the expense and loss of time involved, the attendance of the following witnesses cannot be, in my opinion, readily procured.)

Mr. George Ernest Linsey, The Cottage, Ockham Park, Surrey.

Mr. Edward Dawes, No. 1 New Cottage, Church End, Ockham, Surrey.

P/C Harry Cooper, Esher, Surrey Constabulary.

Mr. William Henry Ramsey, 61 Rhodrons Ave., Hook, Surrey.

The accused C5649 Spr. Thompson, M.G.L.G., having been duly cautioned in accordance with Rules of Procedure 4(e) declines to make a statement. M G Thompson.

Exhibit "A"
For The
Prosecution

Statement by George Ernest Linsey, The Cottage, Ockham Park, Surrey, witnessed by P/C. H. Cooper of the Surrey Constabulary, dated 24 Mar. 43.

"I am an odd-job man employed by the Royal Engineers, Guildford and reside at the above address.
On coming out of me cottage at about 7-0 a.m. on the 15th March, 1943, I saw in the garden a gent's Rudge Whitworth pedal cycle against the wall. This cycle was not there at 11-0 p.m. the previous night.
I then went to the Canadian Camp to work, which is situated in Ockham Park the same as my cottage, and on arriving there saw a Sapper Thompson. He said to me, "Did you see a bike in your garden". I replied, "Yes and wondered who it belonged to". He said, "I left it there last night", and asked me if he could leave it there as the other soldiers would ride on it if he left it up at the camp. I asked him who the cycle belonged to and he said that it belonged to his young lady's father and that he had lent it to him to come back to camp on. He then left me.
Last Sunday morning, the 21st March, 1943, I was up at the Camp and was just going down the cellar of the house when Thompson followed me down and asked me if I wanted to buy the cycle. I replied, "I did not know that it was yours". He then said that he had had a letter from his young lady's father telling him that he could keep the cycle as he had no further use for it and would I like to buy it as he wanted the money to go on leave with. I replied, "What is the price". He said, "£5". I said that I did not think that I wanted it as I had already got one. He then asked me if I knew of anyone who would buy it. I told him that I could not think of anyone at the moment. He then said, "I Hear that a man named Dick Dawes buys and sells second hand bikes. I think I will go down and see him". With that he left me, returning in about a quarter of an hour with the cycle. I said to him," You have not sold it then", and he replied, "No he would not pay the price". I asked £5 and he offered £4. He then left me.
On the Monday morning the 22nd March, 1943, I saw Thompson at the camp and he had the cycle with him. I said to him, "You have not sold the cycle yet then". He replied, "I suppose I shall have to take the £4 and I will go down and see him tonight". That same evening I again saw Thompson with the cycle and he told me that he had been to see Dawes, but there was no one at home and he asked me if I would lend him £3 on the cycle until he came back from leave. This I refused to do and he asked me to take the cycle to Dawes the next night and accept the £4 and that I could have 10/- of it for my trouble. Thompson left the cycle in my garden that night and I have not seen him since. On the Tuesday morning I handed the cycle over to one of the guards from the camp. (Sgd) E. Linsey - witnessed by H. Cooper P/C

Certified a true copy H.J. Thompson Lieut 9 Dec 43

Exhibit "B" For The Prosecution

Statement by Edward Dawes, No. 1 New Cottage, Church End, Ockham, Surrey, witnessed by P/C. H. Cooper of the Surrey Constabulary, dated 24 Mar. 43.

"I am a gardner by occupation and reside at the above address. At about 10-15 a.m. on the 21st March, 1943, I was just leaving my house when a Canadian soldier entered the garden gate with a cycle. He asked me if I was Mr. Dawes and I told him that I was. He said that the fireman from up the Ockham Park had sent him down as he wanted to sell the cycle. I asked him how much he wanted for it and he said, "£5". I looked at it and saw that it was a gent's Rudge Whitworth cycle with a De-Railleur three speed gear. He said that he wanted to sell it as he was going away and would not be coming back. I told him that I was not interested and he then said, "I had better get back as I have only nipped away for a few minutes". He then left me and I did not see him again.

I do not know this soldier's name, but he told me that he came from Ockham Park. I should recognize him again if I saw him, also the cycle." (Sgd) E. Dawes- witnessed by H. Cooper P/C.

it on the 17th". He replied, "Because it was the day before pay day. I went to London on the Saturday and stopped the night up there. I then went A.W.L. and did not return to Ockham until the Sunday night. I left London about 10-0 p.m. and took a train to Guildford arriving there about 10-45 p.m. I then started to walk and was given a lift in a car by a night worker. He dropped me just before Ripley and I started to walk when I found the cycle in the ditch nearby a cafe just before you go into Ripley. As no one was near it I took it and rode back to camp". I then said to him, "If you arrived in Guildford at about 10-45 p.m. and then got a lift in a car to just outside Ripley, you must have been dropped at about 11-0 p.m. and a few minutes after you said that you found the cycle. That would have been almost impossible as the distance is about 10 miles from where the cycle was stolen". He replied, "Well that is my story".

Exhibit "B" For The Prosecution

Statement by Edward Dawes, No. 1 New Cottage, Church End, Ockham, Surrey, witnessed by P/C. H. Cooper of the Surrey Constabulary, dated 24 Mar. 43.

"I am a gardner by occupation and reside at the above address. At about 10-15 a.m. on the 21st March, 1943, I was just leaving my house when a Canadian soldier entered the garden gate with a cycle. He asked me if I was Mr. Dawes and I told him that I was. He said that the fireman from up the Ockham Park had sent him down as he wanted to sell the cycle. I asked him how much he wanted for it and he said, "£5". I looked at it and saw that it was a gent's Rudge Whitworth cycle with a De-Railleur three speed gear. He said that he wanted to sell it as he was going away and would not be coming back. I told him that I was not interested and he then said, "I had better get back as I have only nipped away for a few minutes". He then left me and I did not see him again.

I do not know this soldier's name, but he told me that he came from Ockham Park. I should recognize him again if I saw him, also the cycle." (Sgd) E. Dawes- witnessed by H. Cooper P/C.

Exhibit "C" For The Prosecution

Statement by P/C Harry Cooper, Esher, of the Surrey Constabulary, dated 24 Mar. 43.

"At 10-45 a.m. on the 24th Mar. 43, I saw Sapper Thompson in detention at Ockham Park, Ripley. I told him that I was a police officer from Esher and that I was making enquiries respecting a gent's Rudge Whitworth pedal cycle which had been stolen from outside of the Winning Post Cafe, Hight St., Esher, sometime between 10-20 p.m. and 10-40 p.m. on the night of the 14th March, 1943, and that I had been given to understand that the cycle had been found in his possession. I asked him if he cared to give me any explanation how it came into his possession and cautioned him. He said, "I found the cycle along the road between Guildford and Ripley on the night of the 17th". I said to him, "Are you sure that you was not in Esher on the night of the 14th March, 1943", to which he replied, "No I was C.B. on that date". I then said to him, "From the information that I have received I understand that you was in possession of the cycle at 11-45 p.m. on the night of the 14th", to which he replied, "I did have the cycle on the 14th, but I did not get it at Esher". I then said to him, "How can you remember the date so well as you have just told me that you had it on the 17th". He replied, "Because it was the day before pay day. I went to London on the Saturday and stopped the night up there. I then went A.W.L. and did not return to Ockham until the Sunday night. I left London about 10-0 p.m. and took a train to Guildford arriving there about 10-45 p.m. I then started to walk and was given a lift in a car by a night worker. He dropped me just before Ripley and I started to walk when I found the cycle in the ditch nearby a cafe just before you go into Ripley. As no one was near it I took it and rode back to camp". I then said to him, "If you arrived in Guildford at about 10-45 p.m. and then got a lift in a car to just outside Ripley, you must have been dropped at about 11-0 p.m. and a few minutes after you said that you found the cycle. That would have been almost impossible as the distance is about 10 miles from where the cycle was stolen". He replied, "Well that is my story".

Statement read over by A.S. Thompson Sept 3 Mar 43

Exhibit "D"
For The
Prosecution

Statement by Mr. Wm. Henry Ramsey, 61, Rhodrone Avenue, Hook, Surrey, dated 27 Mar. 43.

"I am an aircraft worker by occupation and reside at the above address.
At 10-25 p.m. on the 14th Mar. 43, I went to Winning Post Cafe, Hight St., Esher, travelling there on my Rudge Whitworth pedal cycle. On arrival I got off my cycle and placed it against the shuttered window of the cafe and went inside.
On coming out of the Cafe at about 10-40 p.m. I went to get my cycleand found that it was missing.
I reported my loss to the police at 10-45 p.m. that same night.
On the 28th March, 1943, I was shewn a gent's Rudge Whitworth pedal cycle, by the police, which I identified as my cycle by the number A597554. The front lamp and the saddle bag, which contained tools etc, are missing from it. I value my cycle at £10.
No one had any permission to ride it away."

(Sgd) W.H. Ramsey
Witness: Harry Cooper. Det/Const.

Exhibit "E"
For The
Prosecution

Statement by C5649 Spr. Thompson, M.G.L.C., 1 Canadian Field Survey Company, Royal Canadian Engineers, to Sgt. Frost, J.R., of the Special Investigation Section, Canadian Provost Corps, on 24 Mar. 43, the accused having been duly cautioned in accordance with Rule of Procedure 4(E)

"3. On the morning, 22 Mar. 43, my kit was inspected at which time I learned that Spr. McAllister-Thompson had had taken from his kit a number of watches and a pair of shoes. I sleep in the same room as Spr. McAllister-Thompson. The kit was inspected at about 0900 hrs. I was working in the kitchen of the Officers' Mess that day and started at 0630 hrs. I had breakfast there. I was called away from there for the kit inspection. While in this kitchen I saw Spr. Hope, Spr. Gilbert, E.S.

4. I did not have in the Officers' Mess, any watches, tools or jeweller's glass. I had on a pair of civilian shoes which were given to me the night before by Spr. Spence. I also now remember seeing Spr. Spence in the mess that morning.

6. I have never seen any of the things reported stolen by Spr. McAllister-Thompson."

J.R. Thompson Lieut

Exhibit "F" For The Prosecution

Extract from statement by C5649 Spr. Thompson, M.G.L.C., of 1 Canadian Field Survey Company, Royal Canadian Engineers, made to B21172 Sgt. Frost, J.R., of the Special Investigation Division, Canadian Provost Corps, dated 24 Mar 43, the accused having been duly cautioned in accordance with Rule of Procedure 4 (E)

"On 14 Mar, while A.W.L., I left London at 2200 hrs. by train and arrived at Guildford at 2220 hrs. I started to walk from Guildford to Ockham Park. I obtained a lift for about a mile west of Ripley. While walking alone towards Ockham, I saw a Rudge-Whitworth bicycle laying down near the hedge. It had racing type handlebars. The time that I found it would be between 2315 and 2330 hrs. There was no one about so I took the bike and rode into camp, arriving at 2345 hrs. I left the bicycle down the road at a cottage on the road into camp. I went to this house the next morning and got the bike and kept it in the camp. It was still in my possession when arrested by Sgt. Frost. I did not report finding but mentioned it to some of my own men. I asked one of the ground's gardeners if he wanted to buy the bicycle. I asked him for £5-0-0 or £6-0-0 for it. He didn't buy it. I may have asked another gardener to buy it, although I knew that it wasn't my bike.

Certified a true copy J.J. Thompson Lieut. 5 Apr 43

LIST OF EXHIBITS

Exhibit "A" Statement by George Ernest Linsey, The Cottage, Ockham Park, Surrey, witnessed by P/C H. Cooper of the Surrey Constabulary, dated 24 Mar 43.

Exhibit "B" Statement by Edward Dawes, No. 1 New Cottage, Church End, Ockham, Surrey, witnessed by P/C H. Cooper, of the Surrey Constabulary, dated 24 Mar 43.

Exhibit "C" Statement by P/C Harry Cooper, Esher, of the Surrey Constabulary, dated 24 Mar 43.

Exhibit "D" Statement by Mr. Wm. Henry Ramsey, 61, Rhodrone Avenue, Hook, Surrey, dated 27 Mar 43.

Exhibit "E" Extract from statement by C-5649, Spr. Thompson, M.G.L.G. of 1 Canadian Field Survey Company, Royal Canadian Engineers, made to B-21172, Sgt. Frost, J.R., of the Special Investigation Division, Canadian Provost Corps, dated 24 Mar 43.

Exhibit "F" Statement by C-5649, Spr. Thompson, M.G.L.G., 1 Canadian Field Survey Company, Royal Canadian Engineers, to Sgt. Frost, J.R. of the Special Investigation Section, Canadian Provost Corps, on 24 Mar 43.

Exhibit "G" One pair of black oxford shoes, the property of Spr. McAllister-Thompson, found by L/c. F.C. Briggs, in a closet in his room in the Officers' Mess, on 24 Mar 43.

Exhibit "H" One envelope, containing various watch parts, found by Spr. R. Hope, of 1 Canadian Field Survey Company, Royal Canadian Engineers, on the window sill of L/Cpl. F.C. Briggs' room in the Officers' Mess, on 2 Apr 43.

Certified that Rule of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

Taken down in the presence of the accused, by me, in the Field, this 2nd day of April, 1943.

(J.I. THOMPSON) Lieut.,
1 Cdn. Fd. Svy. Coy.,
R.C.E.

No. C5649 Name Thompson, MGLC | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 18.3.40 | G.C. Badges | Service or Proficiency Pay NA XII

M.F.M. 6 (A.F.B. 122) (PAM. 7-41 (1950, 29) H.Q. 1772-35-1952)

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. two | Signature O.C. Company, etc. A. Kennedy | Character Poor

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				~~Previous sheet destroyed 18.9.40 (Sgd) David Ivor Lt.~~					
Field	21-12-40	Pte		Conduct to the prejudice of good order and mil. discipline A.A. Sec 40	Sgt. Dixon L/C Chandler	21 days F.P.	31.12.40	O.C. Unit	Forf. 21 dys. pay while in F.P.
Field.	5.10.41	Spr		A.A. 15(2) Absenting himself from place of parade	Sgt. Green	7 days C.B.	8 Oct. 41	Maj. Flood	
Field	6.2.42	Spr		W.O.A.B. neglect to the prejudice of good order and military discipline in that he on 6 Feb. 42 was in possession of a dirty rifle on the C.O's Inspection. A.A. 40	Sgt. Engler C.S.M. Spear	3 days C.B.	7 Feb. 42	(W.K. MacDonald) Major	

I certify that this is a true copy of documents held in my possession

(C.H. Smith) Capt. a/O.C. 1 Can. Fd. Svy. Coy., R.C.E.

3 April 43.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28.4.42	Gnr		A.O.A.B. conduct to the prejudice of good order and military discipline in that he on the 27 apr. 42 at about 1530 hrs. was found asleep in the greenhouse when he should have been working A.A. 40.	r. Sgt Lebeau CPL Spear	7 days C.B.	21.4..42	(C.K. Macdonald)Major	
Field	7.5.42	Spr.		A.O.A.B. (1) absenting himself without leave, in that he remained absent without leave from 2100 hrs., 7.5.42 until 2214 hrs. 7.5.42. (Abs. 1 hr. 15 min). A. 15 (1) (2) Conduct to prejudice of good order and mil. dis. in that he on 7.5.42 when on guard, left the guard room without auth. thereby causing another man to be detailed in his place. A. 40	L/ [illegible] Given Admonished (1) Forf. 7 days pay Lt. Gilmour RAI 14(2) Forf. 1 days pay RAI 14(3)(b)		11.5.42	(C.K. Macdonald)Major	

No. 65649 Name Thompson, MGLC | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 18.3.40 | G.C. Badges | Service or Proficiency Pay NA

M.F.M. 6
A.F.B. 122.
17351—7.41 (1212-20)
H.Q. 1272-10-1032

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. 3 | Signature O.C. Company, etc. ---- | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7.1.43	Spr		A.A.15(1) WOAS: Absenting himself without leave in that he was absent from 1550 hrs. 7 Jan 43 until 0745 hrs. 8 Jan 43 (Absent 16 hrs. 15 min) (2) A.A. 11 WOAS: Neglecting to obey standing orders in that he on 7 Jan 43 failed to check out when leaving barracks and failed to check in on 8 Jan. 43 when returning to barracks	L/C. Haydock Documentary	11.1.43		Forf. 1 days pay FRI 149(1)(a)
Field	8.1.43	Spr		(3) A.A.15(1) WOAS: Absenting himself without leave in that when under open arrest he was absent from 2200 hrs. 8 Jan. 43 until 2359 hrs. 10 Jan 43 (absent 2 days, 14 hrs. 59 min. A.A. 15(1)	Sgt. Smith	11 Jan. 43-------	(illegible)		Forf. 3 days pay FRI 149(1)(a)

PTO

	Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					(4) A.A.40WOAS: Conduct to the prejudice of good order and military discipline in that at 1900 hrs. 8 Jan 43 he had a lamp, electric belonging to H.Q. Section and on charge to the guard concealed in his kit.	Lt. Hammond Capt Smith	28 days detention RELEASED FROM CANADIAN DETENTION BARRACKS FEB. 24 1943 SENTENCE HAVING EXPIRED. (SGD)	11.1.43	(W.K. MACDONALD)Major	Forf. 28 days pay FRI 149(1)(b)
I c	Field	14.3.43	Spr		A.A. 15(1) WOAS: AWL in that he was absent from 0800 hrs. 14.3.43 unti 2315 hrs. 14 Mar 43. (Absent 15 hrs. 15 mins)	L/S Athey Cpl Smith L/C Robinson	7 days CB	15.3.43	(L.F.Wass) Capt	Forf. 1 days pay FRI 149 (1)(a)

I certify that this is a true copy of documents held in my possession

3 April 43

(C.H. Smith) Capt. a/O.C. 1 Cdn. Fd. Svy. Coy., R.C.E.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-30-620
A.F.B. 206

F & mA

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C5649	Sapper	Thompson, H.G.L.C.	1 Canadian Field Survey Company, R.C.E.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets or Company~~ Service and General Regimental and Squadron Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA 40	3 times	3 times
For AA 15(1)	4 times	5 times
For AA 12	1 time	1 time
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 13 days in ~~military~~ Air Force custody, making a total of 13 days in custody, of which 89 days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs. 7 months. attestation paper is

6. The date of his ~~commission~~ attestation specified in his record of service is attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of April, 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

C.A. Smith
(C.A. SMITH) Capt.,
A/Officer Commanding,
1 Cd. Fd. Svy. Coy., RCE

42-67

Pte Thompson N.T

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-17544 Pte Merle Thomas THOMPSON CYR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a) AA	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned without hard Labour for a period of (18) eighteen months

(Sgd) [illegible] Judge Advocate, if any. 26 JAN 45 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 29 Jan 45 (Sgd) Edmund Burgoyne Commanding 3 Can Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G-17544 Pte Thompson M.T.	31 Jan 45	[illegible] C.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 27 FEB 1945

RECORDED AT CMHQ IN AB 160 42-67.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col HP BELL-IRVING, DSO A/Comd 3 CDN INF BDE dated 25 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
G17544	Pte	Merle Thomas	THOMPSON	C

PROCEEDINGS REVIEWED [illegible] Asst Judge Advocate General

REVIEWING OFFICE [illegible] No.

PROCEEDINGS REVIEWED A.D.J.A. 3 Cdn Inf Bde 6 MAR 1945

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 26 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmo ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~? Ans

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	L.F. TRUDEAU, DSO	R22eR
Member	CAPT	F PEACOCK	WNSR
Member	Lieut	G RIVA	CYR
~~Judge Advocate~~			
Prosecutor	CAPT	WT McGRATH	CYR
Defending Offr	Lieut	JR LAPORTE	CYR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G-17544 Pte MERLE THOMAS THOMPSON CYR before arraignment make(s) (no) ~~no~~ plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C-99 AG/5

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an fm~~) opening address.(1) ~~No~~
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).~~(2) The Court ~~is closed, and considers the submission~~.(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Will as witness under oath. Do you intend to call witnesses on your behalf ?
Ans. No Sir. ~~Are they witnesses as to character only ? Ans.~~ ~~No~~
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "A" and Ex "B" respectively.(3)
(*1. AFB 335 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Will in mitigation of punishment
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then left the court~~.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

CHARGE SHEET

The Accused G17549 Pte Merle Thomas Thompson, a soldier of the Carleton & York Regt, Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
Sec 12 (1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after having been warned that his platoon was to proceed to a forward position, with intent to avoid so proceeding, absented himself without leave from approximately 2000 hrs 16 Dec 44 until surrendering himself to G18024 CSM Upton, D.E. at SANTERNO, At approximately 0945 hrs 24 Dec 44,
Total time absent 7 days 13 hrs 45 min.

In the Field,
Date 21 Jan 45

(J.P. Ensor) Lt.-col.
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
25 Jan 45

(H P Bell-Irving) Lt-Col
A/Comd 3 Cdn Inf Bde

24 Jan 45

(6)

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FMS/1007 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G17549	Pte		Merle Thomas	THOMPSON	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 25 Jan 45 endorsed by me, (~~a by an officer not formal~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint (a) three offrs to form the Court, (b) a Fd Officer President, for the reasons I have attached hereto~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~I also appoint as Judge Advocate to the Offr mentioned hereto~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	L F Trudeau DSO (*Must be named. RP 106.*)	R22R (*Unit.*)

MEMBERS.

Capt	F Peacock	WNSR
Lt (*Rank.*)	G Riva (*Named or detailed. RP 106.*)	CYR (*Unit.*)

WAITING MEMBER.

Lt (*Rank.*)	L Turcott (*Named or detailed, if any. RP 106.*)	R22R (*Unit.*)

JUDGE-ADVOCATE.

(*Rank.*)	(*Must be named, if any. RP 106.*)	(*Unit.*)

On Active Service in the Fd

in Italy (*Country.*)

(*Signed personally. RP 105 fn 2.*) Lt-Col (*Rank.*)

Date 25 Jan 45

A/Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

H/Pres.

(7)

MEDICAL OFFICERS CERTIFICATE

KR(CAN) 357

I certify that I have this morning examined

No. J.12748 Pte. Thompson, M. T.

of the Carleton & York Regimen t and in my opinion he is

fit to undergo Trial by Court Martial

Station In the Field

Date 26th/ad 1940

H. Walsh Capt.,
Medical Officer
R.C.A. Carleton and York Regt.

Case of G 11549 Pte Thompson, M. J. (5)
Carleton & York Regt.

Prosecution

First Witness G 52967 Cpl Cruikshank, W. G. A Coy, Carleton & York Regt., having been duly sworn states:

I am G 52967 Cpl Cruikshank, W. G. A Coy, Carleton & York Regt.

On 16 Dec 44 I was #6 Section commander in #8 Platoon of "A" Coy. On the afternoon of 16 Dec 44 we proceeded from our billets to go to take our position in the line from the P.P.C.L.I. Our company moved off at approximately 1700 hrs. When we left Pte Thompson was with me. When we arrived at our position in the line Pte Thompson was absent. That was at approximately 2000 hrs 16 Dec 44.

Cross-examination by the Defence

Q A1 When we left our billets to proceed to the front line positions #8 Pte ~~Cruikshank~~ Thompson was under the influence of liquor.

Q A2 The platoon sergeant warned the section commds including myself in the following manner: Have the blankets rolled and the cargo packs turned in. We will be moving up to relieve the second brigade at about 1600 hrs

~~Re-examination by the Prosecution~~ HH

HH/Pwi

(4)

Question by 2nd count

dA1 Pte Thompson was in my section on 16 Dec 44.

dA2 That afternoon I warned Pte Thompson personally that we were about to move up to the front.

R.P. 93(13) complied with

Second Witness

G 17492 Pte Hollet, G., "H" Coy, Carleton & York Regt., having been duly sworn, states:

I am G 17492 Pte Hollet, G., "H" Coy, Carleton & York Regt.

On 16 Dec 44 I was a member of 6 section of #8 Platoon, "H" Coy.

At approximately 09 00 hrs 16 Dec 44 the platoon sergeant had a platoon parade and arms inspection. After it was over he told us that it was rumoured that we may be moving that night but it was not official and not to say any thing about it. Pte Thompson was present when the platoon sergeant made this statement. He was also present with his section when we started to move to the front line.

Cross examination by defence

dA1 Pte Thompson was quite drunk when we moved off for the front line.

dA2 When we left the billet area for the line I had to help Pte Thompson along the road because he couldn't walk very well himself. After we had

(10)

marched for about a mile and started to get behind the rest of the section so I left him and carry on supervising the section.

R.P. 83(B) complied with

Third Witness

G 18024 C.S.M. Upton, D.C., C.S.M. of A Coy, Carleton and York Regt., having been duly sworn, states:

I am G 18024 C.S.M. Upton, D.C. A Coy, Carleton and York Regt.

On 24 Dec 44 I was with A Coy in my capacity as C.S.M. At approximately 0930 hrs on that date, upon entering the company orderly room, I found Pte Thompson reporting back from being absent without leave. I escorted him to his platoon billets and told his sergeant to place him under open arrest. At that time the unit was out of the line for Christmas.

The defence declines to cross-examine the witness.

R.P. 83(B) Complied with.

Defence

G 17549 Pte Thompson, M.J., "A" Coy, Carleton & York Regt., having been duly sworn, states:

I am G 17549 Pte Thompson, M.J., "A" Coy, Carleton & York Regt. On 16 Dec 44 I was a member of 6 Section #8 Platoon. About 0900 hrs 16 Dec 44 the platoon

(11)

sergeant told us that we might be moving forward that night. When the parade was dismissed I started to drink and drank heavily till dinner time and after that I don't remember any thing till about 2 AM the morning of the 4th. Then I was with another private from A Coy. We didn't know where to go then so we stayed in an Italian house that night. The next day we reported to Lieut H.A. Carleton + 4 yrs Sgt. P.A. Mallette, the private who was with me, went in and talked to the Colonel and the Battle Adjutant. Then the Battle adjutant came outside and gave us directions to the company. We started out following his directions. It was getting dark at that time and after going some distance we became afraid of getting lost so we went into a building occupied by the B C D's. We stayed there that night and the next day, waiting to see if we could see anyone from the company. We didn't see any one from our company so we stayed there another night. The following day there were snipers about so we decided to remain in the house for another day. That night just about dusk we went forward again into a dug out and entered an Italian house. In

H/Pte

(12)

reply to our questions the Italians said there had been some Canadians in the area but that they had gone. They said this had been a German patrol nearby the preceding night so because we didn't know where we were we remained at that house all night. The next night about dusk we decided to contact our quartermasters so we left and landed up on the 2nd Bde front. We went to 2 Bde Hd. and asked them if they knew where our Echelon was. The Intelligence officer took Pte Mallett's name and sent it in to our 3 Bde Hd. He directed us back and we ended up on the 5 Div front. We stayed there in a house about three days and then went back and found the unit.

~~Cross examination by the Prosecution~~

The prosecution declines to cross-examine the witness.

R P 53(B) complied with.

Closing address for Prosecution

I have to say a last word about the warning. Just how close the warning was does not matter. It was close enough for Thompson to join the section and move off with them. He must have realized that the move was taking place. He stayed with the platoon for a mile or more. A man who was drunk cannot walk a mile and continue going for a mile and a half to the section. Stop until he got to the section. Anyone, I submit that Thompson was not too drunk to know what was going on, even though he

WH/Bus.

Closing address for Prosecution

I've been a bit worried about the warning. Just how clear the warning was does not matter. If was clear enough for Thompson to join the action and move off with them, as he must have realized that the move was taking place, he stayed with the platoon for a mile or more. A man who was drunk cannot walk a mile and coordinate enough to keep a mile and stay with the rest of the section. Therefore, I submit that Thompson was not too drunk to know what was going on, even though he

HH/Bus.

says he was unconscious for 11 hrs.

Now about the 8 days he roamed around. Natives he never touched for he was out during daylight always at dusk when there was very little Capt. He first day he spotted the Bull right but not till dusk. It was always the same. But when he went past the next area many miles from its previous area, he found it very early – at 0430 hrs

W. McKean Capt.

H/Bus.

The 25th of January 1944 (15)

RE- G/7549 PTE MERLE THOMAS THOMPSON

Closing address for the defence

The points in favor of the defence when we follow Pte Thompson are that he was a minor or a prohibited person by the statutes or enjoyed to go around the canteen to drink or he would have been in any of the circumstances. The time came to leave for the line and Pte Thompson was not fit to go up the line in addition proved by Pte Walker who try to help him to walk. When Pte Thompson came to his senses he was just on the way by all means to go back to his company. He would not go to the line for 14 days and come back. I want to draw the attention to the court on what is stated in the A.C.I. on Drunkenness considered in relation to the case - - -

Thank you

Lt J.J.S. Lafort
Defence Officer

H H Pks.

H'

Mitigation of punishment

(16)

Re C 17649 PTE MERLE THOMAS THOMPSON

Member of the corps

This man is in the Canadian Army since 1939
He came with the first over the beginning
He went through all battles encountered
Three times He might be offered to be
nothing to go back with his Unit so soon as
possible

Thank you
O/C Depot
Depot officer

Pres.

Ex "A"

(17) ARMY FORM B.206

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G17549	Pte	Thompson, M. T.	Carleton & York field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1) AA	(2) times	(2) times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~ W.f.m.

~~or~~

There are no entries in the conduct sheets of the accused.

2. THE ACCUSED HAS NOT BEEN PREVIOUSLY CONVICTED W.f.m.

~~2. The accused has not been previously convicted.~~ W.f.m.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. THE ACCUSED IS NOT UNDER SENTENCE AT THE PRESENT TIME. W.f.m.

~~3. The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for _____ beginning on the _____ day of W.f.m.

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 31 days in military custody, making a total of 31 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is 26yrs W.f.m.

6. The date of his ~~commission~~ attestation specified in his ~~attested letter paper~~ record of service is 10Nov39 W.f.m.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5yrs 2mos

8. The accused is entitled to deferred pay or gratuity in respect of 5yrs 2mos service.

9. The accused is entitled to reckon 5yrs 2mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*) CVSM & Clasp, 1939-43 Star.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____ W.f.m.

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____, and in his regiment (*or corps or department*) the rank of _____ dated _____ W.f.m.

(71239) W1 15802/144 125,000 6/41 A.A.E.W.Ltd. Gp.698

H/Pte.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G17549 Rank Pte Name Thompson R.J. of C.T.Y Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		WTM		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Jan 45

W Mc Grath Capt
officer i/c Records
Can't York Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years, WTM

In the rank of , years,

In the rank of , years,

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs entered accordingly.*)

(Supplementary)

No 6/2544 Name Thompson, M.T. Sqn, Battery or Company 4 Coy Corps C.A.R. 6a '13" Date of enlistment 10/11/39 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	18.9.44	Pte.		A.A. Sec 15 (1). WOA&E. AWL in that he did absent himself without leave from 0800 hrs. 18 Sept 44 until 0800 hrs 22 Sept 44, total time absent 4 days	Lt Campbell V.B.	14 days F.P. 14 days Forf. of Pay 7 days Detn Forf.	22.9.44	Lt.Col. H.F. Lyon	
Field	11.9.44	Pte.		A.A. Sec 15 (1). AWL. from 0600 hrs 11 Sept 44 until 1100 hrs 15th Sept 44, absent 4 days 5 hrs.	Lt Bedard.	1 day F. P. 14 Days pay 14th (27)	15.9.44.	Lt.Col. McManus.	5 days pay

certified true copy
W.M. Gardner Capt
Actg Adjt Regt
Corps York Regt

H/Pers.

(PTO)

(19)

Summary of evidence in the case of G17549 Pte Thompson,M.T., a soldier of the Canadian Army Overseas, on strength on the Carlt & York Regt,

The Commanding Officer directs that the evidence be taken under oath.

First Witness For Prosecution

G52967 Cpl Cruickshank,W.G., having been duly sworn states:-

I am G52967 Cpl Cruickshank,W.G. On 16 Dec 44 I was sec leader 6 sec 8 platoon "A" Coy Carlt & York Regt, On ~~thm~~ 16 Dec 44 our platoon was warned we would be going to the front, we left our billets at approximately 1700 hrs and Thompson was with us when we left, I checked the sec when we arrived in position and and Thompson was absent, that was at approximately 2000 hrs 16 Dec 44,

W. G. Cruickshank.

The accused declines to cross examine this witness.

Second Witness For Prosecution

G27410 Pte Enwright, T.A., having been duly sworn states:-

I am G27410 Pte Enwright,T.A. 8 platoon "A" Coy Carleton & York Regt. At approximately 0900 hrs on 16 Dec 44, the Sgt told the platoon that we might be moving, but not to say anything about it for it was as yet not official, the accused Pte Thompson,M.T. was present at that time.

T. A. Enwright

The accused declines to cross examine this witness.

Third Witness For Prosecution

G17492 Pte Hottot,G.,having been duly sworn states:-

I am G17492 Pte Hottot,G. 8 platoon "A" Coy Carleton & York Regt. At approximately 0900 hrs 16 Dec 44, Sgt Ullock informed the platoon that we might be going forward that night, but it was not official and not to say anything about it, at the time of this warning the accused Pte Thompson,M.T. was present.

Pte Hottot G

The accused declines to cross examine this witness.

Fourth Witness For Prosecution

G18024 CSM Upton,D.E. having been duly sworn states:-

I am G18024 CSM Upton, D.E., CSM of "A" Coy Carleton & York Regt At approximately 0930 hrs 24 Dec 44 Pte Thompson,M.T. reported to me as an absentee without leave.

D E Upton

H/Rei

The accused declines to cross examine this witness.

(20)

Question to the Accused
Do you wish to make a statement or to give evidence upon oath ?
You are not obliged to say anything or to give evidence, unless you wish to do so, but any evidence you give or whatever you say will be taken down in writing, and may be given in evidence.

Answer by the Accused

No.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d)(e) and (f) have been complied with.

In the Field,
Date 21 Jan 45

Officer taking Summary

List of Witnesses
In the case of G17549 Pte Thompson,M.T. a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regiment.

For the Prosecution

G52967	Cpl	Cruickshank,W.G.	Carlt & York R.
G27410	Pte	Enwright,T.A.	Carlt & York R.
G17492	Pte	Hottot,G.	Carlt & York R.
G18024	CSM	Upton,D.E.	Carlt & York R.

For the Defence

NIL

List of Exhibits

NIL

Certificate by the Accused
I certify that I have received free of charge, a copy of the Charge Sheet, Summary of Evidence, List of Witnesses, and list of exhibits, pertaining to my trial by Court Martial.

In the Field,
Date 21 Jan 45

M M Thompson

HH/JRes.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-17549 Pte Merle Thomas THOMPSON CYR

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a)AA	NOT Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ "LFT" ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for a period of (18) eighteen months.

~~(Sgd)~~ 26 Jan 45 (Sgd) "L.F. TRUDEAU" Major

~~Judge Advocate~~ "LFT" Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be sent summary to prison or detention barracks until further orders~~ "FEB"

(1. AA 57A. Delete if not used.)

(Sgd) "F.E. Bernatchez" Brigadier

29 Jan 45 Date

Commanding 3 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr
G17549 Pte THOMPSON MT	31 Jan 45	"??????????" ??:? CYR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
(D.M. OMAN) CAPT
Cdn Sec 2 Ech
APHQ

42-67

CFAB6 (in lieu of AFA3)
40-P & S-1608 (2604)

FIELD GENERAL COURT-MARTIAL

A/Comd

Convened by Order of Lt Col HP Bell-Irving DSO Comd 3 Cdn Inf Bde dated 25 Jan 45

13 FEB 45 APHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-17549	Pte	Merle Thomas	THOMPSON	CYR

Proceedings reviewed
"W.B. BATE" Capt A/DJA
Cdn Sec 2 Ech AFHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) "LFT" ITALY on (date) 26 Jan 45 "LFT"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~ assemble, and the Court is closed. "LFT"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) "LFT"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences. "LFT"

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecution informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~X~~ as interpreter? Ans ~~X~~

The Interpreter is sworn.(1) Do you object to "LFT" as shorthand writer? Ans ~~X~~

The shorthand writer is sworn.(1) ~~X~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) ~~President to accused: Do you object to be tried by me as President or by any of the Members of the Court?~~

Ans nosir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ "LFT" are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L F	TRUDEAU DSO	R 22e R
Member	Capt	F	PEACOCK	WINSR
Member	Lieut	G	RIVA	CYR
~~Judge Advocate~~ "LFT"				
Prosecutor	Capt	W T	McGRATH	CYR
Defending Offr	Lieut	J R	LAPORTE	CYR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G-17549 Pte Merle Thomas THOMPSON CYR before arraignment makes(s) (no) ~~XX~~ plea "LFT" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~XXX~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused (does ~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "LFT"

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~XXXXX~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

"LFT"

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

"LFT"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No sir (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

"LFT"

D2. The Prosecutor makes (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

"LFT"

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Yes as witness under oath Do you intend to call witnesses on your behalf? Ans No sir Are there witnesses as to character only? Ans "LFT"

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the "LFT" charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes in mitigation of punishment "LFT"(2)

(1. *RP 27(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the date of any.(2) "LFT"

(1. *When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

CHARGE SHEET

The accused G17549 Pte Merle Thomas Thompson, a soldier of the Carleton & York Regt., Canadian Army Overseas, Central Mediterranean Force, on active service, is charged with:-

First Charge
Sec 12(1)(a)
Army Act

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he,

in the Field, in Italy, after having been warned that his platoon was to proceed to a forward position, with intent to avoid so proceeding, absented himself without leave from approximately 2000 hrs 16 Dec 44 until surrendering himself to G18024 CSM Upton, D.L. at BARTERMO, at approximately 0945 hrs 24 Dec 44.

Total time absent 7 days 13 hrs 45 min.

In the Field

Date 21 Jan 45

"JPEnsor"
(J.P. Ensor) Lt.-col
Comd Carlt & York R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field

25 Jan 45

HPBell-Irving
(H.P. Bell-Irving) Lt.-col.,
A/Comd 3 Cdn Inf Bde

Certified true copy
W. McGrath capt
Adjt Carlt-York Regt
31 Jan 45

for 24 Jan 45.

(6)

CFA95 (In lieu of AFA3)
40/PAS/1697 (2603)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G17549	Pte	Merle Thomas	THOMPSON	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Jan 45 endorsed by me, ([illegible]) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	L F Trudeau DSO (Must be named. RP 106.)	R22R (Unit.)

MEMBERS.

Capt	P Peacock	WNSR
Lt (Rank.)	G Riva (Named or detailed. RP 106.)	CYR (Unit.)

WAITING MEMBER.

Lt (Rank.)	L Turcott (Named or detailed, if any. RP 106.)	R22R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 25 Jan 45

[signature] (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

A/Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

LF/Pres.

MEDICAL OFFICERS CERTIFICATE (7)
KR (CAN) 357

I certify that I have this morning examined

No G 17549 Pte THOMPSON M T

of the Carleton & York Regiment and in my opinion he is

fit to undergo trial by court martial.

Station In the Field "G. WALSH" Capt.,
Medical Officer
Date 26th Jan 1945 "LFT"/Pres. R.M.O. Carleton & York Regt.

Case of G 17549 Pte THOMPSON M T Carleton York Regt. (8)

PROSECUTION

CHANK

First witness: G52967 Cpl CRUIK W G H coy Carleton & York Regt,

having been duly sworn states: I am G52967 Cpl ~~Cui~~ Cruikshand "W G " A coy Carleton & York~~k~~ regt.

On 16 Dec 44 I was #6 Section commander in #8 platoon of "A" Coy. On the afternoon of 16 Dec 44 we proceeded from our billets to go to take over positions in the line from the PPCLI Our company moved of at approximately 1700 hrs. When we left Pte Thompson was with us. When we arrived at our position in the line Pte Thompson was absent . The at was at\app roximately 2000 hrs 16 Dec 44

CROSS EXAMINATION BY THE DEFENCE.

Q.A.1 When we left our billets to proceed to the front line positions Pte Thompson R.P. was under the influence of liquor.

Q A2 The platoon sergeant warned the section comds including my self in the following manner: Have the blankets rolled and the large packs turned in. We will be moving up to relieve the second brigade at about 1600 hrs.

"LFT"/PRES

- " / -2- (9)

Question by the court

QA 1. Pte Thompson was in my sections on 16 Dec 44.

QA 2. That afternoon I warned Pte Thompson personally that we were about, to move up to the front.

R.P. 83 (B) Complied with.

Second Witness

G 17492 Pte HOTTAT, A"A"coy Carleton & York Regt., having been duly sworn states.

I am G17492 Pte HOTTAT G."A" Coy Carleton & York Regt.
On 16 Dec 44 I was a member of 6 Section of # 8 platoon "A" Coy. At approximately 0900 hrs 16 Dec 44 the platoon sergeant had a platoon parade and arms inspection. After it was over he told us that it was rumoured that we may be moving that night but it was not official and not to say anything about it. Pte Thompson, was present when the platoon, sec Sergeant made this statement. He was also present with his ration when we started to move to the front line.

Page 2 continued. (9)

CROSS EXAMINATION BY DEFENCE:

QA 1 Pte Thompson was quite drunk when we moved off for the front line.

QA 2 When we ~~moved off for the front line~~. left the billet area for the line. I had to help Pte Thompson along the road because he couldn't ~~walk~~ ~~Walk~~ walk very well himself. After we had

"LFT"/Pres.

/ 3 / (10)

marched for about a mile we started toget behind the rest of the section so I left him and caught up with the section.

RP 83 (B) Complied with.

Third Witness: G 18024 CSM Upton, D.E. CSM of A Coy. Carleton & York Regt. having been duly sworn states:-

I am G 18024 CSM Upton D E A Coy Carleton & York Regt.
On 24 Dec 44 I was with A Coy in my capacity as CSM. At approximately 0930 hrs on that date, upon entering the company orderly room. I found Pte Thompson reporting back from being absent without leave. I escorted him to his platoon billets and told ~~him~~ his Sergeant to place him under open arrest. At that time the unit was out of the line for christmas.

The defence declares to cross - examine the witness.

RP 83 (B) Complied with.

DEFENCE

G 17549 Pte THOMPSON M T., "A" Coy, Carleton & York Regt. having been duly sworn states:
I am G 17549 Pte THOMPSON M T., "A" Coy Carleton & York Regt. On 16 Dec 44 I was a member of 6 Section #8 Platoon. About 0900 hrs 16 Dec 44 the platoon.

"LFT"/Pres.

4. (11)

sergeant told us that we might be moving forward that night. When the parade was dismissed I started to drink and drank heavily till dinner time and after that I don't remember any thing till about 2300 hrs the same night. Then I was with another private from A Coy. We didn't know where to go then so we stayed in an Italian house that night . The next day we reported to Tac HQ Carleton & York Regt. Pte Mallette, the private who was with me, went in and talked to the colonel and the Battle adjutant. Then the Battle Adjutant came outside and gave us directions to the company. We started out following his directions. It was getting dark at that time & after going some distance we became afraid of getting lost so we went into a building occupied by the RCD'S. We stayed there that night and the next day, waiting to see if we could see anyone from the company. We didn't see anyone from our company so we stayed there another night. The following day there were snipers about so we decided to remain in the house for another day. That night just about dusk we went forward again quite a distance and entered an Italian house. In

"LFT"/Pres.

reply to our questions the Italians said there had been some Canadians in the area but that they had gone. They said there had been a German patrol nearby the preceding night so because we didn't know where we were we remained at that house all night. The next night about dusk we decided to contact our quartermaster so we left and ended up on the 2nd Bde front. We went to 2 Bde HQ and asked them if they knew where our Echelon was. The Intelligence Officer. took Pte Mallette's name and sent it in to our our 3 Bde HQ He directed us back and we ended up on the 5 Div front. We stayed there in a house about 3 days and then went back and found the unit.

The prosecution declines to cross-examine the witness.

RP 83(B) complied with.

"LFT"/Pres.

CLOSING ADDRESS FOR PROSECUTION (13)

There has been a lot said about warning. Just how clear the warning was does not matter. It was clear enough for Thompson to join the section and move off with them so he must have realized that the move was taking place. He stayed with the platoon for a mile or over. A man who is very drunk cannot walk a mile nor can another carry him a mile and stay with the rest of the section. Therefore, I submit that Thompson was not too drunk to know what was going on even though he

"LFT"/Pres.

---

2 (14)

days he was unconscious for 7 hrs.

Now about the 8 days he roamed around. Notice he never looked for his unit during daylights always at dusk when there was very little hope. The first day he reported to the Battle adjt but not till dusk. At was always the same. But when the unit got back into rest area, many miles from its previous area, he found it very easily - at ~~0600~~ 0930 hrs.

"W. McGrath" Capt

"LFT"/Pres.

The 25th January 1945 (15)

RE: G17549 PTE MERLE THOMAS THOMPSON

CLOSING ADDRESS FOR THE DEFENCE.

The points in favour of the Defence where as follows First there was a rumor or probably for the platoon or company to go forward the man starts to drink as he would have done in any other circumstances. The time came to leave for the line and Pte Thomson was not fit to go up this is proven by Pte Watto who try to help him to walk. When Pte Thompson came to his normal he was not so hotsy by all means to go back to his company. He went back to the line for 14 days and came back. I want to draw the attention to the court on article 48 Chapter three of MML on Drunkenness considered in relative to other cases.

Thank you Lt" J.B. Laporte"
Defensive Officer.

"LFT"/ Pres.

E - 3
MITIGATION OF PUNISHMENT The 20th Of January 19 (16)

RE G 17549 Pte Merle Thomas THOMPSON

Members of the court.

This man is in the Canadian Army since 1939. He was with his Unit since the beginning . He went through all battles was evacuated twice. He regrets his offence and he is willing to go back with his Unit as soon as possible.

Thank you

"Lt J B Laporte"
Defending Officer.

"LFT"/ Pres.

E - 3
MITIGATION OF PUNISHMENT The 20th Of January 19 (16)

RE G 17549 Pte Merle Thomas THOMPSON

Members of the court.

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Thank you

"Lt J B Laporte"
Defending Officer.

"LFT"/ Pres.

Ex "A" (17)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G17549	Pte	Thompson, M.T.	Carleton & York Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number set down in the conduct sheets, preference being given to the chief serious offence in each entry, and to any recognised medal acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15 (1) AA	(2) times	(2) times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~ ~~—~~ "WTM"

There are ~~no~~ entries in the conduct sheets of the accused

2. The accused has not been previously convicted. ~~—~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of 31 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 26 yrs

6. The date of his ~~"WTM"~~ ~~attestation~~ specified in his ~~attestation paper~~ record of service is 10 Nov 39 "WTM"

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 2 mos

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 2 mos service

9. The accused is entitled to reckon 5 yrs 2 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)) CVSM + 1 Clasp 1939-43 Star

11. ~~(*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(*In the case of an officer.*) The accused holds in the army the rank of dated~~ ~~and in his regiment (or corps or department) the rank of dated~~

(*)8250) Wt.11682/144 125,000 8/41 A.A.E.W.Ltd. Gp.498

J.F.R. Pres.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G/17549 Rank Pte Name Thompson, W.J. of L & G Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Jan 15

W. Mc Grath Capt
Officer i/c Records
Canterbury Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of ..... years,

In the rank of ..... years

In the rank of ..... years.

Date of Promotion.

(Instructions—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. 17544 Name Thompson, M. T. | Sqn, Battery, or Company | Corps Lor. Gr. Ex R. | Date of enlistment 10/11/39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Supplementary. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Field	18/9/44	Pte		AA. Sec 15(1) WOPS AWL in that he did absent himself without leave from 0800 hrs 18 Sept 44 until 0800 hrs 22 May 44 total time absent 4 days	Lt. Campbell V.B.	14 days F.P. 14 " Forf. 2 pay 4 " Forf. pay	22-9-44	Lt Col LT.	
Field	11-9-44	Pte		AA. Sec. 15 (1) AWL from 0600 hrs 11 Sept 44 until 1100 hrs 15 Sept 44 absent. 4 days 5 hrs.	Sgt. Richards	1 day F.P. 14 days pay. (49)	15-9-44	Lt Col McKenna.	5 days pay

Certified true copy of the entries in the Conduct Sheet of the above named soldier.

Officer i/c Record Unit

31 Jan 45

(270)

(19)

Summary of evidence in the case of G17549 Pte Thompson, M.T. a soldier of the Canadian Army Overseas, on strength of the Carlt & York Regt.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution

G52967 Cpl Cruickshank, W.G. having been duly sworn states:-

I am G52967 Cpl Cruickshank, W.G.. On 16 Dec 44 I was sec leader 6 sec 8 platoon "A" Coy Carlt & York R. On 16 Dec 44 our platoon was warned we would be going to the front, we left our billets at approximately 1700 hrs and Thompson was with us when we left. I checked the sec when we arrived in position and Thompson was absent, that was at approximately 2000 hrs 16 Dec 44

" W.G. Cruickshank "

The accused declines to cross-examine this witness.

Second Witness for Prosecution

G27410 Pte Enwright, T.A. having been duly sworn states:-

I am G27410 Pte Enwright, T.A. 8 platoon "A" Coy Carleton & York Regt. At approximately 0900 hrs on 16 Dec 44 the Sgt told the platoon that we might be moving, but not to say anything about it for it was as yet not official. The accused Pte Thompson, M.T. was present at that time.

T.A. Enwright

The accused declines to cross-examine this witness.

Third Witness for Prosecution

G17492 Pte Hottot, G having been duly sworn states:-

I am G17492 Pte Hottot, G 8 platoon "A" Coy Carleton & York Regt. At approximately 0900 hrs 16 Dec 44 Sgt Ullock informed the platoon that we might be going forward that night, but it was not official and not to say anything about it. At the time of this warning the accused Pte Thompson, M.T. was present.

Pte Hottot, G.

The accused declines to cross-examine this witness.

Fourth Witness for Prosecution

G18024 CSM Upton, D.E. having been duly sworn states:-

I am G18024 CSM Upton, D.E. of "A" Coy Carleton & York Regt. At approximately 0930 hrs 24 Dec 44 Pte Thompson, M.T. reported to me as an absentee without leave.

D.E. Upton

The accused dclines to cross-examine this witness.

certified true copy
W. McGrath Capt
adjt Carl & York
31 Jan 45

Question to the accused
Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence, unless you wish to do so, but any evidence you give or whatever you say will be taken down in writing and may be given in evidence.

Answer by the Accused
No

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e) and (f) have been complied with.

In the Field

Date 21 Jan 45

B.A. Humphrey, Lt.
Officer Taking Summary

List of Witnesses
In the case of G17949 Pte Thompson, M.T. a soldier of the Canadian Army Overseas, on strength of the Carleton & York Regiment.

For the Prosecution

G52967	Cpl	Cruickshank, W.G.	Carlt & York R
G27410	Pte	Enwright, T.A.	Carlt & York R
G17492	Pte	Hottot, G	Carlt & York R
G18024	CSM	Upton, D.E.	Carlt & York R

For the Defence

NIL

List of Exhibits
NIL

Certificate by the accused

I certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses and List of Exhibits pertaining to my trial by Court Martial.

In the Field

Date 21 Jan 45

M.T. Thompson

Certified True Copy
W. McGrath Capt
Adjt Carlt+York Regt
31 Jan 45

RRR-129

SGT. THOMPSON P.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 27700 Sgt Percy Arthur THOMPSON - CB Highrs - 4 CIRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A. A. Sec 9 (2)	NOT GUILTY	NOT GUILTY	
2nd	A. A. Sec ~~69~~ 40	NOT GUILTY	NOT GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of days, of which days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~

~~Acquitted.~~

(Sgd) ..... Judge-Advocate, if any. 1 July 44. Date awarded. (Sgd) A. B. Noble, Lt.-Col., President. (RP 45, 50.) 3 CIRU.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 19 JUL 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 RRR-129

CFA96 (In lieu of AF A97) W.P. & S. 10608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.C. Stewart, D/Comd Adv, HQ, CRU dated 26 Jun 44

C.B.E., D.S.O.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 27700	Sgt		Percy Arthur	THOMPSON	CB Highrs 4 CIRU

PROCEEDINGS REVIEWED 19 Jul 44

Lt-Colonel RCS
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 30 June - 1 July 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~(2).

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused ~~Mr.~~ you object to as interpreter? Ans Nil.

~~The Interpreter is sworn.~~ Do you object to ~~Miss~~ Mlle Lavielle, C.W. as shorthand writer? Ans Nil. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Col.	A.B. Noble	CIC	3 CIRU
Member	Major	W.J.R. Haworth	CIC	4 CIRU
Member	Capt.	C.M. Thom	CIC	4 CIRU
~~Judge-Advocate~~	~~Nil~~			
Prosecutor	Lieut.	A.M. Manning	CIC	4 CIRU
Defending Offr	Capt.	G.A. Warren	CIC	3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused (a) G 27700 Sgt. Thompson, P.A. before arraignment make(s) (no) (a) plea

Objection to the composition of the court (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans N/O .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~his~~ opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the~~ ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (~~are~~) found Not Guilty on the ~~latter~~ charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* [redacted] *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CK A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, *117*(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (6), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. NFB* 355 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) TI(O)
(*1. When several accused tried separately see RP* [redacted]. *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 2014, 2323, *MML p* 60. 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. G 27700 Sergeant Percy Arthur THOMPSON, of the Cape Breton Highlanders, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
A.A. Sec: 9 (3)

WHILE ON ACTIVE SERVICE, Disobeying a lawful command given by his Superior Officer,
in that he,
In the Field, at 1440 hours 2 June 1944, did not report back to his quarters when ordered to do so by Brigadier J.R. Stewart Lough, Commander, "D" Group, Cdn Rft Units.

Second Charge
A.A. Sec: 40

WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,
in that he,
In the Field, at 1440 hours 2 June 1944, was improperly dressed as he was wearing a Glengarry Cap during training hours, and his battle dress blouse was completely unbuttoned.

J. Gavan Power, Lt-Col.
(J. Gavan Power) Lt-Col.,
Commanding Officer,
4 Cdn Inf Rft Unit.

IN THE FIELD
21 JUNE 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

J.C. Stewart
(J.C. Stewart) Brigadier,
D/Commander,
Cdn Rft Units (Advance)

Convening Officer.

IN THE FIELD
26 JUN 44

A.A.G.

FIELD GENERAL COURT-MARTIAL

CFA105 (In lieu of AFA31) 40/P&S/1697 (2658)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G 27700	Sgt		Percy Arthur	THOMPSON	CS Highrs 4 CIRU

CONVENTING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 26 Jun 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ (*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-Col	A.B. Noble	CIC 3 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Major	to be detailed by Commanding Officer 4 CIRU	
A Captain	to be detailed by Commanding Officer 4 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 26 Jun 44

J.C. Stewart (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(J.C. Stewart) Brigadier,
Commanding Cdn Rft Units (Advance)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

A.B.

Medical Officer's Certificate. 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. G 27122.....
Sgt. P.H. Thompson..... of.....4 C I R.....
and in my opinion, he is..fit..... to undergo trial by Court Martial.

Station.....4 C I R.....

Date.....30/Jan/41..... (Sgd.).....
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

A2L

Medical Officer's Certificate. 40/25
R.R. (Can.), para 957.

I certify that I have this morning examined No. G. 27700
Sgt. Thompson P.A. of H C IRU
and in my opinion, he is fit to undergo trial by Court Martial.
Station.....
Date. 1 Jul 44 (Sgd.). [signature]
(Medical Officer).
(Canadian Reinforcement Units Routine Order No. 5, para 47, d/6 Jan 42)

FIELD GENERAL COURT MARTIAL

G-27700 Sgt Thompson P.A. CB Highrs - 4 CIRU

OFFICERS UNDER INSTRUCTION

RANK	NAME	UNIT	
Lieut	D.S. Tickner	A&SH of C	(3 CIRU)
Lieut	C.D. Muir	L&W Regt	(3 CIRU)

A 8.

ARGUMENT ON OBJECTION TO COMPOSITION OF THE COURT

In addressing the prospective members of the Court in the matter of disqualification, I will be quite frank in stating that as a matter of law there seems to be no reason why each members should not sit. But the matter goes beyond that and concerns a question of policy or shall we say principle.

This is not an ordinary case on the contrary it qhite an unusual one. It rests almost entirely on the written statement of one witness who is the Commander of D Gp.

The awkwardness of the position of the prospective members is so apparent that I submit justice would be effected with more ease, if the composition of the Court altered.

The fact, which I think is well known to all the members of this prospective court, is that all the accused have previously been tried by an FGCM and acquitted of a charge arising out of the same set of circumstances and no doubt the circumstances themselves are well known to you all. If that be so, then it is only fair to assume that in the minds of the accused, there is a feeling that before this case is heard there is already a certain amount of prejudice against them. Is this not a reasonable conclusion for them to draw?. They reason something like this:

1. They have already been tried and acquitted of a charge of AWL arising from the same circumstances as this present charge of disobeying a lawful command.
2. The convening authority for the previous FGCM who understood all the circumstances of that charge and necessarily settled or approved the charges then laid against the accused is also the principal witness in this case.
3. Aside from all this, there is the further fact that this witness is also the superior officer of all the members of the Court.

Should the Court at the conclusion of the evidence decide to convict, there will be a feeling throughout the units of D Gp where this case seems to be already well known, that this FGCM has not been conducted in the best traditions of British Courts of justice. And when I say this I do not for a moment infer or suggest that the Court will act in any improper way or be swayed by any outside motives whatsoever or that there is anything irregular about the manner in which it was convened. But what I do say is that the ordinary soldier around these units who has had always a great respect for the fairness of such Courts might think that d ue to the peculiar circumstances of this case, that here is one time when the fairness of Court martial procedure might be criticised.

I suggest that this matter is most important and would recommend through you sir, that the convening authority reconsider the detail of officers in the convening order and that officers from outside D Gp be substituted in your places, in order that not the slightest suspicion of prejudice might be hinted in this case.

FIRST WITNESS FOR THE PROSECUTION - Brigadier J.R. Stewart Lough, Comd "D" Gp, having been duly sworn, states:

Questioned by Prosecution

Q1 You are Brigadier J.R. Stewart Lough, Comd "D" Gp?
A1 Yes.

Q2 Doyou recognize the accused in this court?
A2 Yes I recognize the accused.

Q3 Do you remember meeting or seeing the accused on 2 Jun 44?
A3 Yes.

Q4 Would you tell the court under what circumstances you met him and just what happened?
A4 Accompanied by my Staff Captain, Capt. Stevenson I was returning from No.2 Cap. On passing the Italian Prisoners of War the NCO in charge of them asked me to stop. He made a complaint to me about three Sgts who he said had just passed. Through this complaint I looked out for three Sgts and on approaching the DCRE Camp I overtook what I first thought to be three Pte soldiers who were going towards Helmsley in a very unsteady manner. When I came up to them I noticed that they were three Sgts. I dismounted from my bicycle and stopped the NCOs. I asked them where they were going. They said they were going to the NAAFI. I asked them if they knew that the NAAFI was out of bounds during parade hours. They said no. They had all been drinking. I could smell liquor on their breath. CQMS MacDonald was the worst man of the three and when I overtook them was being supported by the other two. Sgt Thompson was very poorly dressed and had his tunic blouse completely undone. I ordered him to return to his quarters. In my opinion he was drunk. On arrival to Gp HQ I phoned Col Power at 4 CIRU but could not get him so I got the Adjt and asked him to have these men paraded before Col Power so that he could see them and take disciplinary action. It was later reported to me that they could not be found in their quarters.

Q5 You said you ordered him the accused Sgt Thompson to return to his quarters?
A5 I ordered all three to return to their quarters.

Q6 With reference to Sgt Thompson who is charged with two offences namely with Disobedience of a lawful command and being improperly dressed.

A6 He was wearing a Glengarry with a CBH Badge and his battle dress tunic was undone completely. I ordered him to button his blouse After taking his name from his Pay Book I noticed that his blouse was still unbuttoned. I again ordered him to button his blouse and his excuse was that he had been wounded and could not use his right arm. I ordered all three to return to their quarters.

Cross-examined by the Defence

Q1 When you were talking to these NCOs were they disrespectful?
A1 No.

Q2 As for CQMS MacDonald did he answer the questions you asked him sensibley?
A2 Yes I made sense out of them.

Q3 When you and the Staff Captain mounted the bicycles to move off the accused turned about in the direction of No.4 CIRU?
A3 Yes.

Q4 You expected that they would then obey your order?
A4 Yes.

Q5 At what time did you meet the accused?
A5 At 1430 hrs.

Q6 I am told it was nearer 1400 hrs.
A6 I might have been 1415 hrs.

Q7 You did not look at you watch?
A7 No.

Q8 You know that the accused was tried on the 13 Jun 44 on a charge of AWL before an FGCM?
A8 Yes.

Q9 The circumstances then are the same circumstances out of which these present charges arise?
A9 Yes.

Q10 You were the convening authority for the FGCM on the 13 Jun 44?
A10 Yes.

Q11 And as such you necessarily settled and approved the charge of AWL as then laid?
A11 Yes.

Q12 If these NCOs had not been acquitted on that charge ~~k~~ we would not be here today?
A12 No, we would not be here.

Q13 And since they were acquitted on the charge of AWL you instructed these charges of disobeying a lawful command and drunkeness and being improperly dressed to be laid?
A13 Yes I did.

SECOND WITNESS FOR THE PROSECUTION - Capt H.W. Stevenson, Staff Captain, "D" Gp, having been duly sworn, states:

Questioned by Prosecution

Q1 You are Capt H.W. Stevenson, Staff Captain "D" Gp?
A1 Yes.

Q2 Do you recognize the accused, Sgt Thompson in the court?
A2 Yes I do.

Q3 Do you also know Sgt Scott and CQMS MacDonald?
A3 Yes.

Q4 Do you remember having met these NCOs on the second day of Jun 44.
A4 Yes I do.

Q5 Would you tell the court under what circumstances you happened to meet them and what happened?
A5 At approximately 1430 hrs on the 2 Jun 44 I was proceeding with the Brigadier Lough from 4 CIRU to "D" Gp HQ. As we were proceeding along the road from No.4 Camp towards the main gate we saw three soldiers going along the road arm in arm and as we got up to them Brigaidier Lough stopped them. Brigadier Lough took their particulars and accused them of drinking. He then instructed them to return to to their quarters and they proceeded in the direction ~~fm~~ of 4 CIRU and we proceeded to HQ "D" Gp.

Q6 You said that they were proceeding arm in arm?
A6 Yes.

Q7 Did you suspect by this that they were in a drunken condition?
A7 No I did not say so. I did say they were under the influence of liquor.

Q8 With reference to the accused CQMS MacDonald did you say that he was drunk?
A8 No.

Q9 Did you notice anything suspicious in his condition?
A9 CQMS MacDonald appeared to have difficulty in standing up.

Q10 In what condition was he when you spoke to him?
A10 In my opinion he was under the influence of liquor.

Q11 With reference to Sgt Thompson did you notice anything particular with his dress?
A11 Sgt Thompson had his battle dress blouse completely unbuttoned and was ordered by Brigadier Lough to do it up.

Q12 Did he comply with the order?
A12 After the second warning he proceeded to do so.

Cross-examined by the Defence

Q1 Did you look at you watch to see the exact time you were talking to the accused?
A1 No I did not.

Q2 I am told it was approximately 1400 hrs.
A2 No I would say 1430 hrs. from an estimate I made on time and space when we arrived back at Gp HQ.

Q3 The Brigadier says it could have been 1415 hrs?
A3 It might have been.

Q4 From what was told you by a British Cpl you were particularly on the watch for the three NCOs.
A4 Yes.

Q5 And otherwise you might not have observed the three NCOs when you did?
A5 I do not know.

Q6 How close were you standing to these NCOs when the Brigadier talked to them?
A6 About 8 or ten feet away. I was close enough to hear what was said.

Q7 Did you hear every word?
A7 I think so.

Q8 Did you hear the Brigadier use the word quarters in his order?
A8 Yes.

Q9 When you left the accused had he turned to go back to 4 CIRU?
A9 Yes.

Q10 And that indicated to you I suppose that the Brigadier's order would be obeyed?
A10 Yes it did.

Q11 Did the accused appear disrespectful?
A11 No.

Q12 When Sgt Thompson was told the second time to button up his tunic, you did not infer from that, that he intended to deliberately disobey the Brigadier?
A12 I don't think so.

Q13 Well, did he appear sullen?
A13 No.

Q14 Now Capt Stevenson you are under oath to speak the truth. Did you say that CQMS MacDonald was drunk?
A14 I did say that he was under the influence of liquor.

Q15 There is a distinction between drunk and under the influence of liquor and I am asking you to say in which of these conditions CQMS MacDonald was in?
A15 I have already said he was under the influence of liquor.

Q16 Then you do not say he was drunk?
A16 I prefer not to answer that question.

Q17 You are not familiar with the Routine Order relating to dress regulations of Scottish Units regarding Glengarries and Balmorals are you?

A17 I think I have read the Routine Order but I am not familiar with it.

THIRD WITNESS FOR THE PROSECUTION - C-17211 CSM Reilly, W.D., Carlton & York Regiment, on strength of 4 CIRU, having been duly sworn, states:

Questioned by Prosecution

Q1 You are C-17211 CSM Reilly, W.D.?
A1. Yes, Sir.

Q2 Do you recognize in this court , the accused; Sgt Thompson ?
A2 Yes, Sir.

Q3 Do you know also Sgt. Scott and CQMS MacDonald ?
A3 Yes, Sir.

Q4 Do you remember anything occurring on the day of 2 Jun 44 with reference to the three NCOs?
A4 At approximately 1830 hrs I received word from "H" Wing for the three accused to report to "G" Wing. I sent the Orderly Sgt, St Patriquin, and the runner, Pte Corbett, to look for these men. At about 0045 hrs that evening they reported back while I was working in the Orderly Room.

Q5 What did you do then?
A5 I had orders to place them under arrest, which I did, and put an escort in charge of them.

Q6 You state thatyou ordered Sgt Patriquin and Pte Corbett to search for these 3 NCOs, did you tell them to search in any particular areas?
A6 The Coy lines, and their billets and the Sgts Mess.

Q7 Anything else?
A7 No, Sir.

Q8 What do you mean by the Coy lines?
A8 "G" Coy area, Sir.

Q9 These 3 NCOs had their quarters in "G" Coy lines?
A9 Yes, Sir.

Q10 Would d you know particularly what hut they were quartered in ?
A10 Hut 18, sir.

Cross-examined by the Defence

Q1 Do you remember Sgt Major, giving evidence under oath at a Court Martial on the 13 Jun 44.?
A1 Yes, sir.

Q2 Against these NCO's ?
A2 Yes, sir.

Q3 Do you remember the prosecutor asking you at that time, this question, No. 13. "What did you do with regard to finding the accused?" and do you remember giving this answer - " I sent the Orderly Sgt to check the lines, sir." Was that the answer you made at that time ?
A3 It could be, sir, or something to that effect.

Q4. You do remember the question and the answer dont you ?
A4 Yes, sir.

Q5 And nothing was said by you at the time, although that was over two weeks ago, about your sending a runner down to look for these NCO's.
A5 I think I did, sir.

Q6. In any case Sgt Major, you remember the trial of these three NCO's on 13 Jun 44?
A6 That's right sir.

Q7 There was no runner called to give evidence that he was sent to find these NCO's ?
A7 He was outside the door sir.

Q8 Yousay he was waiting to give evidence ?
A8 Yes, sir.

Q9 The fact is he was not called to give evidence, was he ?
A9 I dont know sir.

Q10 Do you mean to say you dont know whether he was called upon or not to give evidence ?
A10 That's right, sir.

Q11 Do you mean to say Sgt Major that you have not talked this case over with the runner between then and now ?
A11 Yes, sir I did.

Q12 And didn't you ask him whether he gave evidence ?
A12 No, sir, I did not.

Q13 Yet the important thing from the runners standpoint viz.- whether he was called to give evidence or not - was for some reason not discussed in this conversation ?
A13 No, sir.

Q14 This is a large camp at 44CIRU ?
A14 Yes, sir.

Q15 How many buildings are there here ?
A15 I do not know.

Q16 How many acres are there is this camp ?
A16 I dont know sir.

Q17 Then so far as you can state, these NCO's could easily ha

Q17 been within camp from 1400 hrs 2 Jun 44 until they reported to you at 0045 hrs 3 Jun 44 without being seen by you or the Orderly Sgt or this particular runner during that period?

A17 Yes, Sir.

Q18 And outside of the short time it took for the Orderly Sgt and the runner to go down to their hut and do whatever looking they did they might easily have been in their hut before or after that time?

A18 Yes, Sir.

FOURTH WITNESS FOR THE PROSECUTION - F-45655 Sgt Patriquin, H.N., CIC, on strength of 4 CIRU, having been duly sworn, states:

Questioned by Prosecution

Q1 You are F-45655 Sgt Patriqain, H.N.?
A1 es, Sir.

Q2 What are your occupations in this Camp?
A2 Orderly Sgt "B" Coy, Sir.

Q3 Do you recognize in this court, the accused?
A3 Yes, Sir.

Q4 Do you know him well, and is he in your company?
A4 Yes, Sir.

Q5 Do you remember what happended on the day of 2 Jun 44 with reference to these 3 NCOs?
A5 On 2 Jun 44, at approximately 1530 hrs I was asked by the CSM of "B" Coy to go down to the Sgts Quarters and check them and the latrines for the 3 accused NCOs. I went down and could not find them and came back and reported to him.

Q6 You said you searched the latrines and the Sgts Quarters?
A6 Yes, Sir.

Q7 In what Coy lines?
A7 "B" Coy, Sir.

Q8 Did you search in particular the hut where the Sgts Quarters were supposed to be?
A8 Hut 15, Sir.

Q9 Did you search the Coy Lines?
A9 Just as I was going through to the office down to the quarters and back.

Cross-examined by the Defence

Q1 The only place you made a search of Sgt, was in the quarters, that is Hut 15 and in the latrines?
A1 Yes, Sir.

Q2 You necessarily had to walk through some of the lines to get to the hut, but you didn't make a search in any other place?
A2 No, Sir.

Q7 Who gave you the instructions to look for these NCOs?
A7 CSM Reilly, Sir.

Q8 You remember definitely searching the latrines and the quarters, what hut would that be?
A8 Huts, 13, 14, 15 and 16, Sir.

Q9 You searched through all them?
A9 Yes, Sir.

Cross-examined by the Defence

Q1 You didn't give evidence on the FGCM on the 13 Jun 44?
A1 No Sir, I was outside the door but was not called.

Q2 Since that time you have discussed this case with CSM Reilly?
A2 Not that I remember, sir.

Q3 In his evidence he says you have?
A3 I have been speaking to him, but I don't remember discussing the case with him.

Q4 How did he know of the evidence you were going to give?
A4 There is only one evidence that I could give, sir.

Q5 I suppose that is the whole truth and nothing but the truth?
A5 Yes, sir.

Q6 What time did you go down to the Sgts Mess?
A6 Between 1530 hrs and 1600 hrs, sir.

Q7 It would only take you a matter of a 5 minutes to look through those 3 or 4 huts whch you said you looked through?
A7 Between 5 and 10 minutes, sir.

Q8 The latrine is near by?
A8 It is back of there, sir.

Q9 Do you say you went into the Sgts Mess?
A9 Yes, Sir.

Q10 Were you making your search at the same time as Sgt Patriquin
A10 I'm not quite sure, sir.

Q11 So far as you know you might have been the only one searching?
A11 I'm not sure, sir.

Q12 Did you, or did you not know that Sgt Patriquin was searching?
A12 I have heard it mentioned that Sgt Patriquin was also searching.

Q13 So far as you know, outside of the 10 minutes you spent looking in these 4 huts, the latrine and the Sgts Mess, they might have been in the huts or the Mess at any other times except that time?
A13 Yes, sir.

Q14 So far as you know, no one was detailed to stand by that hut to watch for these NCOs?
A14 Not as far as I know, sir.

SIXTH WITNESS FOR THE PROSECUTION - Lieut A.M. Monnin, CIC, on strength of 4 CIRU, having been duly sworn, states:

This witness produced ORO 4144, Appendix A and B, Section 4, para 2, sub-section (b).
This witness also produced 4 CIRU, Part I Order No.128, para 1197, d/9 May 44.
The defending allowed the admission of these orders, with no objection.

Q3 You didn't search the Sgts Mess?
A3 No, Sir.

Q4 Do you remember the Sgt Major telling you to search the Mess?
A4 No, Sir.

Q5 Do you say he didn't tell you to search the Mess?
A5 Yes, Sir, he did not tell me to search the Mess.

Q6 And if he said in evidence that he did tell you to search the mess he must be mistaken?
A6 Yes, he must be Sir, or I didn't hear him.

Q7 It would only take you a matter of a few minutes to search the hut?
A7 About 5 minutes, sir.

Q8 You just looked in the hut and came reight away again?
A8 Yes, sir, and at the latrines.

Q9 Outsides of those 5 minutes you spent down there that you said that they weren't in the hut or the latrine, they could have been in there any other time so far as you know?
A9 Yes, they could have, Sir.

Question by the prosecution

Q1 Your reference to the Sgt Major, is thm with reference to CSM Reilly?
A1 Yes, Sir.

Question by the Court

Q1 The Sgts Mess you speak of, it is not in "B" Coy lines?
A1 No Sir, it is in No 2 Camp.

FIFTH WITNESS FOR THE PROSECUTION - P-88254 Pte Corbett, H., Cape Breton Highrs, on strength of 4 CIRU, having been duly sworn, states:

Questioned by Prosecution

Q1 You are P-88254 Pte Corbett, H., Cape Breton Highrs?
A1 Yes, Sir.

Q2 Do you recognize in this Court the accused?
A2 Yes, Sir.

Q3 Do you know all three NCOs, who are charged with disobedience, to an order of Brigadier Lough?
A3 Yes, Sir.

Q4 What is your occupation in "B" Coy?
A4 Runner, Sir.

Q5 Were you a runner in "B" Coy on the 2 nd 3 Jun 44?
A5 Yes, Sir.

Q6 Do you remember anything occurring on the 2 Jun 44 with reference to these 3 NCOs?
A6 All that I know Sir, is that I was sent out to look down at their quarters and around the latrines and I came back and reported and was sent to the Sgts Mess.

Defending Officer's Motion for Dismissal of charge for disobeying a Lawful Command

I w ish now to move that the prosecution has not made out a prima facie case on the charge of disobeying a lawful command and under RP 40 footnote 1, I am asking the court to dismiss this charge.

The command was "To return to your quarters", it was not to report to any particular person or to go to the Orderly Room a nd I submit that so long as the Prosecutor is unable to show that the order was not in fact obeyed, he has failed in his case. The only thing that the prosecution has shown is that for a bout five minutes of the day when two persons who were searching for the accused, that the accused was not in his quarters. He has not shown that they were seen in some distant place and in such circumstances that they had not obeyed the order or were incapable of obeying the order. Besides all this the particular command did not say " stay in your quarters." About one hour elapsed from the time the command was given and when the search was made. Were the accused expected to wait in their quarters indefinitely ? How long were they to stay there ? This we dont know for the simple reason that the particular order that they are supposed to disobey did not include any such time element. Therefore if they went to their quarters for even a very short space of time the order would be obeyed.

The Court cannot guess or conjecture on what was done. It can only go on the evidence and where is the evidence of disobedience ? The fact that for five minutes they were not in their quarters can hardly constitute such a disobedience. If there is any doubt in the minds of the court as to whether or not this charge has been proven up to this point against the accused then he is entitled to the benefit of the doubt. I ask therefore that the charge of disobeying the order be dismissed at this stage of the proceedings.

Prosecuting Officer's Reply to Defending Officers Motion

The Prosecution has two things to prove, first that a lawful command was given and secondly the disobedience to such a command.

The evidence of the first and second witness is quite clear as to the giving of the lawful command and noone will doubt that it was a lawful command.

The mere fact that the accused could not be found in their quarters at 1530 hrs is sufficient to shift the burden of proof onto the Defence. Thus, if the burden of proof is shifted over to the Defence, there is no possible doubt that the prosecttion has established a prima facie case.

The Court closed to consider the Motion of the Defending Officer.

The Court re-opened, and has considered the submission of the Defence and has disallowed the submission that there is no prima facie case on the charge of disobeying a lawful command. The defence will therefore be proceeded with.

FIRST WITNESS FOR THE DEFENCE - G20081 Sgt Cartwright, F.T. Carlton & York Regt, on strength of 4 CIRU, having been duly sworn states:

Questioned by the Defending Officer

Q1 On 2 Jun 44, what company and what Unit were you in ?
A1 4 CIRU, "A" Company, sir.

Q2 Do you know CQMS MacDonald, Sgt Scott and Sgt Thompson ?

A2 Yes, sir, I have known them since they have been in A Company.

Q3 On 2 Jun 44, did you see these three NCO's ?
A3 Yes, sir.

Q4 What time did you see them ?
A4 I saw the three of them at Reveille that day and again at aproximately 1515 hours leaving Hut 15, sir.

Q5 Were the three of them together at 1515 hrs.
A5 Yes, sir.

Q6. Are your quarters in Hut 15 also.
A6 Yes, sir.

Q7 You say you noticed them leaving Hut 15 at 1515 hrs, did you notice in which direction they went ?
A7 They went in the direction of No 1 Sgts Mess.

Q8 Did you go into the Hut ?
A8 Yes, but there was noone else there at that time.

Q9 The hut was empty of NCO's ?
A9 Yes.

Cross-examined by the Prosecution

Q1 You said they went in the direction of No 1 Sgts Mess
A1 Yes, sir.

Q2 Where is that mess ?
A2 Down towards the woods.

Q3 You are quite sure of the time ?
A3 I think I can put it fairly close, sir. At three o'clock I was on parade with "A" Coy and I had asked someone the ti time and was told that it was three o'clock. I spoke to a couple of NCO's up there which would take two or three mi utes and came down to Hut 15.

Q4 Your estimate is that it took you 12 minutes to walk from the parade square to your hut ?
A4 I cannot say definitely as to that, as I spoke to some NCO's for two or three minutes before leaving at three o'clock.

Q5 You did not look at your watch ?
A5 No sir, I asked the time.

Q 6 You could not state the exact time ?
A 6 No, sir.

Defending Officer's Closing Address

That is the case for the Defence. Much of my argument at this time has already been given by me when I argued that no prima facie case had been made out. I will shorten this present argument by asking the Court to recall what was then said. In addition, and this makes all the difference in the world, we have the evidence of Sgt. Cartwright, the only witness for the Defence but an independent one. He definitely states that at 1514 hrs he saw the three NCO's coming out of the Hut 15. If you believe this witness then the Court is forced to the conclusion that the accused was in the hut and therfore obeyed the order to return to his hut. There is also the evidence in the statement which the accused has put in viz that he went to the hut and stayed there for almost an hour and nothing happened.

Prosecuting Officer's Reply

The evidence as to the lawful command is quite conclusive. The only evidence as to the obeying of the said lawful command is that of Sgt. Cartwright who stated that he saw the three NCO's coming out of their quarters.

I submit that that is not sufficient compliance with the order of the first witness. The evidence of the accused does not state how long they remained in their quarters, if they remained at all.

I submit that the Defence has not shown compliance with the lawful command as given to the accused.

The Court closed to consider the evidence.

The Court re-opened and its finding was that the accused, G 2700 Sgt. Thompson P.A. is not guilty of disobeying an order. The Court will now proceed on the second charge against the accused.

Defending Officer's Address on the Second Charge against Sgt. Thompson of being improperly dressed.

I do not propose to call any evidence in this matter but at this time I make a motion as formerly I did on the first charge that no case has been made out by the prosecution.

This charge is bad in law as it does not disclose an offence against the Army Act. The prosecution produces a Routine Order # 4144 which concerns the wearing of glengarries. This RO provides that " glengarries may be worn off duty." Now it is admitted by everyone that these NCO's were off duty and if Sgt. Thompson was wearing a glengarry then he was complying with the provisions of the RO. The RO allows for regimental regulations to vary its provisions by saying " if in accord with Regimental regulations." What are the regulations of 4 CIRU on this subject ? None that we know of as none is produced before the Court and the prosecutor admits that so far as he or the adjutant are concerned none can be found. This is the first time I have ever heard of a person being charged because they happened to be obeying a routine order.

If the Court thinks I should go further to argue about the battle dress being unbuttoned, then I state my position to be this. The prosecutor put in a Unit Order which provides that the battle dress blouse may be unbuttoned when walking out. These NCO's were not walking out. They were within the bounds of the camp when the brigadier spoke to them. The camp bounds have never been defined. This I know from the previous FGCM. The prosecutor has not brought in any evidence to show what regulations exist at 4 CIRU for the wearing of battle dress blouses. Nor has any CSM, RSM, or any officer been brought forward to state what the practise is. Or what the custom is. We cannot guess about such matters. Such evidence as I refer to could easily have been obtained. There is therefore nothing before the Court to sa y that a person seen within the camp bounds is breaking any regulation or order.

My submission therefore is that there is no case to be answered and that no offence has been shown.

Prosecuting Officer's Reply.

Overseas Routine Order 4144, Appendix "B", section 4, para 2 sub-section (b) - "When on duty the appropriate Glengarry cap ma y be worn " - that is the only reference in Routine Orders on dress with respect to the wearing of the Glengarry cap. The logica l conclusion for the Court to deduce is that the Glengarry on all other occasions will not be worn.

With reference to the unbuttoned tunic, I shall remind the Court of 4 CIRU Daily Order No. 126, para 1197 which is as follows: "Effective immediately and until further notice the top hooks and top button only of the battle dress may be left undone by other ranks when walking out. It is again emphasized that all other buttons of the battle dress must be fastened. Ties will not be worn by other ranks."

This last para is quite conclusive as to the wearing of unbuttoned tunics, and I do not think that I could add any more.

The Court closed to consider the evidence.

The Court re-opened and has found on the submission of the Defence that a prima facie case has not been established and therefore the accused is found not guilty.

D 4. Arthur

Statement of C 27700 Sarjeant Percy Arthur Thompson

Sir,-

On 2 Jun 44 at a pproximately 1400 hours, I, in company with CQMS Dannie MacDonald and Sgt. Scott was stopped by Brigadier Lough and a Captain on a grade on the Helmsley side of the Garrison Theatre. Brigadier Lough stated that a British army corporal had told hÃm that we had been talking to Italian prisbners and that we had used abusive language to them. Before we explained to him the circumstances, he asked us our names which were given and these he took down in a book. Then he told us to get back to camp. He carried on down towards Helmsley and we turned around and went back to 4 CIRU. We arrived back close to 1430 hours and went to our hut where we stayed for almost an hour and then all three of us went to sunbathe on a slope near the sgts' mess.

The Brigadier told me to button up my tunic and due to the fact that I was listening to the others give their names and in what was going on, the Brigadier repeated this order and I buttoned up my tunic which had four of the middle buttons undone but the top button was buttoned. The reason the other buttons were not done up was because I had a bad cold and I kept my hankerchiefs in my inside tunic pocket.

I had a glengarry on my head as I did not know it was improper to wear them and I had worn it on parade before then and had never been checked. Others at 4 CIRU wear glengarries during parade hours and they had never been checked. As a matter of fact, I had actually lost my plaid patch for my balmoral in Italy and had asked the QM for another but there were no patches in stores. I arrived back from Italy on 23 May 44 to 4 CIRU.

C27700 .....

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. G27700 Sergeant Percy Arthur THOMPSON of the Cape Breton Highland Regiment, on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commander the evidence is taken under oath.

FIRST WITNESS For the Prosecution

Brigadier J.R. Stewart Lough, Commander "D" Group, Canadian Reinforcement Units, an officer of the Canadian Army Overseas.

Pursuant to Overseas R.O.957(4) and R.R.(4)G, a statement of the witness' evidence purporting to be signed by him has been read over to the accused, Sgt. Thompson, P.A. and is included in this Summary and marked Exhibit "A". I certify that the attendance of this witness cannot be readily procured, owing to the exigencies of the service and to the expense and loss of time involved.

The accused does not demand the attendance of this witness for cross-examination.

.....
(A.M. Monnin) Lieut.
Officer detailed to take Summary

SECOND WITNESS For the Prosecution

No. G17211 CSM Reilly, W.D. of the Carleton and York Regiment on strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, being duly sworn states:-

I am G17211 CSM Reilly, W.D. and was the CSM of "B" Coy, No. 4 Canadian Infantry Reinforcement Unit on 2 and 3 Jun 44. On 2 Jun 44 at approximately 1530 hrs. I received instructions from "H" Wing to have Sgt. THOMPSON, P.A. report to "H" Wing Orderly Room. I in turn instructed F45655 Sgt. Patriquin, H.N. to search the "B" Coy lines and the Sergeants' Mess but he could not find Sgt. Thompson. I also instructed Pte. Corbett the "B" Coy Runner, to search the "B" Coy lines for the accused, Sgt. Thompson, and later on the runner reported to me that he could not find him. Sgt Thompson reported to me at "B" Coy Orderly Room at approximately 0045 hrs, 3 Jun 44. I placed him under arrest and detailed an escort.

The accused declined to cross-examine this witness.

.....
(G17211 CSM Reilly, W.D.)

THIRD WITNESS For the Prosecution

No. F45655 Sgt. Patriquin, H.N., C.I.C., on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I am F45655 Sgt. Patriquin, H.N., C.I.C. , and I was the Coy Orderly Sgt. of "B" Coy 2 Jun 44. On instructions from G17211 CSM Reilly, W.D. at approximately 1430 hrs. I searched the "B" Coy lines, latrines and Sgts Quarters for Sgt. Thompson, P.A. but could not find him.

The accused declined to cross-examine this witness.

.....
(F45655 Sgt. Patriquin, H.N.)

FOURTH WITNESS
For the
Prosecution

No.F-88254 Pte. Corbett R., C.B. Highlanders, on the strength of 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, being duly sworn states as follows:-

I am F-88254 Pte. Corbett, R., C.B.Highrs, and am occupied as permanent runner for "B" Coy. I was so occupied at the beginning of the month of June. I do not remember the day but at approximately 1500 hrs one day I received instructions from G-17211 C.S.M. Reilly W.D. to search the "B" Coy lines and latrines for Sgt. Thompson P.A. I searched the lines and around the latrines but could not find Sgt. Thompson. I afterward searched in the Sgts' Mess for the accused but could not locate him. I reported same to C.S.M. Reilly.

R. Corbett
.....
(F-88254 Pte. Corbett R.)

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence on Oath.

I certify that the foregoing Summary of Evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) , (d),(e),(f) and (g) have been complied with.

IN THE FIELD
29 June 1944

A.M. Monnin Lt
.....
(A.M. Monnin) Lieut,
Officer detailed to take Summary

Ex "A"

Headquarters
"D" Group
Canadian Reinforcement Units

DCRHQ 5-4-D.SC

CO
4 CIRU

17 Jun 44

G.32004 Sgt Scott J.A.
G.27700 Sgt. Thompson P.A.
F.54605 CQMS MacDonald, Dannie
4 C RU

At approximately 1430 hours on 2 Jun 44 I was cycling from No. 2 Camp, Duncombe Park in company with Capt. H.W. Stevenson, Staff Captain "D" Group, when we were stopped by a Cpl of RE of i/c of a group of Italian Prisoners of War. The Cpl reported to me that 3 Cdn Sgts had just passed and that they had made obscene remarks addressed to the Italians and that the Italians were resentful.

I asked him if he would recognize the Sgts again and he said "No", but that they had only passed a few minutes previously going in the direction of Helmsley.

Capt Stevenson and I proceeded towards Helmsley and as we approached the vicinity of the DCRE Camp we saw 3 soldiers on the road ahead of us moving towards Helmsley in a very slovenly manner.

I stopped them and found that they were the a/m NCOs and that all three had been drinking, CQMS MacDonald was drunk and that Sgt Thompson was improperly dressed as he was wearing a Glengarry cap during training hours and his battle dress blouse was completely unbuttoned. had to tell him twice to button up his blouse.

I took their particulars and ordered all three to report back to their quarters.

On arrival at Group HQ, I phoned the Adjutant of 4 CIRU Capt Gallop and instructed him to have these NCOs paraded to Lt.-Col Powers in order that he could see their condition and take necessary disciplinary action.

J R STEWART LOUGH
(J.R. Stewart Lough) Brigadier
Commander
"D" Group, Cdn Rft Units

I corroborate the above statement with the exception of the last paragraph.

JRSL/GWC
DHLS/POST

H W STEVENSON
(H.W. Stevenson) Captain
Staff Captain
"D" Group, Cdn Rft Units

CERTIFIED TRUE COPY

Captain Adjutant,
4 Cdn Inf Rein Unit.

Offr having custody of original document

LIST OF WITNESSES

in the case of G 27700 Sgt Thompson P A, 4 C I R U

FOR THE PROSECUTION

1. Brigadier J R Stewart Lough, Comd "D" Gp , Cdn Rft Units.
2. G 17211 CSM Reilly, W D, 4 C I R U
3. F 45655 Sgt Patriquin H N, 4 C I R U
4. F 88254 Pte Corbett, R, 4 C I R U

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

in the case of G 27700 Sgt Thompson P A, 4 C I R U

Exhibit "A" - Statement by Brigadier J R S Lough

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(O). 4C/24

23 Jun 44 ..... 194....

I, No. G 27700 (rank) Sgt (name) Thompson P.A. ....., wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Capt. Mains, Queen's Own Rangers if he is available.

(Sgd.) .....

This is to certify that I have received the following documents free of charge.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 Copy of List of Witnesses
1 Copy of List of Exhibits

(G-27700 Sgt. Thompson P.A.)

FIELD GENERAL COURT MARTIAL

D2

G-27700 Sgt Thompson P.A. CB Highrs - 4 CIRU

The Opening address of Prosecutor.

The Evidence For the Prosecution will be:

FIRST WITNESS: Brigadier Stewart Lough: To give evidence that at 1440 hrs 2 Jun 44, he gave orders to all three NCOs to report back to their quarters.

Evidence that CQMS MacDonald was intoxicated.

Evidence that Sgt Thompson was improperly dressed - wearing Glengarry during training hours and buttons undone.

SECOND WITNESS: Capt Stevenson to confirm Brigadier's evidence.

THIRD WITNESS: CSM Reilly: to give evidence that at approximately 1550 hrs he was instructed to have the 3 mentioned NCOs report to "B" Wing. He in turn instructed Sgt Patriquin and Pte Corbett to search "B" Coy lines, Sgts Quarters and Sgts Mess for these above mentioned NCOs, but they could not be found.

FOURTH WITNESS: Sgt Patriquin: To give evidence that he received instructions from CSM Reilly to search "B" Coy lines, latrines and Sgts Quarters, for the said NCOs but could not find them.

FIFTH WITNESS: Pte Corbett: Evidence that he also searched "B" Coy lines, Sgts Quarters & Mess but could not find the said NCOs.

QQQ-16
SGT THOMPSON PA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G.27700 Sgt Percy Arthur THOMPSON - CB Highrs - 4 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

At present under sentence for N.A. beginning on (date) N.A. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) N/A. Judge-Advocate, if any. Date awarded. 16 JUNE 44 (Sgd) C.S. Hadley President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 400-18

RECEIVED JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CPA88 (In lieu of AFA3) 40 P.S.R. 1608 (20664)

Convened by Order of Brig J.R. Stewart Lough Comd "D" Gp, CRU dated 12 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.27700	Sgt		Percy Arthur	THOMPSON	CB Highrs 4 CIRU

REVIEWING OFFICER, JAG BRANCH CMHQ REVIEWED 2 July 44 F.C. Mahaffy Lieut.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 14 and 16 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by Court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.
The Interpreter is sworn.(1) Do you object to Sgt. F.W. THOMPSON as shorthand writer? Ans NO
The shorthand writer is sworn.(2)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col	C.S. Hadley	C.I.C. 3 C.I.R.U.
Member	Major	D.C. Henderson	H.L.I. of C. A.A.D. Gp
Member	Capt	A.M. Mackenzie	R.Regt.C. 3 C.I.R.U.
Judge-Advocate	N/A	N/A.	N/A.
Prosecutor	LIEUT.	D.H. CHAPMAN	R.H.C. - 4 C.I.R.U.
Defending Offr	CAPT.	G.A. MARRON	C.I.C. - 3 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans YES.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G.27700 Sgt. Percy Arthur THOMPSON Before arraignment make(s) (no) ~~(a)~~ plea
N/A. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) last para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras B1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the charge(s), and~~ allowed on the FIRST charge(s), ~~and that, accordingly, the trial will proceed on the former,~~ but the accused is (are) found Not Guilty on the ~~latter~~ charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP [illegible]*. 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 56(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45. 120(A).* 2. *AA 54(3), RP 45. 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 556. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP [illegible]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 50, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ex. "A"

Charles S. Hadley Lt Col.
President

CHARGE SHEET

The accused, No. G 27700 Serjeant PERCY ARTHUR THOMPSON, of the Cape Breton Highland Regiment, on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE, Absenting himself without leave
in that he
In the Field, absented himself without leave at 1315 hours, 2 June 1944 on afternoon parade until he surrendered himself at 0130 hours, 3 June 1944, to G 17911 C.S.M. Reilly, W.D. in the "B" Coy Orderly Room.
(Total Absence:- 12 hours, 15 minutes)

IN THE FIELD
4 June 1944

J. Gavan Power Lt-Col.
(J. Gavan Power) Lt-Col.,
Commanding Officer
4 Cdn Inf Rft Unit

To be tried by Field General Court Martial.

R. Stewart Lough Brig.

(J.R. Stewart Lough) Brigadier
Commander
"D" Group, Cdn Rft Units
Convening Officer

In the Field
12 Jun 44

Ex. B.
Charles S. Hadley Lt Col
President.

CFA32 (To Item of AFA3)
40/PAM/1697 (2668)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.27700	Sgt		Percy Arthur	THOMPSON	CB Highrs 4 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 12 Jun 44 endorsed by me, ~~(or by an offr of my staff for me),~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	C.S. Hadley	CIC - 3 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	D.C. Henderson	HLI of C - HQ D Gp
Captain	A.W. MacKenzie	R Regt C - 3 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 12 Jun 44

R Stewart Lough (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J.R. Stewart Lough)
Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Exhibit "C"

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. G.22[illegible]
Sgt. R.P. Thompson of
and in my opinion, he is fit to undergo trial by Court Martial.
Station. Helmsley
Date. 14 Jan 44 (Sgd.) [illegible] Capt
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/d Jan 42)

Exhibit "CI"

Medical Officer's Certificate. 40/25
(Can.), para 557

I certify that I have this morning examined No. G 27700
Sgt. P. J. Thompson of "A" Wing
and in my opinion, he is fit to undergo trial by Court Martial.

Station #4 C.I.R.U.

Date 16 June 44 (Sgt.) [illegible]
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Sir, as Defending Officer for F54605 CQMS MacDonald, D; G32004 Sgt Scott, J A; and G27700 Sgt Thompson, P A, charged here this morning I have no objections, in order that the proceedings may be shortened, to have the evidence taken only once and for that evidence to be applied to the trials of CQMS MacDonald, D; and Sgt Scott, J A.

The evidence, as I know it having talked to each of the three NCOs, is exactly the same for each trial.

With the consent of the prosecution, the Court decided to concur in this suggestion, and on this basis trial was opened, the prosecution evidence being taken on Sgt Thompson, P A, only. This evidence to apply in all three cases.

First Witness for the Prosecution - G17211 CSM Reilly W D, having been duly sworn states:

Questioned by Prosecuting Officer

Q1 Are you the CSM of "B" Coy?
A1 Yes, Sir.

Q2 Do you recognize the accused CQMS MacDonald D as F54605?
A2 Yes, Sir.

Q3 You understand the charge of course, the accused is charged with being absent without leave for 12 hrs 15 mins?
A3 Yes, Sir.

Q4 Are there definite times of parades within "B" Coy?
A4 Yes, Sir.

Q5 Are they prominently displayed in the Coy Office?
A5 Yes, Sir.

Q6 Are these orders shown to NCOs when they arrive in the Coy?
A6 Yes Sir, they are on the order board outside the Coy office.

Q7 On the date 2 Jun 44, when did you first see CQMS MacDonald?
A7 On morning parade, Sir.

Q8 Did you see him again that day?
A8 I saw him in the Mess before the noon parade Sir.

Q9 What time?
A9 At about 1200 hrs, Sir.

Q10 Was CQMS MacDonald on the noon hour parade which is called at 1315 hrs?
A10 No, Sir.

CQMS MacDonaldwas required some time during the afternoon. Could you tell the Court who required the accused and at what time?
A11 The order came from "B" Wing Orderly Room at approximately 1530 hrs.

Q12 Were you able to find CQMS MacDonald?
A12 No, Sir.

Q13 What did you do with regard to finding CQMS MacDonald?
A13 I sent the Orderly Sgt to check the lines, Sir.

Q14 Was he able to find CQMS MacDonald?
A14 No, Sir.

EX. D.

Q15 When did you next see CQMS MacDonald?
A15 When they reported into the Orderly Room at approximately 12:45 that night.

Q16 What action did you take?
A16 I placed them under close arrest, and confined them to their hut.

Questioned by Defending Officer

Q1 Speaking of all these NCOs, the three that are here to-day, is it not customary for the NCOs in "B" Coy to attend morning parade?
A1 Yes Sir, it is.

Q2 At the 1315 hr parade it has not been customary for NCOs to attend that?
A2 Yes, Sir.

Q3 Is there a roll call?
A3 Yes, Sir.

Q4 Do you call the roll?
A4 Not always Sir, sometimes the Orderly Sgt.

Q5 Did he call the roll at 1315 hrs 2 Jun 44?
A5 Yes, Sir.

Q6 You were present?
A6 Yes, Sir.

Q7 Do you remember giving evidence on a Summary of Evidence taken on 3 Jun 44 at 4 CIRU?
A7 Yes, Sir.

Q8 Do you remember saying then that you checked the afternoon parade?
A8 Yes, Sir.

Q9 What does that involve?
A9 I check the Sr NCOs myself, Sir.

Q10 Does checking mean calling a roll?
A10 No Sir, not always.

Q11 Did you call the roll at 1315 hrs on 2 Jun 44?
A11 No, Sir.

Q12 You say that you did not call the roll on 2 Jun 44 at 1315 hrs did anyone else call the roll of Sr NCOs?
A12 No, Sir.

Q13 How many Sr NCOs would you have in "B" Coy on 2 Jun 44, approximately?
A13 About 12, Sir.

Q14 Do you know whether all the other NCOs were on the afternoon parade?
A14 Some were detailed in the morning for other jobs and were not on parade.

Q15 How many were on parade?
A15 I think there were 6, I am not sure, Sir.

Q16 In other words, you do not know how many Sr NCOs were on that parade that day?

Ex. D

A16 No Sir, I couldn't say.

Q17 "B" Coy is known as the Category Company in this Unit?
A17 It was at that time, Sir.

Q18 Is it not true that the NCOs in that Coy have no regular duties?
A18 That's right, Sir.

Q19 Concerning ourselves particularly with these three NCOs, is it not true that they have had no duties prior to 2 Jun 44?
A19 No regular duties, Sir.

Q20 I am told by these NCOs that they had no duties at all during that period?
A20 That is quite possible Sir, because some of them use their category.

Q21 Do you say that these men who we have accused before us used their category?
A21 No, Sir.

Q22 When the NCOs are broken off parade and have no duties to perform, it is permissible for them to wander about the Camp?
A22 As far as I know they were confined to No 1 Camp, but there are no definite orders in that regard, Sir.

Q23 Is it alright for them to wander around the Camp for exercise?
A23 Yes, Sir.

Q24 There are no limits as far as you know to the Camp?
A24 No, Sir.

Q25 This is quite a large Camp, is it not?
A25 Quite large, Sir.

Q26 It covers how many acres?
A26 I don't know, Sir.

Q27 How many buildings?
A27 Quite a few, Sir.

Q28 You couldn't give any approximate number?
A28 I'd rather not, Sir.

Q29 Coming down to "after duty" what do you consider "after duty" hour?
A29 1630 hrs, Sir.

Q30 After that time, NCOs may go to say Holmsley or Ringwood without any pass or special permission?
A30 Yes, Sir.

Q31 What time are they supposed to be in?
A31 2359 hrs, Sir.

Q32 You state in your evidence that you sent the Coy Orderly Sgt to look for these NCOs, you didn't go yourself?
A32 Not at that time, Sir.

AAH

A16 No Sir, I couldn't say.

Q17 "B" Coy is known as the Category Company in this Unit?
A17 It was at that time, Sir.

Q18 Is it not true that the NCOs in that Coy have no regular duties?
A18 That's right, Sir.

Q19 Concerning ourselves particularly with these three NCOs, is it not true that they have had no duties prior to 2 Jun 44?
A19 No regular duties, Sir.

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A20 That is quite possible Sir, because some of them use their category.

Q21 Do you say that these men who we have accused before us used their category?
A21 No, Sir.

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A22 As far as I know they were confined to No 1 Camp, but there are no definite orders in that regard, Sir.

Q23 Is it alright for them to wander around the Camp for exercise?
A23 Yes, Sir.

Q24 There are no limits as far as you know to the Camp?
A24 No, Sir.

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A28 I'd rather not, Sir.

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A29 1630 hrs, Sir.

Q30 After that time, NCOs may go to say Helmsley or Rivaulx without any pass or special permission?
A30 Yes, Sir.

Q31 What time are they supposed to be in?
A31 2359 hrs, Sir.

Q32 You state in your evidence that you sent the Coy Orderly Sgt to look for these NCOs, you didn't go yourself?
A32 Not at that time, Sir.

Ex. D.

Q33 You are referring to 1530 hrs?
A33 Yes, Sir.

Q34 It was not a duty for which you yourself wanted these NCOs that they were sent for?
A34 No, Sir.

Q35 So far as you can state, these NCOs could easily have been within the boundaries of the Camp from 1315 hrs 2 Jun 44 until they reported to you at 0045 hrs 3 Jun without being seen by you or the Coy Orderly Sgt during that period?
A35 Yes, Sir.

Q36 During the time that you have had these NCOs in "B" Coy you have never had any trouble with them, have you?
A36 No, Sir.

Re-questioned by Prosecuting Officer

Q1 You stated that you were not sure how many NCOs were on parade at 1315 hrs 2 Jun 44, however, you do definitely know that the three NCOs in question were not on parade?
A1 Yes, Sir.

Q2 You also said that these NCOs had been given duties that had not been permanently employed? Had they been employed say the day before?
A2 I could not say Sir, but Sgt Scott had been working as Court Orderly.

Q3 Can you remember any particular recent duties that these other 2 NCOs had been given?
A3 The CQMS had been given work with the Barrack Stores.

Q4 If a man is standing 6 feet away from a parade, not actually on that parade, is he to be considered present or AWL?
A4 He falls in on the rear of the Coy as a supernumerary.

Q5 But if the NCO or private soldier does not fall in, he is to be considered absent?
A5 He is not on parade unless he is in the ranks.

Q6 I understand that there are actually 3 Camps?
A6 That is correct, Sir.

Q7 What do you understand by the word "Camp" as far as personnel in "B" Coy are concerned?
A7 No 1 Camp Sir, and No 1 Camp alone.

Questioned by the Court

Q1 You state that "B" Coy is your Category Coy, what is your procedure in 4 CIRU in handling NCOs who don't hold an appointment on the WE?
A1 On any job that "H" Wing might detail, or any request that might come in through "H" Wing.

Q2 Do you have for non-perzanently employed NCOs a regular routine of parades?
A2 Morning and afternoon parades, and they break off and hang around to do any job that might be necessary.

DAA

Q3 It is customary to send for these NCOs at odd hours of the day?
A3 Yes Sir, they might call for an NCO to take charge of a party.

Q4 Do you hold a roll call at the morning parade and noon parade?
A4 Yes, Sir.

Q5 On this parade do you have knowledge of what NCOs should be on that parade if not employed?
A5 Yes, Sir.

Q6 If an NCO was missing on the parade, would that be apparent to you immediately?
A6 Not immediately, Sir.

Q7 You have stated that these men were absent from parade at 1315 hrs, what steps did you take then?
A7 I made a note of it on my note book, and was busy in the Orderly Room, and didn't have time to check on them.

Q8 When did you next check?
A8 When the order came from "H" Wing at 1530 hrs.

Q9 Were these the only 3 NCOs not accounted for on this parade?
A9 I checked especially on these 3 NCOs after their actions in the Sgts Mess.

Q10 What is the reason for that?
A10 They were quite noisy Sir, and were drinking.

Q11 Then you didn't check again for them until a message came from "H" Wing?
A11 No, Sir.

Q12 Why did you look for these NCOs at 1530 hrs 2 Jun 44?
A12 To report to "H" Wing, Sir.

Q13 What subsequently happened after you received a message to have these NCOs report to "H" Wing?
A13 They couldn't be found, Sir.

Q14 Is that the last you knew of these NCOs?
A14 Yes Sir, until they reported back.

Q15 Was this message from "H" Wing for these NCOs by name, or for any three NCOs?
A15 By name, Sir.

Second Witness for the Prosecution - P45655 Sgt Patriquin H N, having been duly sworn states:

Questioned by Prosecuting Officer

Q1 Are you Orderly Sgt of "B" Coy?
A1 Yes, Sir.

Q2 May I say permanent Orderly Sgt?
A2 I have been on 3 weeks, Sir.

EX. D

Q3 You were definitely Orderly Sgt on the date 2 Jun 44?
A3 Yes, Sir.

Q4 Were these 3 NCOs on that parade to the best of your knowledge?
A4 No, Sir.

Q5 How do you know these 3 NCOs were not on this parade?
A5 I was on the parade myself, Sir.

Q6 As Orderly Sgt you form up this parade and hand it over to the Sergeant Major, is that right?
A6 Yes, Sir.

Q7 Do you call a roll or have anything to do with the presence or absence of Sr NCOs on that parade?
A7 We call a roll on morning and noon parades.

Q8 Did you call the roll on this date?
A8 No Sir, not on that date.

Q9 Did the Sergeant Major ask you to find these NCOs?
A9 Yes Sir, at approximately 1530 hrs.

Q10 Will you tell the Court exactly what you did after that?
A10 About 1530 hrs the Sergeant Major asked me to go to the Sgts quarters and see if they were in, and I went down there and around the Sgts latrines and could not find them and reported back to him.

Q11 Did you have anyone else help you look?
A11 No, Sir.

Q12 To the best of your knowledge were you the only one looking for these NCOs?
A12 Yes, Sir.

Q13 For "B" Coy personnel what are the bounds of the Camp?
A13 I would say No 1 Camp.

Q14 Did you see these 3 NCOs in the Mess at noon hour?
A14 I would not be positive, Sir.

Questioned by Defending Officer

Q1 Are the bounds for "B" Coy set out in Orders?
A1 No, Sir.

Q2 In any case, the NCOs from No 1 Camp eat at No 2 Camp?
A2 That is right, Sir.

Q3 That means that they would have to pass through No 2 Camp lines?
A3 Yes, they would have to pass through No 2 Camp lines.

Q4 The men and the NCOs fall in on the same parade?
A4 Yes, Sir.

Q5 Did you call the roll for the men that day?
A5 The Orderly Cpl calls the roll for the men, Sir.

Q6 And you did not call the roll for the NCOs?
A6 No, Sir.

Q7 Is it your duty ordinarily to do that?
A7 Yes, Sir.

Q8 At any rate, you didn't call their names, nor hear anyone else call them?
A8 No Sir, as I left just before the roll was finished being called.

Q9 How long have you been with "B" Coy?
A9 Since the first week in Apr 44.

Q10 Have you been permanent Orderly Sgt since then?
A10 For 3 weeks only, Sir.

Q11 How long before the 2 Jun 44 were you Orderly Sgt?
A11 About a week or so.

Q12 Were these 3 NCOs present in body on every parade in the afternoon during that week prior to 2 Jun?
A12 Yes Sir, I think so unless they were on duty.

Q13 Is is customary for NCOs in "B" Coy to fall in the afternoon parade?
A13 Yes Sir, they have been doing that right along.

Q14 If these people were absent from the parade at 1315 hrs, would not their absence be checked up immediately?
A14 I don't know, Sir.

Q15 When absentees are reported from a parade, you as Coy Orderly Sgt have to do something about it don't you?
A15 Yes, Sir.

Q16 Why didn't you search for these 3 NCOs right after the afternoon parade?
A16 We had a little parade in the back of the Office of men going to the SPC and MO.

Q17 You weren't concerned with the absence of these men from that parade?
A17 No, Sir.

Q18 I am told that Sgt Ferguson, who is the escort here this morning, was not on that parade on 2 Jun, do you know that?
A18 I couldn't say Sir, I was not there when the NCOs were called out.

Q19 In your search for these 3 NCOs, I want to make it quite clear that you went only to their hut and to the latrines?
A19 Yes, Sir.

Re-questioned by Prosecuting Officer

Q1 Is it part of your definite duties in "B" Coy to check up on the Sr NCOs, or did you leave it to the Sergeant Major?
A1 The Sergeant Major usually takes care of the NCOs.

Q2 Did the Sergeant Major ask you to check the 1315 hour parade and make sure these NCOs were there?
A2 No, Sir.

SOH

EX. D.

At this point, the prosecution requested permission to produce further evidence on the ground that he had not had sufficient time to prepare his case and was unfamiliar with aspects of charge brought out in evidence.

Defence counsel registered strenuous objection to the calling of further witnesses on the grounds that further evidence would be irrelevant to the charge.

The Court was closed, and after due deliberation, considered the request of the prosecution was justified, and that further witnesses would be called.

The Court re-opened, and prosecution was instructed to prepare further summary of evidence in the presence of defence counsel. Said summary to be completed and reviewed by defence counsel by 15 Jun 44.

Prosecution and defence were instructed that the Court would re-open at 1000 hrs 16 Jun 44.

-:-:-:-:-:-:-:-:-:-:-:-:-:-:-

At 1000 hrs 16 Jun 44, the Court re-assembled pursuant to adjournment, the same members as on the 14 Jun 44 present. Medical Certificate 40/25 is produced. Marked Exhibit C I con.

The Court enquired if the prosecution had any further evidence.

The Prosecuting Officer replied that a further summary of evidence was not taken due to the fact that it was shown that it was not essential to the charge to prove either the bounds or why the presence of these NCOs was requested at 1530 hrs the afternoon of 2 Jun 44.

Address by Defending Officer

The defence submits that the prosecution has not established prima facie cases, and asks that the cases be dismissed under Rule 40 of Rules of Procedure, reference foot-note No 1 on Page 644 MML.
Submission attached as Exhibit F con
The Prosecuting Officer replied to the Defending Officer's address.

The Court closed to make its deliberations and decision.

The Court re-opened and finds that the submission of the defence for non-suit is allowed, and also finds the three accused Not Guilty of the charge of AWL and will be released forthwith.

The proceedings are now terminated.

As shorthand writer was employed it was decided by the Court that rule 53(6) would not be applied. Rules of Procedure.

Charles S. Hadley Lt Col.
President

Ex. "E" Charles S. Hadley Lt Col President.

SUMMARY OF EVIDENCE

Summary of Evidence in the Case of No G 27700 Serjeant Percy Arthur THOMPSON of the Cape Breton Highland Regiment, on the strength of No 4 Canadian Reinforcement Unit, a soldier of the Canadian Army Overseas.

The summary of Evidence is not taken on oath.

FIRST WITNESS

For the Prosecution

No G 17211 C.S.M. Reilly, W.D. C & Y Regt. on the strength of No 4 C.I.R.U. a soldier of the Canadian Army Overseas, states as follows;-

I am G 17211 C.S.M. Reilly, W.D. and am the Company Serjeant Major of "B" Coy., No 4 C.I.R.U. At 1315 hours 2 Jun 44, I checked the afternoon parade and found that G 27700 Sjt. Thompson P.A. was absent. I marked him absent. On the morning parade I had instructed G 27700 Sjt. Thompson to remain in the "B" Coy. lines in order to be available for incidental duties. There was nothing at the moment he could be employed at. At approximately 1530 hrs. I was instructed to have G 27700 Sjt. Thompson P.A. report to "H" Wing H.Q. I sent F 45655 Sjt. Patriquin H.N. CIC. to search the "B" Coy lines but he could not find Sjt. Thompson.

G 27700 Sjt Thompson P.A. reported to me at the "B" Coy. Orderly room at 0130 hours 3 Jun 44. I placed him under arrest and detailed an escort.

The accused declines to cross-examine this witness.

Geo Reilly WD
(G 17211 CSM Reilly W.D.)

SECOND WITNESS

For the Prosecution.

No. F 45655 Sjt. Patriquin H.N. CIC. on the strength of No 4 C.I.R.U. as soldier of the Canadian Army Overseas, states as follows.

I am F 45655 Sjt. Patriquin H.N. CIC. and I was the Company Orderly Sjt. of "B" Coy on 2 Jun 44. On instructions from G 17211 C.S.M. Reilly, W.D. at approximately 1530 hrs. I searched "B" Coy. lines for Sjt. Thompson P.A. but could not locate him.

The accused declines to cross-examine this witness.

Sgt Patriquin #31
(F 45655 Sjt. Patriquin H.N.)

The accused was cautioned as follows;- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statment of to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE page, was taken down by me in the presence and hearing of the accused, and that Rules of Precedure 4 (c),(d),(e),(f) and (g) have been complied with.

D. Smaill Lieut.
(W.D. Smaill) Lt.
Officer detailed to take Summary

IN THE FIELD
3 June 44

ARGUMENT Exhibit "B" Charles S Hadley

1. No "prima facie" case - R.P. 643 - Rule 40 - Footnote 1.

What does prima facie mean?

e.g. - Theft - possession of stolen goods.

Burglary - possession of burglar's tools.

2. Review of evidence -

There was much said about the practice of falling in at 1315 hrs. The practice actually isn't important - it really comes down to roll call. That is the custom in the army and no reason why it should be departed from. Where are the absentee reports? Where is evidence of absence? There is much vagueness and doubt in the whole business. In fact I should say, to put it frankly, that it points to a pretty sloppy show and way of doing things. When the army gets down to recording absences by no other means than a casual glance at parade by the CSM, I think we are reaching to a new low in inefficiency. Why do I say it was casual and absence not noticed?

(a) Because nothing was done about it until over two hrs later and that as a result of a call.
(b) No absentee report or the note that CSM said he made in his book.
(c) They were not concerned with it.

There is no evidence before the Court that they were seen elsewhere. The evidence is they were in the mess at 1245 - ½ hr before parade - the CSM says noisy and drinking - but the COS doesn't even know whether he saw them at mess, so the evidence is inconsistent, if, in fact, (as the inference from the CSM would have us believe) it would be difficult not to notice them. Besides all that the CSM was purposely asked by me if these NCOs had given any kind of trouble and he said No!!

The charge is - absence from 1315 hrs 2 Jun to 0130 hrs 3 Jun. The evidence is that they reported to CSM at 0045 hrs 3 Jun and he definitely stated they might have been within camp from 1315 hrs until 0045 hrs without him or COS seeing them to warn them, as their next normal parade was 0700 hrs 3 Jun 44.

This is, I submit, a most unusual charge and most unusual for 3 NCOs of good record and service to be sent before a FGCM for a 10 hrs absence. The thing is rather ridiculous and certainly picayune.

There is, I know, a feeling by the Court that there must be something else back of it. What can it be? Whatever it is we can only speculate. The Court is not allowed to speculate and at the same time do justice. The oath is to try the accused according to the evidence before them and on the charge as laid and not on some other conditions or circumstances.

Certified True Copy of the original "Notes of Argument."

Charles S Hadley Lt Col
President

(C.S. Hadley) Lt.-Col.
3 CIRU

 Exhibit F cont'd

The evidence of the Prosecution, as I have shown, is inconsistent, vague, shows a lack of Coy efficiency and points to parades held in an unregimental way. To find the accused guilty the court must be certain that these NCOs were absent on the evidence which on those facts concerning a charge of absence must be definite and clear. The accused at any rate is entitled to any doubt you have in mind and I ask for a dismissal!!

On the question of vague and indefinite evidence and giving the accused the benefit of the doubt, I would like to draw the Court's attention especially to the following questions and answers in the evidence:-

Evidence in Chief — CSM Reilly

Q - 9
A - 9

Cross Examination — CSM Reilly

Q - 5
A - 5
Q - 13
A - 13
Q - 14
A - 14
Q - 16 - 17
A - 16 - 17
Q - 24 - 25
A - 24 - 25
Q - 36 - 37
A - 36 - 37

Questions By Court — CSM Reilly

Q - 6
A - 6
Q - 7
A - 7

Evidence in Chief — Sgt Patriquin

Q - 7 - 8 (Inconsistent Evidence. In effect he says
A - 7 - 8 ("We don't but we do or vice versa."
Q - 12
A - 12
Q - 14
A - 14

Cross Examination — Sgt Patriquin

Q - 1
A - 1
Q - 6 - 7 - 8 (Conclusion; why wasn't someone brought in to
A - 6 - 7 - 8 (say roll was called, if in fact, it was.
Q - 14
A - 14
Q - 17)
A - 17)- Not concerned with absence.
Q - 18
A - 18
Q - 19
A - 19

Certified True Copy of the original "Notes of Argument."

(C.S. Hadley) Lt.-Col. President
3 CIRU

 Exhibit "F" cont.

How can we reconcile the witness' evidence when we compare his answers to question - 1 of Re-Examination by prosecution with question and answer - 7 on cross examination.

Certified True Copy of the original "Notes of Argument."

Charles S. Hadley Lt Col

(C.S. Hadley) Lt.-Col.
3 CIPU

LIST OF WITNESSES

in the case of G-27700 Sgt. Thompson, P.A., 4 C.I.R.U.

FOR THE PROSECUTION

1. G-17211 C.S.M. Reilly, M.D. "B" Coy Sergeant Major, 4 C.I.R.U.
2. F-45605 Sgt. Patriquin, H.N. Coy Orderly Sgt. "B" Coy 4 CIRU

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

in the case of G-27700 Sgt. Thompson, P.A. 4 C.I.R.U.

N I L

#4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(C). 40/24

.....June 4.....194.1..

I, No. [illegible] (Rank) Lt. Thompson P.A. (Name) wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Lt. Cowan.....
if he is available.

(Sgd.) .....

4 Jun 1944

This is to certify that I have received the following documents, free of charge.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 Copy of List of Witnesses
1 Copy of List of Exhibits

P.A. Thompson

(G-27700 Sgt. Thompson, P.A.)

LLL-5

GNR THOMPSON P.V.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-50188 Gnr THOMPSON, Perry Vern - 1 C.A.R.U.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(2)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One Hundred and Forty (140) Days.

(Sgd) ..... 15 May 44 (Sgd) ..... : ant/Obd

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Bar

(1. AA 57A. Delete if not used.)

(Sgd) ..... Bar Lt. Col.

Date 17 May 44 Commanding A/Commanding "C" Group, Con. Reinforcement Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

M-50188. Gnr Thompson. P.V. 17 May 44 W.A. Bromley. Lt. Col. C.O., 1 C.A.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 23 MAY 1944 JAG BRANCH

RECORDED AT CMHQ IN AD 160 111-5

CFA85 (To Hdqrs of AFA2) 40-P.R.-1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel B.R. Ker, ED A/Comd "C" Gp, CMU dated 13 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-50188	Gnr	Perry Vern	THOMPSON	1 C.A.R.U.

PROCEEDINGS REVIEWED 25 May 44 Wss Brun Wrgw

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 15 MAY 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans: .....~~

~~The Interpreter is sworn.~~(1) ~~Do you object to ..... as shorthand writer? Ans: .....~~

~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.A. REDMAN	H.Q. C.A.R.U.
Member	CAPT	G.S.J. BOWELL	2 C.A.R.U.
Member	Lt	H.C. McWILLIAMS	2 C.A.R.U.
~~Judge-Advocate~~			
Prosecutor	Lt	J.A. NOLAN	1 C.A.R.U.
Defending Offr	Lt	A.J. CULLEN	1 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans: YES Is the Defending Offr a lawyer? Ans: YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No. sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 29(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative to para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO-SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 295.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans By Def Offr NOTE-AIT.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and ~~the JA, if any.~~(2)
(1. *When several accused tried separately see RP 94(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No M.50138 Gunner Perry Vern THOMPSON, R.C.A., on strength of No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from 1800 hrs 20 Jan 44 until 2315 hrs 9 May 44.

(Absent: 110 days 5 hours 15 minutes)

(W.A. TOWNSLEY) COLONEL,
Commanding Officer
No 1 Canadian Artillery Reinforcement Unit.
R.C.A. Canadian Army Overseas.

Dated at Bordon, Hants,
this 12th day of
May, 1944.

To be tried by Field General Court Martial,

Colonel,
A/Commander NW Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
13 May 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-50188	Cnr		Perry Vern	THOMPSON	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 13 May 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr;~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	detailed by CO	2 CARU
Lieut	detailed by CO	2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(*Signed personally? RP 105 fn 2.*) Colonel (*Rank.*)

Date 13 May 44

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No M50168 Pte Morrison P.V.
(Rank) (name)
of #1 CARU and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station : FIELD

Date : 15th May/44

Sgd. ..... Capt
(Medical Officer)
RCAMC attd #1 CARU.

IN THE MATTER OF THE FIELD GENERAL COURT MARTIAL
of M.50186 Gnr. THOMPSON P.V.

The accused has pleaded guilty to the charge of absence without leave for 110 days 5 hours 15 minutes.

The accused has been overseas since January 1943. Before coming over he obtained numerous qualifications, as a Fitter M.V. Class B, as a Gun Layer and as a Gun Artificer. No attention has been paid to these Canadian qualifications, and since his arrival in England he has been on every type of job except those for which he was qualified. At that, he has applied himself quite well, and there are comparatively few entries in his NFM 6.

He became acquainted with a lady in England, the mention of whose name will add nothing to the Court records, and over a period of time this lady gave the accused sums of money, without his asking, but which were regarded as a loan. In December 1943, there being some misunderstanding between the accused and the lady, she billed him for a total of £24 and gave every indication of making things nasty for him if this was not paid immediately. He sent her £2 and realizing that he could not possibly pay this sum from his army pay, he applied for leave for seven days so that he could work at a job he had arranged for himself. Leave was refused, and as the lady was bringing pressure to bear, he went absent without leave in order to augment his income by his earnings from a civil employment. He wandered about for 110 days, without in any way increasing his income, andfinally decided to come back to No.L CARU. While purchasing the ticket he was apprehended by the Provost and was returned to this unit. It is not difficult to understand the reactions of a gunner who is beset by problems that are apparently overwhelming and certainly are too big for any immediate and personal solution.

If the accused was placed at some job in keeping with his previous training he could do well, and the defence respectfully asks that the court give consideration firstly to the circumstances under which the accused went absent, and secondly the need for a proper allocation of the accused in the Canadian Army.

Respectfully submitted,

(A.J. CULLEN) Lieut. RCA

COPY/HAR

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants on the 11th day of February 1944 for the purpose of investigating and recording the absence without leave from his duty and deficiency, if any in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries or Clothing of No. M.50188 Gnr THOMPSON, P.V. of "D" Bty No. 1 C.A.R.U.

DECLARATION

1. The Court declare that M.50188 Gnr Thompson, P.V. of "D" Bty No. 1 C.A.R.U. R.C.A., C.A.O. absented himself without leave from his unit at Bordon, Hants, England at 1800 hrs 20 Jan 44 (absent for a period of more than 21 clear days and that he is still so absent at this time).

2. The Court declare that M.50188 Gnr Thompson P.V. of "D" Bty remaining kit has been checked against the normal issue as laid down in CARO(O) 1958 and CARO(O) 2111 and found deficient in the amount of £5-16-4 Vocabulary Price and in the amount of £4-7-3 Unexpired Wear Value as per attached list marked appendix "A".

Signed at Bordon, Hants, this 12th day of February 1944.

President: Capt D.M. Gillis R.C.A. No. 1 C.A.R.U.

Members: Lieut F.R. Clayton R.C.A. No. 1 C.A.R.U.
Lieut J.E. Butler R.C.A. No. 1 C.A.R.U.

11 MAY 44.
Certified True Copy (Sgnd)
(C.R.OSTROM) Major RCA
Officer having custody of original documents.

(W.A.TOWNSLEY) Colonel,
C.O. 1 C.A.R.U.

APPENDIX "A"

DEFICIENCIES - REGIMENTAL KIT - M.50188 GNR THOMPSON, P.V.

Article	No.	Vocab Price	Unexpired Price
Badge Cap	1	£ 0-0-4½	0-0-3½
Trousers Serge prs	1	1-4-1½	0-18-7½
Boots ankle prs	2	2-8-10	1-16-7
Drawers Woollen prs	1	0-5-4	0-4-0
Gloves Woolen Khaki prs	1	0-2-1	0-1-6½
Shirts Flannel Khaki	1	0-9-1	0-6-9½
Shirts Woollen	2	0-10-9	0-8-1
Socks prs	4	0-6-8	0-5-0
Towels HAND	1	0-1-5	0-1-1
Shorts Cello	2	0-3-10	0-2-11
Vest Gym	2	0-3-2	0-2-5
Ointment	1	0-0-8	0-0-6
Total Vocabulary Price		£ 5-16-4	
Total Unexpired Wear Value			£ 4-7-3

(Sgnd)
B.7027 BQMS Connor, E.W.

Capt D.M. Gillis.

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Aug.42.

I Certify that No. M50188 Rank Gnr. Name Thompson P.V.

Unit No. 1 C.A.R.U. was arrested at London (Place)

at 22.15 (hour) on 9 May 44. (date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian Clothes).

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

R. J. STINSON LIEUT.
ADMN. OFFICER - D.P.M's BR.
C.M.P.O.

London
10 May 44.

CHARGE

Army Form B 252
(See King's Regulations)

No. 1 C. A. R. E. — Regiment / Battery / Squadron / Troop or Company

CHARGE against No. M50188 Rank Gnr.

Name Thompson, P. V.

Place London Date of Offence 9 May 44.

OFFENCE W.O.A.S. was absent without leave.

LIEUT.
R. J. STINSON
ADMN. OFFICER - O.P.M's BR.
C.M.H.Q.

Names of Witnesses :—

L/Cpl. Morris, R. Cdn. Provost Corps.

L/Cpl. Marcelle, G. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30188. WLW31574/1961. 2,000,000 10/42. K. & H., Ltd. 6657/42.

Statement of **EVIDENCE** in the case of
M50188 Gnr. Thompson, P. V.
No. 1 C. A. R. U.

Sir:

At London on the 9th May 44. at about 2315 hrs. I was on duty at Weterloo Stn. in company with L/Cpl. Marcelle when I saw the a/m soldier.

I approached him and requested to see his pass. He couldnot produce one. He was A.W.L.

I placed him under arrest and he was escorted to Cdn. Provost Corps H.Q. where he was handed over to the N.C.O. i/c cells to be detained.

L/C.
(Morris, R.) D139304
No. 6 Area Prov. Coy.

London
9 May 44.

Sir:

I have read over and corroborate the above statement.

L/C.
(Marcelle, G.) H63068
No. 6 Area Prov. Coy.

London
9 May 44.

REMARKS

LIST OF WITNESSES

PROSECUTION

Lt. S. Whitaker	No 1 Canadian Artillery Reinforcement Unit
D139304 L/Cpl Morris, R.	Att to No 6 Area Provost Coy, Cdn Prov. Corps

LIST OF APPENDICES

Appendix "A"	Certified copy of Declaration of Court of Inquiry
Appendix "B"	Certificate stating that the accused was arrested at London at 2315 hrs on 9 May 44.
Appendix "C"	Written statement of D.139304 L/Cpl Morris, R., Cdn Provost Corps.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I, M.50188 Gunner Thompson, P.V., of No 1 Canadian Artillery Reinforcement Unit, desire to have Lt. A.J. Cullen to represent me at my trial by Court Martial.

P.V. Thompson
.....
M.50188 Gnr Thompson, P.V.

12 May 44

I certify that I have received to-day one copy of the Charge Sheet and one copy of the Summary of Evidence for my trial by Court Martial.

P.V. Thompson

M50188 Gnr Thompson, P.V.

SUMMARY OF EVIDENCE in the case of No M50188 Gunner Perry Vern THOMPSON, R.C.A., on strength of No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Evidence is taken on oath.

FIRST WITNESS for the prosecution

Lt. S. Whitaker, Acting Administrative Officer, "Q" Wing, No 1 Canadian Artillery Reinforcement Unit, having been duly sworn, states:-

I produce the following documents relating to the accused:

(1) Appendix "A" is a certified copy of the Declaration of a Court of Inquiry which states that M.50188 Gnr. Thompson, P.V. absented himself without leave from his Unit at 1800 hrs 20 Jan 44.

(2) Appendix "B" is a certificate in accordance with P. C.2797 of 10 Apr 42 stating that the accused was arrested at London at 2315 hrs on 9 May 44.

The accused declines to cross-examine this witness.

S. Whitaker Lt.
(S. Whitaker) Lt. R.C.A.

SECOND WITNESS for the prosecution

D.139304 L/Cpl Morris, R., attached to No.6 Area Provost Coy, Canadian Provost Corps.

Owing to the loss of time involved it is not, in my opinion, practicable to require the attendance of this witness and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Appendix "C"

The accused does not require the attendance of this witness for the purpose of cross-examination.

J.A. Nolan
(J.A. Nolan) Lt. R.C.A.
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After being warned as aforesaid, the accused made the following statement:

It was my intention to buy a ticket and return to No 1 C.A.R.U. but the booking office was not open at that time of night, so I gave myself up to the Provost.

P.V. Thompson
M.50188 Gnr Thompson, P.V.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

J.A. Nolan
(J.A. Nolan) Lt. R.C.A.
Officer detailed to take the Summary of Evidence.

E & A
1117

Bordon, Hants,
12 May 44

MFM 6
(AFB 122)
40/PAS/130 (3438)

No M50188 Name THOMPSON, P.V. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 18/2/41 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc J. AYLWARD, Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	28 Feb 43	Gnr		WOAS AWL 3 days 14 hrs 35 mins. A.A. Sec 15(1)	Bdr Blayney Documentary	7 days F.P. 7 days pay	6 Mar 43	H.G.S. FRANKS Major	Total Forfeit 11 days pay
Field	24th June 1943	Gnr		WOAS, AWL 2 hrs. 30 mins. A.A. Sec. 15(1) (While a patient in Alton Convalescent Hospital)		7 days C.B.	25/June/43	A.E. FORT, Major	
Field	31st July 1943	Gnr		WOAS, AWL 25 hrs. A.A. Sec. 15(1) (Extract Alton Conv. Hosp. Part II Order No. 28 d/6 Aug. 43)		5 days Pay	2/Aug/43	J X (1)	Frts. FR&I Total 7 days pay.
Field	17/1/44			Blood Donor		F.H. KELLEY Capt			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy 12 May 44. R MacKinnon Lt RCA					
				OFFICER HAVING CUSTODY OF REGIMENTAL BOOKS (R.G. MacKinnon) Lt. RCA					

No M50188 Name THOMPSON, P.V. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 18/2/41 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40 PAS/136 (2458)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc J. AYLWARD, Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28Feb 43	Gnr		WOAS AWL 3 days 14 hrs 35 mins. A.A. Sec 15(1)	Bdr Blayney Documentary	7 days F.P. 7 days pay	6 Mar 43	H.C.S.FRANKS Major	Total Forfeit 11 days pay
Field	24th June 1943	Gnr		WOAS, AWL 2 hrs. 30 mins. A.A. Sec. 15(1) (While a patient in Alton Convalescent Hospital)		7 days C.B.	25/June/43	A.E.FORT, Major	
Field	31st July 1943	Gnr		WOAS, AWL 25 hrs. A.A.Sec.15(1) (Extract Alton Conv.Hosp. Part II Order No.28 d/6 Aug.43)		5 days Pay	2/Aug/43		Frts. FR&I Total 7 days pay.
Field	17/1/44			Blood Donor		FH. KELLEY Capt			

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M.50188	Gunner	THOMPSON, P.V.	No.1 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec.15(1) 3 times.

For ____ ____ times.

For ____ ____ times.

For ____ ____ times.

Date of first entry in Field Conduct Sheet 28 Feb 43

Date of last entry in Field Conduct Sheet 31 Jul 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~No previous convictions~~ Nil

~~No entries~~ Nil ~~No entries~~ Nil

4. The accused has been awaiting trial on the present charges for

~~No days~~ Nil 6 days in military custody, *i.e.*,

~~No days~~ Nil 6 days in close arrest ; of which 0 days were spent in hospital.

5. The present age of the accused is 25 years 4 months 7 days

6. The date of his attestation is 18 Feb 41

7. The service which the accused is allowed to reckon is 3 yrs 2 mons 24 days

†State the military decorations (if any) held by accused.

8. The accused is in possession of† CVSM & CLASP

9. ~~No statement~~ Nil

~~No statement~~ Nil

~~No statement~~ Nil

~~No statement~~ Nil

~~No statement~~ Nil

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.6870/688 100,000 5/42 A. & E.W.Ltd. Gp.698
(22459) W1.2a/28.1573 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15 day of May 44

(R.G. MACKINNON) Lt., R.C.A.
OFFICER IC RECORDS, No.1 C.A.R.U.

42-23

Pte. Thompson R. B.

RECORDED AT CMHQ IN AB 160 42-23

FIELD GENERAL COURT-MARTIAL

4388

Convened by Order of Lt Col J J Flynn OBE Comd 4 Cdn Fd Rft Bn dated 14 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 95034	Private	Roland Benjiman	Thompson	4 Cdn Fd Rft Bn

RECEIVED 17 FEB 45 JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL. RECEIVED 22 FEB 45 JAG BRANCH CMHQ

Held in the Fd in (country) Italy on (date(s)) 13 Feb 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~is~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~the interpreter~~ ~~Answer~~ ~~The Interpreter is sworn.~~ Do you object to S/L 1030 Cpl Leroy PA as shorthand writer? Ans No Sir The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J J Poulin	4 Cdn Fd Rft Bn
Member	Lieut	H B Ashenhurst	4 Cdn Fd Rft Bn
Member	Lieut	J R Laporte	4 Cdn Fd Rft Bn
Judge-Advocate			
Prosecutor	Capt	R R Brown	4 Cdn Fd Rft Bn
Defending Offr	Lieut	W Shulman	4 Cdn Fd Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused F 95034 Pte Thompson R.B. before arraignment make(s) (no) objection(s) to the constitution of the Court, and (no) objection(s) to the interpreter, and (no) objection(s) to the shorthand writer.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried seperately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(N96)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 95034 Private Roland Benjiman Thompson

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd	AA 15 (1)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~nil~~ beginning on (date) ~~nil~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one (1) year.

(Sgd) ..... Judge-Advocate, if any. 15 Feb 45 Date awarded. (Sgd) J J Poulin Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 13, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further ordered~~.(1) Nil

(1. AA 57A. Delete if not used.)

Date FEB 20 1945 (Sgd) N Nicholson COMMANDER 1 CDN BASE RFT GROUP Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 95034 Pte Thompson RB C BH #4 Cdn Fd Rft Bn CA CMF	22 Feb 45	E L Graves Lt #2 Cdn Reallocation Centre CA(E) CMF

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N.A.S.I.Y.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N.A.S.I.Y.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans N.A.S.I.Y.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-586. Overseas AO 109, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NUMBER F95034 PRIVATE ROLAND BENJAMIN THOMPSON OF 4 CDN FWD RFT BN, 1 CDN BASE RFT GROUP A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0800 hrs 29 Nov 44 until apprehended at approx 1600 hrs 29 Dec 44 (30 days 8 hrs).

2ND CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2359 hrs 8 Jan 45 until apprehended at approx 1120 hrs 12 Jan 45 (3 days 11 hrs 20 mins).

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
14 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
14 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA33)
40/P&S/1097 (2603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F95034	Private	Roland Benjiman	THOMPSON	4 Cdn Fwd Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 14 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached in A.F.W.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	JLJ Poulin	4 Cdn Fwd Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	HB Ashenhurst	4 Cdn Fwd Rft Bn
Lieut	JR Laporte	4 Cdn Fwd Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	M Martin	4 Cdn Fwd Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(L J Flynn) (Signed personally. RP 105 fn 2.) Lt-col (Rank.)

Date 14 Feb 45

Commanding 4 Cdn Fwd Rft Bn-1 Cdn Base Rft Gp CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

FEB 15th 1945

I hereby certify that I have this morning examined No F95034 PTE THOMPSON. R.B. on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

W. J. Grant Capt
Medical Officer 4 Cdn Rft Bn.

PLEA IN MITIGATION IN THE CASE OF F95034 PRIVATE THOMPSON RB

May it please the court to consider the following facts in awarding sentence on the accused.

The accused is a young man of 22. He is a rifleman in the Cape Breton Highlanders.

He volunteered in 1941 at the age of 18, came to England the following year and to Italy in Nov 43. He was in action in Italy from Jan until Nov, and fought through the Hitler Line, the Gothic Line and came through unscathed.

He is a young man full of fighting spirit, liked by his comrades and trusted by his officers. He has been a good soldier, and has exposed his life and health on many occasions, for his country he is still willing and anxious to do so again. From Jun 44 until Jan 45 he did not reqeive any mail from home at all, and became worried about his family. He expressed his worries to his CO but nothing was done. This was a contributing factor towards his lapse.

In summarizing, Gentlemen, you have before you a young man, with his whole life ahead of him. He is definitely an asset above average to his country and to himself both in war and in peace. He has made a mistake, but he has learned his lesson from it. I, therefore, beg that you be as lenient as possible in awarding sentence.

Exhibit E

Summary of Evidence in the case of F95034 Private Thompson R B of 4 Cdn Rft Bn 1 C B R G who is charged with WOS absenting himself without leave A A 15 (1).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: A3885 Pte Knowles, H, 4 Bn 1 C B R G having been duly sworn states:

I am A3885 Pte Knowles, H, file clerk 4 Bn Orderly Room.

I produce a certified true copy of a Declaration of a Court of Inquiry purporting to relate to the accused and showing that F95034 Private Thompson R B illegally absented himself without leave at 0800 hrs 29 Nov 44 (produced, shown to accused, marked Exhibit "A" and attached hereto).

I further produce a Certificate under A A 163 (1) (jj) purporting to related to the accused and showing that F95034 Private Thompson R B was arrested at 1600 hrs 29 Dec 44. (produced, shown to accused, marked Exhibit "B" and attached hereto).

I further produce a certified true copy of an A-List CBH Part II Order No. 12 dated 7 Feb 45 purporting to relate to the accused and showing that F95034 Private Thompson R B absented himself without leave from 2359 hrs 6 Jan 45 (produced, shown to accused, marked Exhibit "C" and attached hereto)

I further produce a Certificate under A A 163 (1) (jj) purporting to related to the accused and showing that F95034 Private Thompson R B was arrested at 1120 hrs 12 Jan 45. (produced, shown to accused, marked Exhibit "D" and attached hereto).

H Knowles

(A3885 Pte Knowles H)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

I have nothing to say.

I certify that R I 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

(R R Brown) Captain
Officer taking Summary

In the Field
14 Feb 45

219

In the Field 30th December 44

RECORD of the Declaration of a Court of Inquiry assembled at ..... on the 30th day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Necessaries, or Clothing of

No. F98024 Rank Pte Name Thompson, K.B.

D E C L A R A T I O N

The Court declare that No. F98024 Pte Thompson, K.B. "D" Coy Cape Breton Highlanders

illegally absented himself without leave at 0800 hrs on the 29th day of November 44 that he is still so absent, and that on the 30th Dec 1944 he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE	ARTICLES	VALUE
See Attached List			

Capt. L.E.Fox ..... President

Signed at Field, Lieut. F.J.Caissie ..... Member

this 30th day of Dec 19 44 Lieut. B.A.Munn ..... Member

Signature of Commanding Officer R.S.Somerville, Lt/Col.

CERTIFIED TRUE COPY ..... A.J.C. Mills Lt

(Signature of officer having custody of original record)

Exhibit "A"

Capt.

Appendix "A"

Kit shortages F93024 Pte Thompson, H.B.

Bonnets Tam O'Shanter	1	.93
Boots rubber high prs	1	1.04
Drawers cellular short prs	2	.92
Drawers woollen prs	2	2.34
Jerkins leather	1	5.15
Jerseys pullover	1	1.51
Blouses denim	1	2.83
Trousers denim	1	2.40
Trousers battle dress	1	6.24
Vests woollen	2	2.28
Badges cap	1	.34
Bags kit	1	1.17
Brasses cleaning	1	.04
Brushes button brass	1	.15
Brushes clothes	1	.24
Brushes hair	1	.24
Brushes shaving	1	.30
Brushes shoe blacking	1	.15
Brushes shoe polishing	1	.17
Brushes tooth	1	.08
Cap comforter	1	.25
Combs hair	1	.04
Dressings field	1	.24
Forks table	1	.09
Holdall	1	.17
Housewife complete	1	.50
Knife clasp	1	1.16
Knife table	1	.18
Razors safety	1	.42
Shorts gym	2	.84
Spoons N.S. Dessert	1	.08

29

Kit shortages P950854 Pte Thompson, N.B.

Vests cotton gym	2	.68
Towels hand	2	.42
Unit titles sets	1 set	
Bags ration	1	
Belts waist	1	1.47
Bottles water	1	.65
Braces W.E. left	1	.73
Braces W.E. right	1	.66
Carriers water bottle	1	.73
Covers mess tin rect	1	.08
Frogs bayonet	1	.21
Helmets steel	1	2.39
Net helmet cam	1	
Pack	1	2.13
Pouches basic	2	1.49
Straps web supporting	2	.46
Socks prs	3	1.11
Capes anti gas	1	5.25
Sheets ground	1	2.57
Mugs drinking	1	.13
Blankets G.S.	1	2.91

Total Cost------ $56.38

I certify that the above are catalogue prices.

D.R. Curtis
Quarter Master,
Cape Breton Highlanders

Certificate in accordance with the Army Act Sec. 163 (i) (ii)

I certify that

No. F 95034 Rank Pte Name Thompson R.B.

of the D' Cay Ste Cape Breton Highlanders

was arrested at Terni at 1600 hrs,

on the 29th day of December 1944

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. Rank Captain

D.A.P.M., 71 SUB-AREA

Appointment (if any)

Commanding

Date 31 Dec 44

Captain

FS56 1375 10M 11-44

Certified true copy from Regimental Books in my custody.

(A E Davidson) Capt & Adjt
4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

Last Order		This Order
No. 11	X LIST THE CAPE BRETON HIGHLANDERS	No. 12
3 Feb 45	Part II Orders issued by	7 Feb 45
	CANADIAN SECTION GHQ MEDLOW, AFHQ	

"A" OFFICERS

NIL

"B" OTHER RANKS

1. STRENGTH DECREASE

(a) T.O.S. X-3 List from O.B. Highrs

F86[illegible]	Pte	Adams	S.J.	
F60156	L/Cpl	Cannon	J.W.	31 Jan 45
F10007	Pte	Gordon	R.D.	28 Jan 45
F78817	Pte	Jarvis	A.B.	1 Feb 45
F94687	Pte	MacIvor	D.J.	Dvr Mech(MV)'C' 2 Feb 45
064416	Pte	MacVoy	L.J.	29 Jan 45
F86256	Pte	Morris	H.	1 Feb 45
F89953	Pte	Morrison	M.B.	31 Jan 45
F86636	Pte	Snow	E.	27 Jan 45
F89613	Pte	Young	P.V.	28 Jan 45
				30 Jan 45

(b) T.O.S. X-3 List from X-10 List Gen List "B"

B107515	Pte	LeBlanc	A.L.	31 Jan 45

(c) T.O.S. X-4 List 4 Bn from O.B. Highrs
Auth Sech 40/AWL/8 (AG) 6/07 Jan 45

F93034	Pte	Isaacson	R.B.
F76831	Pte	Poirier	W.
F94975	Pte	McMullin	J.J.

(d) T.O.S. X-4 List 4 Bn from Lan & Ren Scot R. X-4 List 4 Bn
Auth ARS/505 2/1 Feb 45

F38825	Pte	Murphy	P.F.	31 Jan 45

2. INTERNAL POSTINGS

(a) Posted from X-2 List to X-3 List

F45999	Pte	Wheaton	J.D.	2 Feb 45

(b) Posted from X-2 List to X-4 List 1 Inf Bn
Released from 56 Mil Prison & Det Bks

F45780	Pte	Osmond	F.S.	2 Feb 45

(c) Posted from X-3 List to X-4 List 1 Inf Bn

F88215	Pte	Viva	J.	
B76762	Pte	O'Connor	W.J.	2 Feb 45

(d) Posted from X-3 List to X-4 List 4 Bn

F78335	Cpl	Wasson	M.A.	
F89953	Pte	Morrison	M.B.	31 Jan 45
K41426	Pte	Doucet	A.	31 Jan 45
F4[illegible]715	Pte	Gillis	J.W.	1 Feb 45
F94835	CSM	MacIntyre	J.E.	1 Feb 45
G1502	Pte	McLean	H.A.	1 Feb 45
				1 Feb 45

Exhibit 'C'
[signature] Capt.

2. INTERNAL POSTINGS (con't)

(e) Posted from X-4 List 1 Inf Bn to X-3 List 30 Jan 45
F89077 Cpl (L/Sgt) Roper A.P.

(f) Posted from X-4 List 1 Inf Bn to X-4 List 4 Bn 5 Dec 45
Auth 4 Bn/93 d/30 Jan 45
D95613 Sgt McIntosh M. Clerk "O"
F88894 Pte Neary P.E.
B76752 Pte O'Connor W.F.
F55215 Pte Viva J.

(g) Removed from 2 Sdn F.P. Camp to 55 Mil Prison & Det Bks 5 Feb 45
F32447 Pte Newman J.A.

(h) Removed from 5 Cdn Armd Div F.P. Camp to 55 Mil Prison & Det Bks 2 Jan 45
F78215 Pte Doucette L.S.
F66784 Pte Shoultz R.A.

(i) AMENDMENT Part II Order No. 10, para 3(a), of 30 Jan 45 is cancelled
F78215 Pte Doucette L.S.

3. PUNISHMENTS

(a) On 2 Feb 45 released from 56 Mil Prison & Det Bks sentence having expired 119 days remission earned under Rules for Mil Prisons and Det Bks
F45750 Pte Osmond F.S.

(b) AMENDMENT Part II Order No. 92, para 6(a), of 9 Sep 44 is amended to read "Forf 1 days pay FR&I 149 (1) (a) Completely concurrent with awd of 90 days forf of pay awd 8 Jul 44 vide C.B. Highrs Part II Orders No. 55 d/17 Jul 44 Forf 5 days Pay FR&I 149 (2) (Completely concurrent with above awd Total not forf of pay NIL" Auth Pay Obs No. 1357 d/24 Jan 45
G27471 Pte Chestnut C.R. (X-2 List)

(c) AMENDMENT Part II Order No. 106, para 6(c), of 21 Oct 44 is amended to read Forf 5 days pay FR&I 149 (1) (a) Completely concurrent with awd of 90 days forf of pay awd 5 Jul 44 vide C.B. Highrs Part II Order No. 55 d/17 Jul 44 Forf 19 days pay FR&I 149 (1) (a) (i) (13 days concurrent with the above awd Forf 547 days pay FR&I 149 (1) (b) Total not forf of pay 1553 days Auth Pay Obs No. 1357 d/24 Jan 45
G27471 Pte Chestnut C.R.

4. ABSENT WITHOUT LEAVE

(a) AWL from 0630 hrs 21 Jan 45 still absent 0630 hrs 29 Jan 45
F40943 Pte Thibeault B.J. (X-3(1 Fd Hosp)) (8 day)

(b) AWL from 0730 hrs 1 Feb 45 still absent 0730 hrs 2 Feb 45
F56607 Pte Cameron L.A. (X-2 List)(1st day)
F87469 Pte Boudreau W.F. (X-2 List)(1st day)

4. ABSENT WITHOUT LEAVE (con't)

(c) AWL from 2359 hrs 8 Jan 45 Ret from AWL 1120 hrs 12 Jan 45
F75831 Pte Poirier W. (4 Bn)
F95034 Pte Thompson R.B. (4 Bn)

(d) AWL from 0830 hrs 29 Jan 45 ATT from AWL 1230 hrs 1 Feb 45
F55195 Cpl Anderson R.W. (X-3(10 Br CD))

5. REVERSIONS

(a) Reverts to Cpl 28 Jan 45
Auth R.O. 5236
H87606 Cpl(L/Sgt) Gulka, M.A. (X-3 List)

(b) Reverts to Pte 28 Jan 45 to draw daily regt'l rates of pay of $1.50 Auth R.O. 4668
F89093 Pte (A/Cpl) Price J.L. (X-3 List)

6. NEXT OF KIN

(a) Change of N-of-K from Joseph Campbell (father) 125 Inglis Street, Sydney, Nova Scotia, Canada, to Miss Christena Campbell (sister) 125 Inglis Street, Sydney, Nova Scotia, Canada
F89183 Sgt Campbell P.B.

7. STRENGTH DECREASE

(a) S.O.S. X-3 List to X-8 List 2 Feb 45
Auth Cech 29/TRIWOUND/3 (A7)
F55199 Pte McMullin D.A.

(b) S.O.S. X-3 List to X-9 List
Auth Pending Reboard
F84796 Pte(A/Cpl) MacNeil F.J. 1 Feb 45
F95237 Pte Rutledge D.E. 2 Feb 45

(c) S.O.S. X-4 List 1 Inf Bn to X-9 List 29 Jan 45
Auth 2 Ech Circ Letter 102 d/12 Dec 45
F97294 Pte McNeil J.C.

(d) S.O.S. X-4 List 4 Bn to X-9 List 28 Jan 45
Auth ARS/518 d/27 Jan 45
F28316 Pte Detcheverry M.E. Clerk "C"

W.H. Laughlin

(W.H. Laughlin) Captain
for Officer i/c
Canadian Section 2nd Echelon, AFHQ

b/

Certificate in accordance with the Army Act Sec. 163 (i) (ii)

I certify that

No F 95034 Rank Flt Lt Name THOMPSON R B

of the Cape Breton Highlanders

was arrested at Serre at 1120 hrs,

on the 12th day of January 1945

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. C Potter

Rank Captain

D.A.P.M., 71 SUB-AREA

Appointment (if any)

Commanding

Date 13th Jan 45

Capt

Exhibit "F"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F95034	Private	THOMPSON R B	4 Can Fwd Rft Bn 1 C E R C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NO MFM'S AVAILABLE ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for From 1600 hrs 20 Dec 44 From 1600 hrs 12 Jan 45

days in civil custody; and for ..... days in military custody, *i.e.*,

Nil days in open arrest, 44 days in close arrest; of

which Nil days were spent in hospital.

5. The present age of the accused is 22 Years

6. The date of his attestation / calling up for military service is 23 Sep 41

7. The service which the accused is allowed to reckon is N/A

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55900/1602 20,000 3/44 51-4751. Forms/B.296/War/ff

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NO MEM O AVAILABLE		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14 th day of February 1945

A.E. Davidson

(A.E. Davidson) Capt & Adjt

4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group CMF

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 14 Feb 1945 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL AA 15(1) for which I was remanded for Court Martial.

J Simpson R.B. (Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut W. Shulman if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

J Simpson, R.B. (Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 65 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

J Simpson, R.B. (Sig of Accused)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.95034 Private Roland Benjiman Thompson

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	
2nd	AA 15 (1)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

~~At present under sentence for~~ "JLJP" ~~beginning on (date)~~ "JLJP" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one (1) year.

(Sgd) ..... Judge-Advocate, if any. 15 Feb 45 Date awarded. (Sgd) "J. L. J. Foulin Major" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) "DG"

(1. AA 57A. Delete if not used.)

Date Feb 20 1945 (Sgd) "E.G. Gibson" Brig Commander Commanding 1 Cdn Base Rft Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.95034 Pte Thompson R.B. CB: #4 Cdn Fwd Rft Bn CA CMF	22 Feb 45	"E.B. Crouse Lt" #2 Cdn Reallocation Centre CA (CMF)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true copy
(J.W. Sword) Capt.
Can Sec 2 Con Wg

42-23

CFA86 (In lieu of AFA2) 40 P.A.S. 1008 (1864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col L J Flynn OBE Comd 4 Cdn Fwd Rft Bn dated 10 March 45 14 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.95034	Private	Roland Benjiman	Thompson	4 Cdn Fwd Bn

PROCEEDINGS REVIEWED
"W B HATE" CAPT A/DJA
CDN SEC 2 ECH AFHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date*) "JLJP" 15 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed. "JLJP"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) "JLJP" The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) "JLJP"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ "JLJP" ~~as~~ interpreter ~~(Ans~~ "JLJP" ~~)~~ ~~The Interpreter is sworn.~~(1) "JLJP" Do you object to C22030 Cpl Leroy R as shorthand writer? Ans No Sir "JLJP" The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2) "JLJP"

(1. RP 110. 2. If no objection, waiting member retires, RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: "JLJP"

President	Major	J L J Foulin	4 Cdn Fwd Rft Bn
Member	Lieut	H B Ashenhurst	4 Cdn Fwd Rft Bn
Member	Lieut	J. R. Laporte	4 Cdn Fwd Rft Bn
Judge-Advocate			
Prosecutor	Capt	R. B. Brown	4 Cdn Fwd Rft Bn
Defending Offr	Lieut	W. Shulman	4 Cdn Fwd Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused F.95034 Pte Thompson R.B. before arraignment make(s) (no) ~~(a)~~ plea(s). "JLJP" (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ "JLJP" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(Members and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B "JLJP"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~and/or JA~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans no sir.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on "NIL" charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on "NIL" charge(s). Part I of the Schedule is amended accordingly "NIL"

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex [redacted], initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*) "NIL"

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B)-60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 4.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No Sir.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and ~~an~~ extract true copy copies of Conduct Sheet(s) ~~Sheet~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldiers ~~(b) having~~ the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex [redacted] and Ex [redacted] respectively.(2)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir.(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA ~~if any~~(2) "NIL".

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"JLJF"

CHARGE SHEET

THE ACCUSED, NUMBER F95054 PRIVATE ROLAND BENJAMIN THOMPSON OF 4 CDN FWD RFT BN, 1 CDN BASE RFT GROUP A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0800 hrs 29 Nov 44 until apprehended at approx 1600 hrs 29 Dec 44 (30 days 8 hrs).

2ND CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2359 hrs 8 Jan 45 until apprehended at approx 1130 hrs 12 Jan 45 (3 days 11 hrs 30 mins).

L. J. Flynn

(L J Flynn) Lt-col
Commanding

In the Field
14 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L. J. Flynn

(L J Flynn) Lt-col
Commanding

In the Field
14 Feb 45 4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

"JLJ"

CFA68 (In lieu of AFAS)
40/PAM/1697 (S868)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns; KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F95034	Private	Roland Benjiman	THOMISON	4 Cdn Fwd Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 14 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	JLJ Joulin	4 Cdn Fwd Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	HB Ashenhurst	4 Cdn Fwd Rft Bn
Lieut	JR Laporte	4 Cdn Fwd Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	M Martin	4 Cdn Fwd Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd Signed L J Flynn Lt-col

in Italy (Country.) (L J Flynn) (Signed personally. RP 105 fn 2.) Lt-col (Rank.)

Date 14 Feb 45 Commanding 4 Cdn Fwd Rft Bn-1 Can Base Rft Gp Convening Officer. CMF

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE "JLWP"

K.R. (CAN) Para 557

Feb 15th 1945.

I hereby certify that I have this morning examined No. F.95034 Pte THOMPSON R.B. on strength 4 Cdn Rft Bn, 1 CBR Gp, and in my opinion he is FIT to undergo trial by Court Martial

"W. J. Frantz Capt" Capt.
Medical Officer 4 Cdn Rft Bn.

"JLJP"

PLEA IN MITIGATION IN THE CASE OF F950034 PRIVATE THOMPSON RB.

May it please the court to consider the following facts in awarding sentence on the accused.

The accused is a young man of 22. He is a rifleman in the Cape Breton Highlanders.

He volunteered in 1941 at the age of 18, came to England the following year and to Italy in Nov 43. He was in action in Italy from Jan until Nov, and fought through the Hitler Line, the Gothic Line and came through unscathed.

He is a young man full of fighting spirit, liked by his comrades and trusted by his officers. He has been a good soldier, and has exposed his life and health on many occasions, for his country he is still willing and anxious to do so again. From Jun 44 until Jan 45 he did not receive any mail from home at all, and became worried about his family. He expressed his worries to his CO but not ing was done. This was a contributing factor towards his lapse.

In summarizing, Gentlemen, you have before you a young man, with his whole life ahead of him. He is definitely an asset above average to his country and to himself both in war and in peace. He has made a mistake, but he has learned his lesson from it. I, therefore, beg that you be as lenient as possible in awarding sentence.

Exhibit "E" "JLJ"

Summary of Evidence in the case of F95034 Private Thompson R B of 4 Cdn Arft Bn 1 C B R C who is charged with WOAS absenting himself without leave A A 15 (1).

By direction of the Commanding Officer the evidence is taken upon oath.

1st Witness: A3885 Pte Knowles, H, 4 Bn 1 C B R C having been duly sworn states:

I am A3885 Pte Knowles, H, file clerk 4 Bn Orderly Room.

I produce a certified true copy of a Declaration of a Court of Inquiry purporting to relate to the accused and showing that F95034 Private Thompson R B illegally absented himself without leave at 0800 hrs 29 Nov 44 (produced, shown to accused, marked Exhibit "A" and attached hereto).

I further produce a Certificate under A A 163 (1) (JJ) purporting to related to the accused and showing that F95034 Private Thompson R B was arrested at 1600 hrs 29 Dec 44. (produced, shown to accused, marked Exhibit "B" and attached hereto).

I further produce a certified true copy of an X-List CBM part II Order No. 12 dated 7 Feb 45 purporting to relate to the accused and showing that F95034 Private Thompson R B absented himself without leave from 2359 hrs 5 Jan 45 (produced, shown to accused, marked Exhibit "C" and attached hereto)

I further produce a Certificate under A A 163 (1) (JJ) purporting to related to the accused and showing that F95034 Private Thompson R B was arrested at 1120 hrs 12 Jan 45. (produced, shown to accused, marked Exhibit "D" and attached hereto).

H Knowles
(A3885 Pte Knowles H)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

I have nothing to say.

I certify that R P 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary of evidence was taken down by me in the presence and hearing of the accused.

(R H Brown) Captain
Officer taking Summary

In the Field
14 Feb 45

"JLJP".

In lieu of AFB 115

RECORD of the Declaration of a Court of Inquiry assembled at

in the Field on the 30th day of December 1944, for the

purpose of investigating the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or Clothing of

No. F.95034 Rank Pte Name Thompson R.B.

DECLARATION

The Court declare that No. F.95034 Pte Thompson, R.B. "D" Coy Cape Breton Highlanders.

illegally absented himself without leave....
at 0800 hrs on the 29th day of November 1944.

that he is still so absent, and that on the 30th Dec 1944 he was deficient, and that he is still deficient of the following articles.

ARTICLES	VALUE	ARTICLES	VALUE

See attached list.

Capt L.E. Fox President.

Lieut F.J. Caissie.. Member

Signed at Field
This 30th day of Dec 1944. Lieut B.A. Nunn Member

Signature of Commanding Officer R.B. Somerville Lt-Col.

CERTIFIED TRUE COPY. "A J B Mills Lt."
(Signature of Officer having custody of original record)

Exhibit "A"

"R. R. Brown Capt".

"JLJP"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163 (i) (jj)

I certify that
No. F. 95034 Rank Pte Name Thompson R.B.
of the "D" Coy the Cape Breton Highlanders
was arrested at TERNI at 1600 hrs
on the 29th day of December 1944.

S
W
t

" C Patter" .
Rank Captain
Appointment (if any) D A P M 71 Sub AREA

Commanding

Date 31 Dec 44

Exhibit "B"

"R R Brown Capt"

Certified true copy from Regimental Books in my custody "JLJP"

"A. E. Davidson"
(A E Davidson) Capt & Adj
4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group - CMF

Last Order No. 11 3 Feb 45 — X LIST THE CAPE BRETON HIGHLANDERS Part II Orders issued by CANADIAN SECTION 2nd ECHELON, AFHQ — This Order No. 12 7 Feb 45

- - - -

Exhibit "F" "JLLP" ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or at the rate may be).
F95034	Private	THOMPSON R B	4 Cdn Fwd Rft Bn 1 C D R G

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NO MFM 6 AVAILABLE ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for From 1600 hrs 29 Dec 44 To 1130 hrs 12 Jan 45 days in civil custody; and for ..... days in military custody, *i.e.*, N/A days in open arrest, 14 days in close arrest; of which N/A days were spent in hospital.

5. The present age of the accused is 22 Years

6. The date of his attestation ~~joining up for military service~~ is 23 Sep 41

7. The service which the accused is allowed to reckon is N/A

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W) 88900/1602 20,000 3/44 51-4751. Forms/B.296/(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NO MFM 6 AVAILABLE		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14 th day of February 1945

(A E Davidson) Capt & Adjt
4 Cdn Fwd Rft Bn - 1 Cdn Base Rft Group CMF

47-34

Pte. Thompson R. E.

(57)

6

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.95507 Pte Thompson, R.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd	Not Guilty	Not Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

EKM ~~At present under sentence for ... beginning on (date) ... (1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for one (1) year.

(Sgd) Errol K McDougall Capt — Judge-Advocate, if any.
24 Jan 45 — Date awarded.
(Sgd) F.H. Clarke Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding JB and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to ... detention barracks until further orders.~~ JB (1)

(1. AA 57A. Delete if not used.)

(Sgd) J. Bibeau Lt-Col

Date 26 Jan 45 — A/Commanding 5 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.95507 Pte Thompson, R.E.	27 Jan 45	(Sgd) E.C. Duffield Capt Adjt 1 Bn Black Watch (RHR) of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

41-39

FIELD GENERAL COURT-MARTIAL

CFA96 (To limit of AFA81 40/P & R/1068 (40001) 4/38B

Convened by Order of Brig W.J. Megill Comd 5 C.I.B. dated 22 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.95507	Pte	Raymond Earl	THOMPSON	RHC

CERTIFIED TRUE COPY
M.H. Mary's Major

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 24 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 20/14 7

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) EKM The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and EKM each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences EKM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) EKM ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~ EKM

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter?~~ Ans ... EKM

(The Interpreter is sworn.(1)) Do you object to D36570 S/Sgt Parks E V shorthand writer? Ans No EKM

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.H. CLARKE	Calg Highrs
Member	Capt	A.R. HANNAH	RHC
Member	Capt	J.N. MATHIEU	R de Mais
Judge-Advocate	Capt	E.K. McDOUGALL	HQ 2 Cdn Inf Div
Prosecutor	Capt	A.J. POWERS	RHC
Defending Offr	Lieut	J.G. ROBERTS	RHC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused F95507 Pte Thompson, R.E. before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) EKM not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is advised and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- EKM ceedings are continued on Record Form B, C, D & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without assthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to [illegible] using to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part 1 of the Schedule is amended accordingly. E.K.M.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1) E.K.M.

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2)~~ The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the [illegible] charge(s).(4) E.K.M.

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans On oath. Do you intend to call witnesses on your behalf ? Ans Yes . Are they witnesses as to character only ? Ans No .

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. E.K.M.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the finding(s) of the Court on the charge(s) being subject to confirmation, will be promulgated later.~~(1) E.K.M. ~~The President announces that the accused is found Not Guilty on all charges, and that the proceedings are accordingly terminated. Part I of the Schedule is [illegible] and that the proceedings are accordingly terminated.~~(2) E.K.M.

(1. *AA 54(3) (6). RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By my defending officer (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.* 2. *RP 50.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to ~~R~~using to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47..* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~ EKM
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) EKM
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) EKM The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the EKM charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the ~~remainder~~ charge(s).(4) EKM
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans On oath Do you intend to call witnesses on your behalf ?
Ans Yes . Are they witnesses as to character only ? Ans No .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the findings~~ EKM ~~of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later (i).~~ EKM ~~(i. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.)~~ EKM
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *AFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By my defending officer .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PHC

CHARGE SHEET

Charge against F-95507 Private Raymond Earl THOMPSON, of 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Force is charged with:

FIRST CHARGE
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,
"In the Field" having been duly warned by K-57511 L/Cpl Nicholas, W.H. at approx 1600 hrs 8 Nov 44 to go on guard at 1730 hrs 8 Nov 44, failed to appear at time and place appointed for duty.

SECOND CHARGE
(Alternative)
Sec 15(1)
Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,
in that he

"In the Field" absented himself without leave from 1730 hrs 8 Nov 44 until 2230 hrs 8 Nov 44.
(Total absence 5 hrs)

THIRD CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he

"In the Field" while in arrest absented himself without leave from 1830 hrs 9 Nov 44 until apprehended by C.M. Police at BOOM, at 1600 hrs 26 Dec 44.
(Absent 46 days 21 hrs 30 mins)

Signed in the Field"
this 21 day of Jan 45

(Sgd) B.R. Ritchie Lt-Col
Officer Commanding
1st Bn The Black Watch
(RHR) of Canada.

To be tried by F.G.C.M.

(Sgd) W.J. Megill Brig
Comd 5 Cdn Inf Bde

22 Jan 45

FHC

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-95507	Pte		Raymond Earl	THOMPSON	R.H.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Jan 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~For special reasons appearing to me I do not consider the Court, the President, for the reasons I have~~ attached hereto.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.H. CLARKE	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A.R. HANNAH	R.H.C.
Capt	J.N. MATHIEU	R de Mais

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	L.W. BEDELL	HQ 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	B.K. McDOUGALL	HQ 2 Cdn Inf Bde

On Active Service in the Fd

in HOLLAND (Country.)

(Sgd) W.J. Megill (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 22 Jan 45

Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAB6 (In lieu of AFA3) 407/P & S/1697 (4091)

(See overleaf for oaths and notes for use on trial.)

I hereby certify that I have this day examined F.95507 FHC
Pte THOMPSON, R.E. and in my opinion he is fit to undergo
trial by Court-Martial.

Date 24 Jan 45

(Sgd) R.E.??????? Capt RCAMC
Medical Officer 1 RHC

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCCM OF
F-95507 PTE THOMPSON, R.E., RHC, HELD ON 24 Jan 45.

First Witness for the Prosecution, D-81862 Pte Ryan, T P M, RHC, being duly sworn, is examined by the Prosecutor.

Q.1 - Will you give the Court your number, name and rank?
A.1 - T P M Ryan, Pte, No. D-81862, The Black Watch of Canada.
Q.2 - Do you know the accused?
A.2 - Yes, sir.
Q.3 - Is he here?
A.3 - Yes, sir (indicating accused).
Q.4 - Will you tell the Court the circumstances surrounding the charge under which he is accused as far as you know?
A.4 - As far as I know, I was COS of A Coy quite a while back. There was a BOR guard. Pte Thompson was one of the guards. The Guard fell in and Pte Thompson was not there. I went to his Pl Sgt to get another man.
Q.5 - How far back was that?
A.4 - About 3 Nov 44, around the begining of Nov.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

Q.6 - I want you to think back a way. You told us this happened on 3 Nov. If I were to suggest to you it was the 8 Nov would you agree?
A.6 - It could be anywhere between the 1 Nov and the time we left Lierre.
Q.7 - Inasmuch as your statement is in the summary of evidence, in the discussion of this date, I show you the statement you made then and ask you to tell the Court the date. Is that your signature?
A.7 - Yes, sir.
Q.8 - Does that statement help you to remember the date any better?
A.8 - It's just another date, sir.

In the opinion of the Court and JA it is not necessary to comply with RF 83(B).

The Witness withdraws.

Second Witness for the Prosecution, A-29034 Sgt G.K. Bull, RHC, being duly sworn is examined by the Prosecutor.

Q.9 - Will you tell the Court your number, rank and name?
A.9 - A-29034 Sgt Bull, G.K., The Black Watch of Canada.
Q.10 - Do you know the accused?
A.10 - I would not know him, sir.
Q.11 - Will you give the evidecne so far as you know of the circumstances surrounding the case where one Pte Thompson was to be on guard?
A.11 - Yes, sir, I was the guard commander on the night in question--

JA

Q.12 - What was the night in question?
A.12 - It was in so long ago.
Q.13 - Was it 8 Nov 44?
A.13 - It was the 8 Nov 44. I was guard commander on 8 Nov 44. I was falling in my guard and found I was a man short. I found out it was Pte Thompson. I reported it to the Orderly Cpl who immediately got a replacement.

Prosecutor

MKM

Q.14 - What time did you fall in the guard?
A.14 - At 5:30, sir.
Q.15 - How did you find out Thompson was not present?
A.15 - I called the roll, sir.
Q.16 - Where did you get the roll?
A.16 - I got it myself, sir.
Q.17 - Did you make any attempt to locate Thompson?
A.17 - Yes, sir. The Orderly Cpl tried to get him. I went in, sir, and seen the Orderly Cpl, looked through the billets, and tried to find him. He was not in the billets.

Cross-examined by the Defending Officer.

Q.18 - You said you mounted the guard at 5:30. Might it have been possibly 5:35 or 5:40? At the time you fell in and found the accused was not there?
A.18 - It did take 5 minutes or so up to the time we went out, falling in, then called the roll and found the man was missing, and went looking around and trying to find him. It could not have taken a great deal of time because we had a long way to go, and we had to get going.
Q.19 - It would have taken 5 or 10 minutes then?
A.19 - Maybe 5 minutes but not 10, sir.

The Prosecutor declines to re-examine the witness.

Questioned by the Court.

Q.20 - You had to get another man to replace Thompson?
A.20 - Yes, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Witness for the Prosecution, F-89348 L/Cpl Davis, S E, RHC, being duly sworn, is examined by the Prosecutor.

Q.21 - Will you give the Court your number, rank and name?
A.21 - F-89348 L/Cpl Davis, S E, The Black Watch of Canada.
Q.22 - Do you know the circumstances of Pte Thompson reporting back to his Section on the night of 8 Nov 44?
A.22 - No, sir, all I know is Pte Thompson was in at 10:30 that night.
Q.23 - How do you know that?
A.23 - That was my first day in A Coy. A bunch of the boys were all saying the new fellow never went on guard. I thought they meant me. Then Thompson came in and they jumped him. That is how I know it was 10:30.
Q.24 - You saw Thompson come in?
A.24 - Yes, sir.
Q.25 - At what time?
A.25 - Between 10 and 10:30, sir.
Q.26 - Did Thompson report in or just walk in?
A.26 - He walked in, sir.
Q.27 - Was there any NCO in the billet when he walked in?
A.27 - Yes, sir, they were all there.

The Defending Officer declines to cross-examine the witness.

Question by the Court.

Q.28 - Was L/Cpl Nicholas there?
A.28 - Yes, sir.
Q.29 - Did the accused report to him?
A.29 - L/Cpl Nicholas was there talking to him after he came in.
Q.30 - Had you seen Pte Thompson any time before he came in earlier

EKM

in the evening? Between 1730 hrs and 2230 hrs that night?

A.30 - No, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83 (B).

The Witness withdraws.

First Witness for the Defence, the accused, F-95507 Pte Thompson, R.E. RHC, being duly sworn, is examined by the Defending Officer.

Q.31 - Pte Thompson, will you tell your story to the Court the circumstances on 8 Nov 44, the day on which you were charged with having disobeyed a lawful command? First tell the Court what instructions you received from L/Cpl Nicholas?
A.31 - Yes, sir, on 8 Nov 44 I had been transferred from C to A Coy. So Cpl Nicholas said you may be on guard tonight, to stick around until 5:30. At 5:30 I was there. Then I went out.
Q.32 - Did L/Cpl Nicholas definitely order you to be on guard, say you will be on guard at 5:30?
A.32 - No, sir.
Q.33 - You were there at 5:30?
A.33 - Yes, sir.
Q.34 - You received no other order from L/Cpl Nicholas?
A.34 - No, sir.
Q.35 - And when L/Cpl Nicholas did not call for you you left?
A.35 - Yes, sir.

Cross-examined by the Prosecutor.

Q.36 - Pte Thompson, you say you were there. Where do you mean?
A.36 - In the building, sir.
Q.37 - At what time?
A.37 - At 5:30, sir.
Q.38 - Who were you there with?
A.38 - I had a civilian boy, a kid, with me.
Q.39 - Anybody else?
A.39 - No, sir.

Re-examined by the Defending Officer.

Q.40 - At 5:30 were you in the room with the remainder of your Section?
A.40 - They were going on guard.
Q.41 - At 5:30 the guard were preparing to fall in?
A.41 - Yes sir.

Court

Q.42 - I think you told us that at 5:30 you were alone with a civilian kid. Now you say you were in there with the whole guard?
A.42 - I was by myself, there were other soldiers in the room, but not with me.
Q.43 - Was everybody else in that room getting ready to go on Guard?
A.43 - Yes, sir.
Q.44 - And you were in that room?
A.44 Yes, Sir.
Q.45 - You didn't think you were part of the guard?
A.45 - No, sir.
Q.46 - The whole room was going out?
A.46 - Not the whole room, just part of the men. Sir, I meant the rest of the guard were in that room getting ready.
Q.47 - Who was in that room, the civilian boy and what other people?
A.47 - No 8 Pl, sir, all of 8 Pl. But all of 8 Pl was not going on guard. The guard was getting ready to fall in. The remainder were still sitting around there.

In the Opinion of the Court and JA it is not necessary to comply with RP 83(B).

Second Witness for the Defence, F-32380 Cpl Brown, M P, RHC, being duly sworn, is examined by the Defending Officer.

Q.48 - Doyou know the accused, Pte Thompson?
A.48 - The first time I seen him was that night.
Q.49 - Do you know him?
A.49 - Yes, sir.

JA

Q.50 - What night
A.50 - On the night he was supposed to go on guard, 8 Nov, sir.

Def Officer
A.51 - Did you see the accused at supper time on the night of 8 Nov 44?
A.51 - Yes, sir.
Q.52 - What time was your supper?
A.52 - I'm not exactly sure, sir, usually about 5 o'clock.
Q.53 - And how late did it go on? How long did supper take?
A.53 - About 15 or 20 minutes, sir.

Cross-examined by the Prosecutor.

Q.54 - You say Thompson was supposed to go on guard. Will you clarify that? Why?
A.54 - After 10:30 I heard a Cpl tell him he was supposed to go on guard. They were waiting around, said he had to go on guard. I didn't pay very much attention.

The Defending officer declines to re-examine.

Questioned by the Court.

Q.55 - What was your job with respect to the accused at that time?
A.55 - I was 2 i/c of No 5 Sec.
Q.56 - Was the accused in No 5 Sec?
A.56 - No, sir, in No 4 Sec.
Q.57 - What was your system for mounting a guard then?
A.57 - At that time I don't exactly know. I wasn't there long.
Q.58 - On that night between 1730 hrs and 2230 hrs did you see the accused anywhere?
A.58 - No, sir, not that I remember.
Q.59 - Would you normally have seen him if he had been in his billets or around the unit lines?
A.59 - No, sir, I was not in the room myself. I was out.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Defence Witness, Capt C S MacLaren, RHC, being duly sworn, is examined by the Defending Officer.

Q.60 - Capt MacLaren, on the night of 8 Nov 44 would anyone who had not been assigned to a specific duty be in any way confined to quarters.
A.60 - No, we were in a rest area.
Q.61 - The men were free to go out?
A.61 - If they were not on duty, yes.

The Prosecutor declines to cross-examine the witness.

Question by the Court.

Q.62 - Could you tell, or explain to us, the policy of mounting a guard in the unit?
A.62 - The duty roster was made up and the CSM, or the CO3, warned the guard for duty, the dress and the time they would parade.

MKM

Q.63 - Were they warned on meal parade or individually?
A.63 - I believe individually in that area, not on meal parades.

In the opinion of the Court and JA it is not necessary to comply with RP 83(H).

The witness withdraws.

The Prosecutor makes the following closing address.

Sir, in prosecuting this case I have realized that due to the evacuation of some witnesses I intended to call on the first charge they are not here. Therefore I have tried to present the case on the alternative charge of AWL 5 hrs. The accused himself has given us a statement that he might have been called on guard by L/Cpl Nicholas. It was therefore his duty to be in at 1730 hrs and find out if he was on guard. At 1730 hrs the guard was being mounted and if he was on hand common military knowledge whould have made him inquire from Cpl Nicholas as to whether he was on guard. He did not do so, from his own evidence. He further states he was in his billets alone with a civilian child at 1730 hrs. Sgt Bull states he went with the COS looking for Thompson in his billets and could not find him. If Thompson was in the billet alone then Sgt Bull and the COS when they looked in the billet would have at once seen whether he was or was not there. The accused further cotradicts himself when he tells the Court that the guard were in that room. So much for his going absent. L/Cpl Davis tells us that he saw the accused walk into the billet between 10 and 10:30 that night, 2200 and 2230 hrs, the normal time he should report in. There were NCOs in the room and L/Cpl Nicholson who spoke to him. I therefore consider, sir, that the alternative charge of AWL has been proven.

The Defending officer makes the following closing address.

I still do not feel here that any of the facts that have been brought out by the prosecution have indicated in any way or form any evidence that Pte Thompson disobeyed a lawful command or that he was AWL. The first point I want to clear up is in the statement of the accused. He was asked if he was alone and he said he was, was with a civilian boy. I am sure he meant that although others were present in this large billet room they were not with him, and he was by himself with the boy. That was merely a misunderstanding on his part in some of the questions put to him, which he later explained quite clearly. Next, the accused has said the only order given to him was to stick around until 5:30 as he may be put on guard. It was certainly a highly ambiguous order. However the accused fully obeyed it. He was still in his room at 5:30, thus obeying the order. Then having received no further instructions he felt it safe to assume he was not on guard that evening. In discussing this with Thompson I ascertained he had just been posted to the Coy and he pointed out to the NCO that he had been on guard the previous night with his former Coy, C Coy. Even so, he had stuck around, and it was 5:30. I don't see how he disobeyed and lawful command when the only command given to him was to stick around until 5:30. Capt MacLaren stated that if a man was not on duty that evening it was perfectly proper to go out. He went out and returned at 10:30, the proper time, so I don't see how he can be called AWL. He properly assumed he was not on duty, he had not been definitely told to go on guard, and he knew his unit was in a rest area, so naturally he thought he could go to visit a civilian friend in town for the evening and return at 10:30, which he did. From the facts proven the defence contends that he is not guilty of AWL of 5 hrs.

RKM

D-6 PAGE 4

The JA sums up as follows:

I will advise the court that on the first charge there is absolutely no proof on which they can convict in law. A finding of not guilty must be brought in. Regarding the second charge, it is a simple case of AWL. I am of the opinion that this Court, being composed of regimental officers, can decide that charge which involves very little law. As far as the law goes you must have the start of the absence, the end of the absence and some continuity. You must believe this man had an absence without leave. The accused has raised the defence that he waited until 5:30 and then without hearing further went out. His Captain testified that unless he was on duty he could go out at that time. Now if there are no further questions I shall only remind you that under our law every man is innocent until he is proved guilty beyond reasonable doubt. The onus of proof is always upon the prosecution. By reasonable doubt I mean a real and substantial doubt, not an idle conjecture or fanciful doubt conjured up in your minds. It must be a real and substantial doubt which you as reasonable men find in your minds. But if you have such a doubt you are bound by law to construe that doubt in favour of the accused.

Mr.President, are there any further matters on which you wish me to advise the Court?
A. - No.
Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.
Mr. Defending Officer, are there any further matters on which you wish me to advice the Court?
A. - No, sir.

D-3 PAGE 1

The Defending Officer makes the following plea in mitigation.

I would like to briefly run over the background and some of the events leading up to the time at which the accused went AWL, and to outline briefly his particulars of service. He enlisted in the army in 1941 in the RCA, received training in Canada, and proceeded Overseas in the Artillery in 1942. In August, 1944, the accused was transferred to the infantry as a reinforcement and proceeded on a short remuster course. While he was on it, I believe it lasted about 3 or 4 weeks, the accused was ill a good part of the time and received only about 5 weeks training. From the very beginning of the time when he was transferred from the artillery where he liked it very much and had friends, he considered himself a sort of square peg in a round hole. He was put at the front when he had almost no conception of what infantry work was like at all. He felt strange and inferior, and also felt he did not know what it was all about, felt incapable of doing a good job. That is the frame of mind in which he left England and came Overseas as a reinforcement. He says that he has never since that time felt confident that he could do the job of a soldier in the infantry. After a short period in the line, when the unit came out to rest at Lierre he was transferred from his original coy, C Coy, to A Coy, and then on his first day there found himself under arrest and on a charge, as he felt, very unjustly. That was his frame of mind. He was browned off. A frame of mind officially not recognized but nevertheless in that state of mind his only thought was to get out of it and thinking like that he acted on it. He was absent for 46 days, 21 hrs and some minutes. He spent most of that time with a civilian family he had met. At the end of the period he told me that he gave himself up to a Captain, I believe it was an officer attached to the RTO, who, as the evidence shows, called the Provost and turned him over. His previous record is clean. His MFM 6 shows no serious crimes. Further I feel that if it is at all posible that leniency should be shown to this man and that he should be given an opportunity to try and get his bearings straightened out. Under these circumstances I think he might possibly settle down and do a good job as a soldier.

EXHIBIT "A" FHC

SUMMARY OF EVIDENCE

In the case of F-95507 Pte Thompson R.E., 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Service is charged with (1) A.A. Sec 9(2) and (2) A.A. Sec 15(1)

The commanding officer directs that the evidence be taken under oath.

FIRST WITNESS for the prosecution: L-103383 Pte Rapley D.E. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am L-103383 Pte Rapley, D.E. a soldier of No 4 Sec of 8 Pl, "A" Coy, 1st Bn The Black Watch(RHR) of Canada, On 8 Nov 44 at approx 1600 hrs, L/Cpl Nicholas, in my presence, said to Pte Thompson, "You will be on guard tonight at 1730 hrs" or words to that effect.

The accused declines to cross examine.

Witness evacuated before signature obtained. Certified true statement.

(Sgd) W.D. Langley Lieut
Officer detailed to take Summary.

SECOND WITNESS for the prosecution: D-81862 Pte Ryan, T.F.M. of 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am D-81862 Pte Ryan, T.F.M. a soldier of 7 Pl "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 8 Nov 44 at approximately 1730 hrs, I was acting as Company Orderly Sergeant for "A" Coy. Sgt Bull who was Guard Commander reported the absence of one of his guards, on enquiring into the matter I found out the absentee was Pte Thompson, I secured a replacement.

The accused declines to cross-examine.

(Sgd) T. Ryan Pte

THIRD WITNESS for the prosecution: A-29034 Sgt Bull, G.K. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am A-29034 Sgt Bull G.K. on the 8 Nov 44 I was Guard Commander of the S.O.R. Guard when falling in my guard at 1730 hrs I found one man short of the guard. I reported this to the C.O.S. D-81862 Pte Ryan, T.F.M. who secured another man in place of Pte Thompson.

The accused declines to cross-examine.

(Sgd) G.K. Bull Sgt

FOURTH WITNESS for the prosecution: F-99348 L/Cpl Davis, L.E., 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am F-99348 L/Cpl Davis, L.E., 8 Pl, "A" Coy, 1st Bn The Black Watch (RHR) of Canada. At 2230 hrs 8 Nov 44, I was present when Pte Thompson reported to this Sec Leader, K.57511 L/Cpl Nicholas, W.H., who has since left the Bn.

The accused declines to cross-examine.

(Sgd) Davis L.E. L/Cpl

FIFTH WITNESS for the prosecution: Capt. C.S. MacLaren, 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am Capt C.S. MacLaren, A/O.C. "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 9 Nov 44 having been detailed to prepare a Summary of Evidence against Pte Thompson, I had him released from custody in order that he might be present at the taking of the evidence. One of the witnesses, Sgt Bull, was not available until after 1800 hrs so at approx 1630 hrs I turned Pte Thompson over to the custody of L/C Schult., (Now Pte) who was C.O.S. on that date and instructed L/Cpl. Schultz to see that Pte Thompson was guarded and fed. At approx 1830 hrs L/Cpl Schultz reported to me that he could not locate Pte Thompson, I then ordered an immediate search of the billets and vicinity but he could not be located.

The accused declines to cross-examine.

(Sgd) C.S. MacLaren Capt

SIXTH WITNESS for the Prosecution: B-2606 Pte Schultz, W.J. 1st Bn The Black Watch (RHR) of Canada, sworn states:

I am B-2606 Pte Schultz, W.J. a soldier of 7 Pl, "A" Coy 1st Bn The Black Watch (RHR) of Canada, on the afternoon of 9 Nov 44 at approximately 1630 hrs Pte Thompson was put under my custody by A/Cpl MacLaren. At supper parade I detailed two men to see that he was fed as I had other duties as C.O.S. After supper Pte Thompson came to me and asked if he could go and wash his mess tins and return them to the kitchen as Capt MacLaren had borrowed them for him, I foolishly let him go without an escort, he washed the mess tins and returned same and then disappeared. At approx 1830 hrs I notified Capt MacLaren that I could not find Pte Thompson.

The accused declines to cross-examine.

(Sgd) W.J. Schultz Pte

SEVENTH WITNESS for the prosecution: Documentary evidence purporting to be signed by 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M. Police.

I certify that in my opinion, the attendance of 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M. Police is, owing to exigencies of the service (in case of military witnesses) expense or loss of time involved or illness, not ready procurable; a written statement of his evidence signed by him has been read overto the accused and is attached hereto as Exhibit "A".

(Sgd) W.D. Langley Lt
Officer detailed to take Summary

I do not require the attendance of 14356299 L/C Smith W for the purpose of cross examination.

(Sgd) Thompson, R.H.

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After caution the accused states:

"I have nothing to say."

Rules of Procedure 4 (C)(D)(E)(F)(G) have been complied with. I certify that the foregoing Summary of Evidence consiting of two pages was taken down by me in writing in the presence and hearing of the accused this 11 day of January 1945.

(Sgd) W.D. Langley Lieut
Officer detailed to take Summary.

(3rd) ? Wallard CMDC A WDL

CHARGE 244 HQ Provost Coy CM Police Army Form B 252

(See King's Regulations)

1st Battalion Black Watch (Cdn) Regiment

"A" Coy Battery / Squadron / Troop / Company

CHARGE against No. B95507 Rank Pte

Name THOMPSON, R.E. PHC

Place Date of Offence

OFFENCE WOAS AWOL from his unit from

until

apprehended by the Military Police in KERK STRAAT BOOM about 1600 hrs 26th Dec 1944.

Names of Witnesses:—

L/Cpl SMITH W 244 HQ Provost Coy CM Police

L/Cpl Cobb,J.M. 244 HQ Provost Coy CM Police

Cpl Glenathon 606 (VP) Coy CMP i/c Guard

Receipt for soldier and certificate of arrest under A.A.& Q. 163 attached herewith.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

(Sgd) APM 7Base Sub Area.

By whom Awarded

Adjutant.

P.T.O.

30-33. W1/W1247/752. 2,000,000. 5/42. K. & H. Ltd. 6557/47.

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Ex "A"

Statement of **EVIDENCE** in the Case of
No f95507 Pte Thompson, R.E.
"A" Coy
1st Battalion Black Watch
2nd Canadian Division

Sir:

At BOOM on 26th Dec 1944 about 1600 hrs on the information of the RTO BOOM I proceeded to KERK STRAAT accompanied by L/Cpl COBB, J C.M.Police. There I saw the above named soldier. I asked him for his pass and he said he had no pass. He then admitted he was absent. I arrested him and conveyed him tothe TOWN GUARD ROOM ANTWERP and handed him over to the NCO i/c Guard to be detained.

In the Field
26th Dec 1944

(Sgd) 14356239 W Smith L/Cpl
244 HQ Provost Coy
C.M. Police

Sir:

I haveread over and corroborate the above statement.

In the Field
26th Dec 1944

(Sgd) 14382753 L/Cpl J M Cobb
244 HQ Provost Coy
C.M. Police

REMARKS

Y FHC ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.95507	Pte	Thompson, R.E.	1 RHC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for such leave or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For n/a ..... times.

For (Supplementary MFM 6) ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. ~~For particulars of convictions by court martial or civil court see~~ ..... in the Schedule hereof.

*Strike out if not applicable.

*3. ~~The accused has not undergone imprisonment~~ .....

~~imprisonment~~ ..... days

4. The accused has been awaiting trial on the present charges for n/a days in civil custody; and for 20 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which n/a days were spent in hospital.

5. The present age of the accused is 21 years

6. The date of his ~~joining~~ attestation is 29 Dec 41

7. The service which the accused is allowed to reckon is 3 1/12 years

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ n/a

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of n/a .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*26072) W1.39721/3701 32,000 9.44 A.& E.W.Ltd. Gp.699

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		n/s		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 Jan 45 day of

??????????????Capt & A/Adj
OIC Records 1 RHC

SUPPLEMENTARY

MFM 6
(AFB 122)
40/PAS/126 (3428)

No. Z95507 Name Thompson, R.E. Sqn, Battery, or Company | Corps | Date of enlistment 29 Dec 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy as per Regimental Documents in my possession					
				(Sgd) ??????????????? Capt Officer i/c Records 1 RHC					
				FHC					

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F95507 Pte. Thompson, R.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd	Not Guilty	Not Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present~~ under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for one (1) year

(Sgd) Ernest Wm Donnell Capt — Judge-Advocate, if any. — 24 Jan 45 — Date awarded. — (Sgd) F. H. Clarke Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(+)
(+. AA 57A. Delete if not used.)

(Sgd) A. Dibeau Lt Col

Date 26 Jan 45

A/ Commanding 5 Can Tank Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F95507 Pte Thompson R.E.	27 Ja 45	E. Duffield. Lieut. Adjt. Rank. of Canada

(Box Blocks in Red)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4T-39

CF A96 (In lieu of AFAB) 41-P.R.S. 1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W.I. Megill Comd 5 C I B dated 22 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/cronk or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 95507	Pte	Raymond Earl	Thompson	R.H.C.

PROCEEDINGS REVIEWED

Lieutenant-Colonel

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 24 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 20|147-

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and the each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to D36705 S/Sgt Parks, R.V. as shorthand writer? Ans No

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F. H. Clarke	Calg Hrs
Member	Capt	A.R. Howard	R.H.C.
Member	Capt	J.N. Mathieu	R. de Maisonneuve
Judge-Advocate	Capt	E.W.M. Donnell	H.Q. 2 Cdn Inf Div.
Prosecutor	Capt	R.J. Powers	R.H.C.
Defending Offr	Lieut	D.S. Roberts	R.H.C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.)

A8. The accused F95507 Pte Thompson, R.E. before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form R.C.O.E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(H), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~Guilty~~ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule ~~is amended~~ accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) (no) opening address.(1) Nil
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused any fdg charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans On oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43. 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the finding(s)~~ of the Court on the 1st & 2nd charge(s), ~~being subject to confirmation, will be promulgated later on~~ Given Given
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(1)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *AFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans By my Defending Officer.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JMC

CHARGE SHEET

Charge against F-95507 Private Raymond Earl THOMPSON, of 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Force is charged with:

FIRST CHARGE
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

"In the Field" having been duly warned by K-57511 L/Cpl Nicholas, W.H. at approx 1600 hrs 8 Nov 44 to go on guard at 1730 hrs 8 Nov 44, failed to appear at time and place appointed for duty.

SECOND CHARGE
(Alternative)
Sec 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he

"In the Field" absented himself without leave from 1730 hrs 8 Nov 44 until 2230 hrs 8 Nov 44.
(Total absence 5 hrs.)

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he

"In the Field" while in arrest absented himself without leave from 1830 hrs 9 Nov 44 until apprehended by C.M. Police at BOOM, at 1600 hrs 26 Dec 44.
(Absent 46 days 21 hrs 30 mins)

Signed "In the Field"

this 21 day of Jan 45

B.C. Ritchie Lt.-Col.
Officer Commanding,
1st Bn The Black Watch
(RHR) of Canada.

To be tried by F.G.C.M.

W Bruyette Brig
Comd 5 Can Inf Bde

21 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-95507	Pte		Raymond Earl	THOMPSON	R.H.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Jan 45 endorsed by me, [illegible] To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.H. Clarke	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A.R. Hannah	R.H.C.
Capt	J.N. Mathieu	R de Mais

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	L.W. Bedell	HQ 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall	HQ 2 Cdn Inf Div

On Active Service in the Fd

in HOLLAND (Country.)

Date 22 Jan 45

(W.J. Megill) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 5 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

I hereby certify that I have this day examined F95507 Pte.
Pte. THOMPSON, R.E. and in my opinion he is fit to undergo
trial by Court-Martial.

DATE 24 Jan 45

(MEDICAL OFFICER, 1 RMC.) Capt., RCAMC.

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCM OF
F-95507 PTE THOMPSON, R E, R H C, HELD ON 24 JAN 45.

First Witness for the Prosecution, D-81862 Pte Ryan, T P M, RHC, being duly sworn, is examined by the Prosecutor.

Q.1 - Will you give the Court your number, name and rank?
A.1 - T P M Ryan, Pte, No. D-81862, The Black Watch of Canada.
Q.2 - Do you know the accused?
A.2 - Yes, sir.
Q.3 - Is he here?
A.3 - Yes, sir (indicating accused).
Q.4 - Will you tell the Court the circumstances surrounding the charge under which he is accused as far as you know?
A.4 - As far as I know, I was COS of A Coy quite a while back. There was a BOR guard. Pte Thompson was one of the guards. The Guard fell in and Pte Thompson was not there. I went to his Pl Sgt to get another man.
Q.5 - How far back was that?
A.5 - About 3 Nov 44, around the beginning of Nov.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

Q.6 - I want you to think back a way. You told us this happened on 3 Nov. If I were to suggest to you it was the 8 Nov would you agree?
A.6 - It could be anywhere between the 1 Nov and the time we left Lierre.
Q.7 - Inasmuch as your statement is in the summary of evidence, in the discussion of this date, I show you the statement you made then and ask you to tell the Court the date. Is that your signature?
A.7 - Yes, sir.
Q.8 - Does that statement help you to remember the date any better?
A.8 - It's just another date, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Second Witness for the Prosecution, A-29034 Sgt G K Bull, RHC, being duly sworn is examined by the Prosecutor.

Q.9 - Will you tell the Court your number, rank and name?
A.9 - A-29034 Sgt Bull, G K, The Black Watch of Canada.
Q.10 - Do you know the accused?
A.10 - I would not know him, sir.
Q.11 - Will you give the evidence so far as you know of the circumstances surrounding the case where one Pte Thompson was to be on guard?
A.11 - Yes, sir, I was the guard commander on the night in question--

JA

Q.12 - What was the night in question?
A.12 - It was ~~hmm~~ so long ago.
Q.13 - Was it 8 Nov 44?
A.13 - It was the 8 Nov 44. I was guard commander on 8 Nov 44. I was falling in my guard and found I was a man short. I found out it was Pte Thompson. I reported it to the Orderly Cpl who immediately got a replacement.

Prosecutor

Q.14 - What time did you fall in the guard?
A.14 - At 5:30, sir.
Q.15 - How did you find out Thompson was not present?
A.15 - I called the roll, sir.
Q.16 - Where did you get the roll?
A.16 - I got it myself, sir.
Q.17 - Did you make any attempt to locate Thompson?
A.17 - Yes, sir. The Orderly Cpl tried to get him. I went in, sir, and seen the Orderly Cpl, looked through the billets, and tried to find him. He was not in the billets.

Cross-examined by the Defending Officer.

Q.18 - You said you mounted the guard at 5;30. Might it have been possibly 5:35 or 5:40? At the time you fell in and found
A.18 - the accused was not there?
A.18 - It did take 5 minutes or so up to the time we went out, falling in, then called the roll and found the man was missing, and went looking around and trying to find him. It could not have taken a great deal of time because we had a long way to go, and we had to get going.
Q.19 - It would have taken 5 or 10 minutes then?
A.19 - Maybe 5 minutes but not 10, sir.

The Prosecutor declines to re-examine the witness.

Questioned by the Court.

Q.20 - You had to get another man to replace Thompson?
A.20 - Yes, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Witness for the Prosecution, P-89348 L/Cpl Davis, S E, RHC, being duly sworn, is examined by the Prosecutor.

Q.21 - Will you give the Court your number, rank and name?
A.21 - P-89348 L/Cpl Davis, S E, The Black Watch of Canada.
Q.22 - Do you know the circumstances of Pte Thompson reporting back to his Section on the night of 8 Nov 44?
A.22 - Not sir, all I know is Pte Thompson was in at 10:30 that night.
Q.23 - How do you know that?
A.23 - That was my first day in A Coy. A bunch of the boys were all saying the new fellow never went on guard. I thought they meant me. Then Thompson came in and they jumped him. That is how I know it was 10:30.
Q.24 - You saw Thompson come in?
A.24 - Yes, sir.
Q.25 - At what time?
A.25 - Between 10 and 10:30, sir.
Q.26 - Did Thompson report in or just walk in?
A.26 - He walked in, sir.
Q.27 - Was there any NCO in the billet when he walked in?
A.27 - Yes, sir, they were all there.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

Q.28 - Was L/Cpl Nicholas there?
A.28 - Yes, sir.
Q.29 - Did the accused report to him?
A.29 - L/Cpl Nicholas was there talking to him after he came in.
Q.30 - Had you seen Pte Thompson any time before he came in earlier

in the evening? Between 1730 hrs and 2230 hrs that night?
A.30 - No, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The Witness withdraws.

First Witness for the Defence, the accused, F-35507 Pte Thompson, R E, RHC, being duly sworn, is examined by the Defending Officer.

Q.31 - Pte Thompson, will you tell your story to the Court the circumstances on 8 Nov 44, the day on which you were charged with having disobeyed a lawful command? First tell the Court what instructions you received from L/Cpl Nicholas?
A.31 - Yes, sir, on 8 Nov 44 I had been transferred from C to A Coy. So Cpl Nicholas said you may be on guard tonight, to stick around until 5:30. At 5:30 I was there. Then I went out.
Q.32 - Did L/Cpl Nicholas definitely order you to be on guard, say you will be on guard at 5:30?
A.32 - No, sir.
Q.33 - You were there at 5:30?
A.33 - Yes, sir.
Q.34 - You received no other order from L/Cpl Nicholas?
A.34 - No, sir.
Q.35 - And when L/Cpl Nicholas did not call for you you left?
A.35 - Yes, sir.

Cross-examined by the Prosecution

Q.36 - Pte Thompson, you say you were there. Where do you mean?
A.36 - In the building, sir.
Q.37 - At what time?
A.37 - At 5:30, sir.
Q.38 - Who were you there with?
A.38 - I had a civilian boy, a kid, with me.
Q.39 - Anybody else?
A.39 - No, sir.

Re-examined by the Defending Officer.

Q.40 - At 5:30 were you in the room with the remainder of your Section?
A.40 - They were going on guard.
Q.41 - At 5:30 the guard were preparing to fall in?
A.41 - Yes sir.

Court

Q.42 - I think you told us that at 5:30 you were alone with a civilian kid. Now you say you were in there with the whole guard?
A.42 - I was by myself, there were other soldiers in the room, but not with me.
Q.43 - Was everybody else in that room getting ready to go on guard?
A.43 - Yes, sir.
Q.44 - And you were in that room?
A.44 - Yes, sir.
Q.45 - You didn't think you were part of the guard?
A.45 - No, sir.
Q.46 - The whole room was going out?
A.46 - Not the whole room, just part of the men. Sir, I meant the rest of the guard were in that room getting ready.
Q.47 - Who was in that room, the civilian boy and what other people?
A.47 - No 8 Pl, sir, all of 8 Pl. But all of 8 Pl was not going on guard. The guard was getting ready to fall in. The remainder were still sitting around there.

In the Opinion of the Court and JA it is not necessary to comply with RP 83(B).

Second Witness for the Defence, F-32380 Cpl Brown, M P, RHC, being duly sworn, is examined by the Defending Officer.

Q.48 - Do you know the accused, Pte Thompson?
A.48 - The first time I seen him was that night.
Q.49 - Do you know him?
A.49 - Yes, sir.

JA

Q.50 - What night?
A.50 - On the night he was supposed to go on guard, 8 Nov, sir.
Def Officer Q.51 - Did you see the accused at supper time on the night of 8 Nov 44?
A.51 - Yes, sir.
Q.52 - What time was you supper?
A.52 - I'm not exactly sure, sir, usually about 5 o'clock.
Q.53 - And how late did it go on? How long did supper take?
A.53 - About 15 or 20 minutes, sir.

Cross-examined by the Prosecutor.

Q.54 - You say Thompson was supposed to go on guard. Wil you clarify that? Why?
A.54 - After 10:30 I heard a Cpl tell him he was supposed to go on guard. They were waiting around, said he had to go on guard. I didn't pay very much attention.

The Defending Officer declines to re-examine.

Questioned by the Court.

Q.55 - What was your job with respect to the accused at that time?
A.55 - I was 2 i/c of No 5 Sec.
Q.56 - Was the accused in No5 Sec?
A.56 - No, sir, in No 4 Sec.
Q.57 - What was your system for mounting a guard then?
A.57 - At that time I don't exactly know. I wasn't there long.
Q.58 - On that night between 1730 hrs and 2230 hrs did you see the accused anywhere?
A.58 - No, sir, not that I remember.
Q.59 - Would you normally have seen him if he had been in his billets or around the unit lines?
A.59 - No, sir, I was not in the room myself. I was out.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Defence Witness, Capt C S MacLaren, ~~Maim~~ RHC, being duly sworn, is examined by the Defending Officer.

Q.60 - Capt MacLaren, on the night of 8 Nov 44 would anyone who had not been assigned to a specific duty be in any way confined to quarters?
A.60 - No, we were in a rest area.
Q.61 - The men were free to go out?
A.61 - If they were not on duty, yes.

The Prosecutor declines to cross-examine the witness.

Questioned by the Court.

Q.62 - Could you tell, or explain to us, the policy of mounting a guard in the unit?
A.62 - The duty roster was made up and the CSM, or the COS, warned the guard for duty, the dress and the time they would

parade.
Q.63 - Were they warned on meal parade or individually?
A.63 - I believe individually in that area, not on meal parades.

In the opinion of the Court and JA it is not necessary to comply with RP 83(8).

The witness withdraws.

The Prosecutor makes the following closing address.

Sir, in prosecuting this case I have realized that due to the evacuation of some witnesses I intended to call on the first charge they are not here. Therefore I have tried to present the case on the alternative charge of AWL 5 hrs. The accused himself has given us a statement that he might have been called on guard by L/Cpl Nicholas. It was therefore his duty to be in at 1730 hrs and find out if he was on guard. At 1730 hrs the guard was being mounted and if he was on hand common military knowledge should have made him inquire from Cpl Nicholas as to whether he was on guard. He did not do so, from his own evidence. He further states he was in his billets alone with a civilian child at 1730 hrs. Sgt Bull states he went with the COS looking for Thompson in his billets and could not find him. If Thompson was in the billet alone then Sgt Bull and the COS when they looked in the billet would have at once seen whether he was or was not there. The accused further contradicts himself when he tells the Court that the guard were in that room. So much for his going absent. L/Cpl Davis tells us that he saw the accused walk into the billet between 10 and 10:30 that night, 2200 and 2230 hrs, the normal time he should report in. There were NCOs in the room, and L/Cpl Nicholson who spoke to him. I therefore consider, sir, that the alternative charge of AWL has been proven.

The Defending Officer makes the following closing address.

I still do not feel here that any of the facts that have been brought out by the prosecution have indicated in any way or form any evidence that Pte Thompson disobeyed a lawful command or that he was AWL. The first point I want to clear up is in the statement of the accused. He was asked if he was alone and he said he was, was with a civilian boy. I am sure he meant that although others were present in this large billet room they were not with him, and he was by himself with the boy. That was merely a misunderstanding on his part in some of the questions put to him, which he later explained quite clearly. Next, the accused has said the only order given to him was to stick around until 5:30 as he may be put on guard. It was certainly a highly ambiguous order. However the accused fully obeyed it. He was still in his room at 5:30, thus obeying the order. Then having received no further instructions he felt it safe to assume he was not on guard that evening. In discussing this with Thompson I ascertained he had just been posted to the Coy and he pointed out to the NCO that he had been on guard the previous night with his former Coy, C Coy. Even so, he had stuck around, and it was 5:30. I don't see how he disobeyed any lawful command when the only command given to him was to stick around until 5:30. Capt Maclaren stated that if a man was not on duty that evening it was perfectly proper to go out. He went out and returned at 10:30, the proper time, so I don't see how he can be called AWL. He properly assumed he was not on duty, he had not been definitely told to go on guard, and he knew his unit was in a rest area, so naturally he thought he could go to visit a civilian friend in town for the evening and return at 10:30, which he did. From the facts proven the defence contends that he is not guilty of AWL of 5 hrs.

The JA sums up as follows.

I will advise the Court that on the first charge there is absolutely no proof on which they can convict in law. A finding of not guilty must be brought in. Regarding the second charge, it is a simple case of AWL. I am of the opinion that this Court, being composed of regimental officers, can decide that charge which involves very little law. As far as the law goes you must have the start of the absence, the end of the absence and some continuity. You must believe this man had an absence without leave. The accused has raised the defence that he waited until 5:30 and then without hearing further went out. His Captain testified that unless he was on duty he could go out at that time. Now if there are no further questions I shall only remind you that under our law every man is innocent until he is proved guilty beyond reasonable doubt. The onus of proof is always upon the prosecution. By reasonable doubt I mean a real and substantial doubt, not an idle conjecture or fanciful doubt conjured up in your minds. It must be a real and ~~xxxxxxxx~~ substantial doubt which you as reasonable men find in your minds. But if you have such a doubt you are bound by law to construe that doubt in favour of the accused.

Mr. President, are there any further matters on which you wish me to advise the Court?
A. - No.
Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.
Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.

The Defending Officer makes the following plea in mitigation.

I would like to briefly run over the background and some of the events leading up to the time at which the accused went AWL, and to outline briefly his particulars of service. He enlisted in the army in 1941 in the RCA, received training in Canada, and proceeded Overseas in the Artillery in 1942. In August, 1944, the accused was transferred to the infantry as a rinforcement and proceeded on a short remuster course. While he was on it, I believe it lasted about 3 or 4 weeks, the accused was ill a good part of the time and received only about 5 weeks training. From the very beginning of the time when he was transferred from the artillery where he liked it very much and had friends, he considered himself a sort of square peg in a round hole. He was put at the front when he had almost no conception of what infantry work was like at all. He felt strange and inferior, and also felt he did not know what it was all about, felt incapable of doing a good job. That is the frame of mind in which he left England and came Overseas as a reinforcement. He says that he has never since that time felt confident that he could do the job of a soldier in the infantry. After a short period in the line, when the unit came out to rest at Lierre he was ~~turned~~ transferred from his original coy, C Coy, to A Coy, and then on his first day there found himself under arrest and on a charge, as he felt, very unjustly. That was his frame of mind. He was browned off. A frame of mind officially not recognized but nevertheless in that state of mind his only thought was to get out of it and thinking like that he acted on it. He was absent for 46 days, 21 hrs and some minutes. He spent most of that time with a civilian family he had met. At the end of the period he told me that he gave himself up to a Captain, I believe it was an officer attached to the RTO, who, as the evidence shows, called the Provost and turned him over. His previous record is clean. His MFM6 shows no serious crimes. Further I feel that if it is at all possible that leniency should be shown to this man and that he should be given an opportunity to try and get his bearings straightened out. Under these circumstances I think he might possibly settle down and do a good job as a soldier.

SUMMARY OF EVIDENCE

In the case of F-95507 Pte Thompson R.E., 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Service is charged with (1) A.A. Sec 9 (2) and (2) A.A. Sec 15 (1).

The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS for the prosecution: L-103383 Pte Rapley, D.E. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am L-103383 Pte Rapley, D.E. a soldier of No 4 Sec of 8 Pl., "A" Coy, 1st Bn The Black Watch (RHR) of Canada, On 8 Nov 44 at approx 1600 hrs, L/Cpl Nicholas, in my presence, said to Pte Thompson, "You will be on guard tonight at 1730 hrs" or words to that effect.

The accused declines to cross examine.

Witness evacuated before signature obtained. Certified true statement.

D E Rapley Lieut.
Officer detailed to take summary.

SECOND WITNESS for the prosecution: D-81862 Pte Ryan, T.P.M. of 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am D-81862 Pte Ryan, T.P.M. a soldier of 7 Pl "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 8 Nov 44 at approximately 1730 hrs, I was acting as Company Orderly Sergeant for "A" Coy. Sgt Bull who was Guard Commander reported the absence of one of his guards, on enquiring into the matter I found out the absentee was Pte Thompson, I secured a replacement.

The accused declines to cross-examine.

T. Ryan Pte
D-81862

THIRD WITNESS for the prosecution: A-29034 Sgt Bull, G.K. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am A-29034 Sgt. Bull G.K. on the 8 Nov 44 I was Guard Commander of the B.O.R. Guard when falling in my guard at 1730 hrs I found one man short of the guard. I reported this to the C.O.S. D-81862 Pte Ryan, T.P.M. who secured another man in place of Pte Thompson.

The accused declines to cross-examine.

G. K. Bull Sgt.
A-29034

FOURTH WITNESS for the prosecution: F-89348 L/Cpl Davis, S.E., 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am F-89348 L/Cpl Davis, S.E., 8 Pl, "A" Coy, 1st Bn The Black Watch (RHR) of Canada. At 2230 hrs 8 Nov 44, I was present when Pte Thompson reported to his Sec Leader, K-57511 L/Cpl Nicholas, W.H., who has since left the Bn.

The accused declines to cross-examine.

Davis S.E. L/Cpl.
F-89348

FIFTH WITNESS for the prosecution: Capt. C.S. MacLaren, 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am Capt C.S. MacLaren, A/O.C. "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 9 Nov 44 having been detailed to prepare a Summary of Evidence against Pte Thompson, I had him released from custody in order that he might be present at the taking of the evidence. One of the witnesses, Sgt Bull, was not available until after 1800 hrs so at approx 1630 hrs I turned Pte Thompson over to the custody of L/C Schultz, (Now Pte) who was C.O.S. on that date and instructed L/Cpl. Schultz to see that Pte Thompson was guarded and fed. At Approx 1830 hrs L/Cpl Schultz reported to me that he could not locate Pte Thompson, I then ordered an immediate search of the billets and vicinity but he could not be located.

The accused declines to cross-examine.

C.S. MacLaren Capt.

SIXTH WITNESS for the Prosecution: B-2606 Pte Schultz, W.J. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am B-2606 Pte Schultz, W.J. a soldier of 6 Pl., "A" Coy, 1st Bn The Black Watch (RHR) of Canada, on the afternoon of 9 Nov 44 at approximately 1630 hrs Pte Thompson was put under my custody by A/Capt MacLaren. At supper parade I detailed two men to see that he was fed as I had other duties as C.O.S. After supper Pte Thompson came to me and asked if he could go and wash his mess tins and return them to the kitchen as Capt MacLaren had borrowed them for him, I foolishly let him go without an escort, he washed the mess tins and returned same and then disappeared. At approx 1830 hrs I notified Capt MacLaren that I could not find Pte Thompson.

The accused declines to cross examine.

W.J. Schultz Pte.
B-2606

SEVENTH WITNESS for the prosecution: Documentary evidence purporting to be signed by 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M. Police.

I certify that in my opinion, the attendance of 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M.Police is, owing to exigencies of the service (in case of military witnesses) expense or loss of time involved or illness, not ready procurable; a written statement of his evidence signed by him has been read over to the accused and is attached hereto as Exhibit "A".

I do not require the attendance of 14356299 L/C Smith W., for the purpose of cross examination.

W.D. Langley Lieut.
Officer detailed to take Summary.

J. Thompson Pte
B-2506

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After caution the accused states:

"I have nothing to say".

Rules of Procedure 4 (C)(D)(E)(F)(G) have been complied with. I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused this 11 day of January 1945

W.D. Langley Lieut.
Officer detailed to take summary.

Army Form B 252
(See King's Regulations)

CHARGE (2ND DIV)

2nd BATTALION BLACK WATCH (CDN) Regiment

"A" COY Battery / Squadron / Troop or Company

CHARGE against No. E 75504 Rank PTE

Name THOMPSON R.E.

Place ..... Date of Offence 24 DEC

OFFENCE WAS AWOL from his unit from

..... until

apprehended by the MILITARY POLICE in KERK STRAAT

OVER at about 1600 HRS on 26TH DEC 1944

Names of Witnesses:—

L/CPL SMITH W 2ND H.Q. PROVOST COY C.M. POLICE

L/CPL COBB J.M. 2ND H.Q. PROVOST SQN. C.M. POLICE

CPL GLENAGHON GOC (V.P.) COY C.M. POLICE I/C GUARD

RECEIPT FOR SOLDIER AND CERTIFICATE OF ARREST UNDER AA SEC 69 ATTACHED HEREWITH

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

.....

Adjutant.

P.T.O.

30420 WLW15452/2562 1,757,000. 5/44. E. & H., Ltd. G607/47.

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Ex "A"

STATEMENT OF **EVIDENCE** IN THE CASE OF.

No. F95504 Pte THOMPSON R.E.
"A" Coy.
1st BATTALION BLACK WATCH.
2nd CANADIAN DIVISION

Sir

At BOOM on 26th DEC. 1944 about 1600 HRS on the information of the R.T.O. BOOM I proceeded to KERK STRAAT accompanied By L/CPL COBB. J. C.M. POLICE. There I saw the above named soldier. I asked him for his pass and he said he had no pass. He then admitted he was absent. I arrested him and conveyed him to the TOWN GUARDROOM ANTWERP and handed him over to the N.C.O i/c GUARD to be detained.

IN THE FIELD
26th DEC. 1944

14356299 W. Smith A/Sgt
246 H.Q. PROVOST COY
C.M. POLICE.

Sir I have read over and corroborate the above statement
14382753 L/Cpl. J. M. COBB.
IN THE FIELD
26th DEC. 1944
246 H.Q. PROVOST COY
C.M. POLICE

REMARKS

NC

M.F.B. 355
22M.—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F45507	Pte	Thompson R E	1 RHC

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	n/a times	n/a times
For	(Supplementary to 7A/6) times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under A.F.A. 75 Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for n/a days in ~~Air Force~~ civil custody, and 20 days in military custody, making a total of 20 days in custody, of which n/a days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper is~~ record of service is 21 years

6. The date of his ~~enlistment~~ attestation specified in his record of service is ~~attestation paper~~ 29 Dec 41

7. The service which the accused is allowed to reckon towards discharge is 3½ years.

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. n/a

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of n/a

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~

n/a dated n/a unit, and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

n/a Date of promotion.

In the rank of n/a years.

In the rank of n/a years.

In the rank of n/a years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number F95507 Rank A/C Unit

Name Thompson R.E. of 1 RHC ~~Regiment~~

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		n/a		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this "In the Field" day of 24 JAN 45

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Capt A/Adj.

OC Records 1 RHC

SUPPLEMENTARY

M.F.M. 6
(A.F.B. 122)
40/P.S./130 (2637)

No. F 95507 Name Thompson R.E. Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 28.7.40 | G.C. Badges 411 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
				Certified true copy as per Regimental Documents in my possession.					
				H. Saunders Capt					
				Officer K. Records 1945					
				J.A.C.					

(P.T.O.)

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : F.95507 Pte Thompson, R.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd	Not Guilty	Not Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

EKM At present under sentence for ~~present~~ beginning on (date) ~~(1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for one (1) year.

(Sgd) Errol K McDougall Capt — Judge-Advocate, if any.
24 Jan 45 — Date awarded.
(Sgd) F.H. Clarke Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is :

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) J. Bilbeau Lt-Col

Date 26 Jan 45

Commanding 5 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F.95507 Pte Thompson, R.E.	27 Jan 45	(Sgd) R.G. Duffield Capt Adjt 1 Bn Black Watch (RHR) of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

HT-39

CFA108 (To Issue as AFA21) 40-47 M 8/1/43 (40061)

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brig W.J. Megill Comd 6 C.I.B. dated 22 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.95507	Pte	Raymond Earl	THOMPSON	RHC

CERTIFIED TRUE COPY
[illegible]
D.J.A.
Cdn Sec G.H.Q. 2 Echelon 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 24 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 20/14 7

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) EKM The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and EKM each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences EKM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) EKM ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~ (2) EKM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to an interpreter ? Ans~~ EKM ~~The Interpreter is sworn.~~ (1) Do you object to D36570 S/Sgt Parks RE shorthand writer ? Ans No EKM The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	F.H. CLARKE	Calg Highrs
Member	Capt	A.R. KANEAH	RHC
Member	Capt	J.N. MATHIEU	R de Mais
Judge-Advocate	Capt	E.K. McDOUGALL	Hq 2 Cdn Inf Div
Prosecutor	Capt	A.J. POWERS	RHC
Defending Offr	Lieut	J.G. ROBERTS	RHC

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused P95507 Pte Thompson, R.E. before arraignment make(s) (no) ~~(a)~~ plea EKM (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) EKM not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- EKM ceedings are continued on Record Form B, C, D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court; (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(K) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~charge(s).~~ The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ~~charge(s).~~ Part I of the Schedule is amended accordingly. EKM

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) EKM

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~ EKM The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the remainder of the charges.~~ EKM

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Do you intend to call witnesses on your behalf ?

Ans On oath .

Ans Yes . Are they witnesses as to character only ? Ans No

Ans Yes .

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. EKM

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the finding(s) of the Court on the charge(s) being subject to confirmation, will in due course be promulgated to him by the proper authority.~~ EKM The President announces that the accused is found Not Guilty on all charges, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed. EKM

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By my defending officer (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FHC

CHARGE SHEET

Charge against F-95507 Private Raymond Earl THOMPSON, of 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Force is charged with:

FIRST CHARGE
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,
"In the Field" having been duly warned by K-57511 L/Cpl Nicholas, W.H. at approx 1600 hrs 8 Nov 44 to go on guard at 1730 hrs 8 Nov 44, failed to appear at time and place appointed for duty.

SECOND CHARGE
(Alternative)
Sec 15(1)
Army Act.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,
in that he
"In the Field" absented himself without leave from 1730 hrs 8 Nov 44 until 2230 hrs 8 Nov 44.
(Total absence 5 hrs)

THIRD CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he

"In the Field" while in arrest absented himself without leave from 1630 hrs 9 Nov 44 until apprehended by C.M. Police at BOOM, at 1600 hrs 26 Dec 44.
(Absent 46 days 21 hrs 30 mins)

Signed in the Field"
this 21 day of Jan 45

(Sgd) B.R. Ritchie Lt-Col
Officer Commanding
1st Bn The Black Watch
(RHR) of Canada.

To be tried by F.G.C.M.

(Sgd) W.J. Megill Brig
Comd 5 Cdn Inf Bde

22 Jan 45

FGC

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. PP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-95507	Pte		Raymond Earl	THOMPSON	R.H.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Jan 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~That unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.H. CLARKE	Calg Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	A.R. HATHAH	R.H.C.
Capt	J.M. MATHIEU	R de Mais

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	L.W. BUSKILL	HQ 5 Cdn Inf Bde

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	R.K. McDOUGALL	HQ 2 Cdn Inf Bde

On Active Service in the Fd

in (Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
HOLLAND	(Sgd) W.J. Megill	Brigadier

Date 22 Jan 45 Commanding 5 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

I hereby certify that I have this day examined F.95507 FHC Pte THOMPSON, R.E. and in my opinion he is fit to undergo trial by Court-Martial.

Date 24 Jan 45

(Sgd) R.E.??????Capt RCAMC
Medical Officer 1 RHC

D-3 PAGE 1

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCOM OF
F-95507 PTE THOMPSON, R.E., RHC, HELD ON 24 Jan 45.

First Witness for the Prosecution, D-81862 Pte Ryan, T P M, RHC, being duly sworn, is examined by the Prosecutor.

Q.1 - Will you give the Court your number, name and rank?
A.1 - T P M Ryan, Pte, No. D-81862, The Black Watch of Canada.
Q.2 - Do you know the accused?
A.2 - Yes, sir.
Q.3 - Is he here?
A.3 - Yes, sir (indicating accused).
Q.4 - Will you tell the Court the circumstances surrounding the charge under which he is accused as far as you know?
A.4 - As far as I know, I was COS of A Coy quite a while back. There was a BOR guard. Pte Thompson was one of the guards. The Guard fell in and Pte Thompson was not there. I went to his Pl Sgt to get another man.
Q.5 - How far back was that?
A.4 - About 3 Nov 44, around the begining of Nov.

The Defending Officer declines to cross-examine the witness.

Questioned by the Court.

Q.6 - I want you to think back a way. You told us this happened on 3 Nov. If I were to suggest to you it was the 8 Nov would you agree?
A.6 - It could be anywhere between the 1 Nov and the time we left Lierre.
Q.7 - Inasmuch as your statement is in the summary of evidence, in the discussion of this date, I show you the statement you made then and ask you to tell the Court the date. Is that your signature?
A.7 - Yes, sir.
Q.8 - Does that statement help you to remember the date any better?
A.8 - It's just another date, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The Witness withdraws.

Second Witness for the Prosecution, A-29034 Sgt G.K. Bull, RHC, being duly sworn is examined by the Prosecutor.

Q.9 - Will you tell the Court your number, rank and name?
A.9 - A-29034 Sgt Bull, G.K., The Black Watch of Canada.
Q.10 - Do you know the accused?
A.10 - I would not know him, sir.
Q.11 - Will you give the evidecne so far as you know of the circumstances surrounding the case where one Pte Thompson was to be on guard?
A.11 - Yes, sir, I was the guard commander on the night in question--

JA

Q.12 - What was the night in question?
A.12 - It was in so long ago.
Q.13 - Was it 8 Nov 44?
A.13 - It was the 8 Nov 44. I was guard commander on 8 Nov 44. I was falling in my guard and found I was a man short. I found out it was Pte Thompson. I reported it to the Orderly Cpl who immediately got a replacement.

Prosecutor

RKM

Q.14 - What time did you fall in the guard?
A.14 - At 5:30, sir.
Q.15 - How did you find out Thompson was not present?
A.15 - I called the roll, sir.
Q.16 - Where did you get the roll?
A.16 - I got it myself, sir.
Q.17 - Did you make any attempt to locate Thompson?
A.17 - Yes, sir. The Orderly Cpl tried to get him. I went in, sir, and seen the Orderly Cpl, looked through the billets, and tried to find him. He was not in the billets.

Cross-examined by the Defending Officer.

Q.18 - You said you mounted the guard at 5:30. Might it have been possibly 5:35 or 5:40? At the time you fell in and found the accused was not there?
A.18 - It did take 5 minutes or so up to th e time we went out, falling in, then called the roll and found the man was missing, and went looking around and trying to find him. It could not have taken a great deal of time because we had a long way to go, and we had to get going.
Q.19 - It would have taken 5 or 10 minutes then?
A.19 - Maybe 5 minutes but not 10, sir.

The Prosecutor declines to re-examine the witness.

Questioned by the Court.

Q.20 - You had to get another man to replace Thompson?
A.20 - Yes, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(8).

The witness withdraws.

Third Witness for the Prosecution, F-89348 L/Cpl Davis, S E, RHC, being duly sworn, is examined by the Prosecutor.

Q.21 - Will you give the Court your number, rank and name?
A.21 - F-89348 L/Cpl Davis, S E, The Black Watch of Canada.
Q.22 - Do you know the circumstances of Pte Thompson reporting back to his Section on the night of 8 Nov 44?
A.22 - No, sir, all I know is Pte Thompson was in at 10:30 that night.
Q.23 - How do you know that?
A.23 - That was my first day in A Coy. A bunch of the boys were all saying the new fellow never went on guard. I thought they meant me. Then Thompson came in and they jumped him. That is how I know it was 10:30.
Q.24 - You saw Thompson come in?
A.24 - Yes, sir.
Q.25 - At what time?
A.25 - Between 10 and 10:30, sir.
Q.26 - Did Thompson report in or just walk in?
A.26 - He walked in, sir.
Q.27 - Was there any NCO in the billet when he walked in?
A.27 - Yes, sir, they were all there.

The Defending Officer declines to cross-examine the witness.

Question by the Court.

Q.28 - Was L/Cpl Nicholas there?
A.28 - Yes, sir.
Q.29 - Did the accused report to him?
A.29 - L/Cpl Nicholas was there talking to him after he came in.
Q.30 - Had you seen Pte Thompson any time before he came in earlier

EKM

In the evening? Between 1730 hrs and 2330 hrs that night?

A.30 - No, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83 (B).

The Witness withdraws.

D-6 PAGE 1

First Witness for the Defence, the accused, F-95507 Pte Thompson, R.E. RHC, being duly sworn, is examined by the Defending Officer.

Q.31 - Pte Thompson, will you tell your story to the Court the circumstances on 8 Nov 44, the day on which you were charged with having disobeyed a lawful command? First tell the Court what instructions you received from L/Cpl Nicholas?
A.31 - Yes, sir, on 8 Nov 44 I had been transferred from C to A Coy. So Cpl Nicholas said you may be on guard tonight, to stick around until 5:30. At 5:30 I was there. Then I went out.
Q.32 - Did L/Cpl Nicholas definitely order you to be on guard, say you will be on guard at 5:30?
A.32 - No, sir.
Q.33 - You were there at 5:30?
A.33 - Yes, sir.
Q.34 - You received no other order from L/Cpl Nicholas?
A.34 - No, sir.
Q.35 - And when L/Cpl Nicholas did not call for you you left?
A.35 - Yes, sir.

Cross-examined by the Prosecutor.

Q.36 - Pte Thompson, you say you were there. Where do you mean?
A.36 - In the building, sir.
Q.37 - At what time?
A.37 - At 5:30, sir.
Q.38 - Who were you there with?
A.38 - I had a civilian boy, a kid, with me.
Q.39 - Anybody else?
A.39 - No, sir.

Re-examined by the Defending Officer.

Q.40 - At 5:30 were you in the room with the remainder of your Section?
A.40 - They were going on guard.
Q.41 - At 5:30 the guard were preparing to fall in?
A.41 - Yes sir.

Court

Q.42 - I think you told us that at 5:30 you were alone with a civilian kid. Now you say you were in there with the whole guard?
A.42 - I was by myself, there were other soldiers in the room, but not with me.
Q.43 - Was everybody else in that room getting ready to go on Guard?
A.43 - Yes, sir.
Q.44 - And you were in that room?
A.44 Yes, Sir.
Q.45 - You didn't think you were part of the guard?
A.45 - No, sir.
Q.46 - The whole room was going out?
A.46 - Not the whole room, just part of the men. Sir, I meant the rest of the guard were in that room getting ready.
Q.47 - Who was in that room, the civilian boy and what other people?
A.47 - No 8 Pl, sir, all of 8 Pl. But all of 8 Pl was not going on guard. The guard was getting ready to fall in. The remainder were still sitting around there.

In the Opinion of the Court and JA it is not necessary to comply with RP 83(B).

D-C PAGE 2

Second Witness for the Defence, F-32380 Cpl Brown, M P, RHC, being duly sworn, is examined by the Defending Officer.

Q.48 - Doyou know the accused, Pte Thompson?
A.48 - The first time I seen him was that night.
Q.49 - Do you know him?
A.49 - Yes, sir.

JA

Q.50 - What night
A.50 - On the night he was supposed to go on guard, 8 Nov, sir.

Def Officer

A.51 - Did you see the accused at supper time on the night of 8 Nov 44?
A.51 - Yes, sir.
Q.52 - What time was your supper?
A.52 - I'm not exactly sure, sir, usually about 5 o'clock.
Q.53 - And how late did it go on? How long did supper take?
A.53 - About 15 or 20 minutes, sir.

Cross-examined by the Prosecutor.

Q.54 - You say Thompson was supposed to go on guard. Will you clarify that? Why?
A.54 - After 10:30 I heard a Cpl tell him he was supposed to go on guard. They were waiting around, said he had to go on guard. I didn't pay very much attention.

The Defending officer declines to re-examine.

Questioned by the Court.

Q.55 - What was your job with respect to the accused at that time?
A.55 - I was 2 i/c of No 5 Sec.
Q.56 - Was the accused in No 5 Sec?
A.56 - No, sir, in No 4 Sec.
Q.57 - What was your system for mounting a guard then?
A.57 - At that time I don't exactly know. I wasn't there long.
Q.58 - On that night between 1730 hrs and 2230 hrs did you see the accused anywhere?
A.58 - No, sir, not that I remember.
Q.59 - Would you normally have seen him if he had been in his billets or around the unit lines?
A.59 - No, sir, I was not in the room myself. I was out.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Third Defence Witness, Capt C S MacLaren, RHC, being duly sworn, is examined by the Defending Officer.

Q.60 - Capt MacLaren, on the night of 8 Nov 44 would anyone who had not been assigned to a specific duty be in any way confined to quarters.
A.60 - No, we were in a rest area.
Q.61 - The men were free to go out?
A.61 - If they were not on duty, yes.

The Prosecutor declines to cross-examine the witness.

Question by the Court.

Q.62 - Could you tell, or explain to us, the policy of mounting a guard in the unit?
A.62 - The duty roster was made up and the CSM, or the COS, warned the guard for duty, the dress and the time they would parade.

RKM

Q.83 - Were they warned on meal parade or individually?
A.83 - I believe individually in that area, not on meal parades.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

The Prosecutor makes the following closing address.

Sir, in prosecuting this case I have realized that due to the evacuation of some witnesses I intended to call on the first charge they are not here. Therefore I have tried to present the case on the alternative charge of AWL 5 hrs. The accused himself has given us a statement that he might have been called on guard by L/Cpl Nicholas. It was therefore his duty to be in at 1730 hrs and find out if he was on guard. At 1730 hrs the guard was being mounted and if he was on hand common military knowledge whould have made him inquire from Cpl Nicholas as to whether he was on guard. He did not do so, from his own evidence. He further states he was in his billets alone with a civilian child at 1730 hrs. Sgt Bull states he went with the COS looking for Thompson in his billets and could not find him. If Thompson was in the billet alone then Sgt Bull and the COS when they looked in the billet would have at once seen whether he was or was not there. The accused further cotradicts himself when he tells the Court that the guard were in that room. So much for his going absent. L/Cpl Davis tells us that he saw the accused walk into the billet between 10 and 10:30 that night, 2200 and 2230 hrs, the normal time he should report in. There were NCOs in the room and L/Cpl Nicholson who spoke to him. I therefore consider, sir, that the alternative charge of AWL has been proven.

The Defending Officer makes the following closing address.

I still do not feel here that any of the facts that have been brought out by the prosecution have indicated in any way or form any evidence that Pte Thompson disobeyed a lawful command or that he was AWL. The first point I want to clear up is in the statement of the accused. He was asked if he was alone and he said he was, was with a civilian boy. I am sure he meant that although others were present in this large billet room they were not with him, and he was by himself with the boy. That was merely a misunderstanding on his part in some of the questions put to him, which he later explained quite clearly. Next, the accused has said the only order given to him was to stick around until 5:30 as he may be put on guard. It was certainly a highly ambiguous order. However the accused fully obeyed it. He was still in his room at 5:30, thus obeying the order. Then having received no further instructions he felt it safe to assume he was not on guard that evening. In discussing this with Thompson I ascertained he had just been posted to the Coy and he pointed out to the NCO that he had been on guard the previous night with his former Coy, C Coy. Even so, he had stuck around, and it was 5:30. I don't see how he disobeyed and lawful command when the only command given to him was to stick around until 5:30. Capt MacLaren stated that if a man was not on duty that evening it was perfectly proper to go out. He went out and returned at 10:30, the proper time, so I don't see how he can be called AWL. He preperly assumed he was not on duty, he had not been definitely told to go on guard, and he knew his unit was in a rest area, so naturally he thought he could go to visit a civilian friend in town for the evening and return at 10:30, which he did. From the facts proven the defence contends that he is not guilty of AWL of 5 hrs.

RKM

D-6 PAGE 4

The JA sums up as follows:

I will advise the court that on the first charge there is absolutely no proof on which they can convict in law. A finding of not guilty must be brought in. Regarding the second charge, it is a simple case of AWL. I am of the opinion that this Court, being composed of regimental officers, can decide that charge which involves very little law. As far as the law goes you must have the start of the absence, the end of the absence and some continuity. You must believe this man had an absence without leave. The accused has raised the defence that he waited until 5:30 and then without hearing further went out. His Captain testified that unless he was on duty he could go out at that time. Now if there are no further questions I shall only remind you that under our law every man is innocent until he is proved guilty beyond reasonable doubt. The onu of proof is always upon the prosecution. By reasonable doubt I mear a real and substantial doubt, not an idle conjecture or fanciful doubt conjured up in your minds. It must be a real and substantial doubt which you as reasonable men find in your minds. But if you have such a doubt you are bound by law to construe that doubt in favour of the accused.

Mr.President, are there any further matters on which you wish me to advise the Court?
A. - No.
Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?
A. - No, sir.
Mr. Defending Officer, are there any further matters on which you wish me to advice the Court?
A. - No, sir.

D-7 PAGE 1

The Defending Officer makes the following plea in mitigation.

I would like to briefly run over the background and some of the events leading up to the time at which the accused went AWL, and to outline briefly his particulars of service. He enlisted in the army in 1941 in the RCA, received training in Canada, and proceeded Overseas in the Artillery in 1942. In August, 1944, the accused was transferred to the infantry as a reinforcement and proceeded on a short remuster course. While he was on it, I believe it lasted about 3 or 4 weeks, the accused was ill a good part of the time and received only about 5 weeks training. From the very beginning of the time when he was transferred from the artillery where he liked it very much and had friends, he considered himself a sort of square peg in a round hole. He was put at the front when he had almost no conception of what infantry work was like at all. He felt strange and inferior, and also felt he did not know what it was all about, felt incapable of doing a good job. That is the frame of mind in which he left England and came Overseas as a reinforcement. He says that he has never since that time felt confident that he could do the job of a soldier in the infantry. After a short preiod in the line, when the unit came out to rest at Lierre he was transferred from his original coy, C Coy, to A Coy, and then on his first day there found himself under arrest and on a charge, as he felt, very unjustly. That was his frame of mind. He was browned off. A frame of mind officially not recognized but nevertheless in that state of mind his only thought was to get out of it and thinking like that he acted on it. He was absent for 46 days, 21 hrs and some minutes. He spent most of that time with a civilian family he had met. At the end of the period he told me that he gave himself up to a Captain, I believe it was an officer attached to the RTO, who, as the evidence shows, called the Provost and turned him over. His previous record is clean. His MFM 6 shows no serious crimes. Further I feel that if it is at all posible that leniency should be shown to this man, and that he should be given an opportunity to try and get his bearings straightened out. Under these circumstances I think he might possibly settle down and do a good job as a soldier.

EXHIBIT "A" FHC

SUMMARY OF EVIDENCE

In the case of F-95507 Pte Thompson R.E., 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Active Service is charged with (1) A.A. Sec 9(2) and (2) A.A. Sec 15(1)

The commanding officer directs that the evidence be taken under oath.

FIRST WITNESS for the prosecution: L-103383 Pte Rapley D.E. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am L-103383 Pte Rapley, D.E. a soldier of No 4 Sec of 8 Pl, "A" Coy, 1st Bn The Black Watch(RHR) of Canada, On 8 Nov 44 at approx 1600 hrs, L/Cpl Nicholas, in my presence, said to Pte Thompson, "You will be on guard tonight at 1730 hrs" or words to that effect.

The accused declines to cross examine.

Witness evacuated before signature obtained. Certified true statement.

(Sgd) W.D. Langley Lieut
Officer detailed to take Summary.

SECOND WITNESS for the prosecution: D-81862 Pte Ryan, T.P.M. of 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am D-81862 Pte Ryan, T.P.M. a soldier of 7 Pl "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 8 Nov 44 at approximately 1730 hrs, I was acting as Company Orderly Sergeant for "A" Coy. Sgt Bull who was Guard Commander reported the absence of one of his guards, on enquiring into the matter I found out the absentee was Pte Thompson, I secured a replacement.

The accused declines to cross-examine.

(Sgd) T. Ryan Pte

THIRD WITNESS for the prosecution: A-29034 Sgt Bull, G.K. 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am A-29034 Sgt Bull G.K. on the 8 Nov 44 I was Guard Commander of the S.O.R. Guard when falling in my guard at 1730 hrs I found one man short of the guard. I reported this to the C.O.S. D-81862 Pte Ryan, T.P.M. who secured another man in place of Pte Thompson.

The accused declines to cross-examine.

(Sgd) G.K. Bull Sgt

FOURTH WITNESS for the prosecution: F-89348 L/Cpl Davis, S.E., 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am F-89348 L/Cpl Davis, S.E., 8 Pl, "A" Coy, 1st Bn The Black Watch (RHR) of Canada. At 2230 hrs 8 Nov 44, I was present when Pte Thompson reported to this Sec Leader, K.57511 L/Cpl Nicholas, W.H., who has since left the Bn.

The accused declines to cross-examine.

(Sgd) Davis L.E. L/Cpl

FIFTH WITNESS for the prosecution: Capt. C.S. MacLaren, 1st Bn The Black Watch (RHR) of Canada, sworn, states:

I am Capt C.S. MacLaren, A/O.C. "A" Coy, 1st Bn The Black Watch (RHR) of Canada. On 9 Nov 44 having been detailed to prepare a Summary of Evidence against Pte Thompson, I had him released from custody in order that he might be present at the taking of the evidence. One of the witnesses, Sgt Ball, was not available until after 1800 hrs so at approx 1630 hrs I turned Pte Thompson over to the custody of L/C Schultz, (Now Pte) who was C.O.S. on that date and instructed L/Cpl. Schultz to see that Pte Thompson was guarded and fed. At approx 1830 hrs L/Cpl Schultz reported to me that he could not locate Pte Thompson, I then ordered an immediate search of the billets and vicinity but he could not be located.

The accused declines to cross-examine.

(Sgd) C.S. MacLaren Capt

SIXTH WITNESS for the Prosecution: B-2606 Pte Schultz, W.J. 1st Bn The Black Watch (RHR) of Canada, sworn states:

I am B-2606 Pte Schultz, W.J. a soldier of 7 Pl, "A" Coy 1st Bn The Black Watch (RHR) of Canada, on the afternoon of 9 Nov 44 at approximately 1630 hrs Pte Thompson was put under my custody by A/Cpl MacLaren. At supper parade I detailed two men to see that he was fed as I had other duties as C.O.S. After supper Pte Thompson came to me and asked if he could go and wash his mess tins and return them to the kitchen as Capt MacLaren had borrowed them for him, I foolishly let him go without an escort, he washed the mess tins and returned same and then disappeared. At approx 1830 hrs I notified Capt MacLaren that I could not find Pte Thompson.

The accused declines to cross-examine.

(Sgd) W.J. Schultz Pte

SEVENTH WITNESS for the prosecution: Documentary evidence purporting to be signed by 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M. Police.

I certify that in my opinion, the attendance of 14356299 L/Cpl Smith W., 244 H.Q. Provost Coy, C.M. Police is, owing to exigencies of the service (in case of military witnesses) expense or loss of time involved or illness, not ready procurable; a written statement of his evidence signed by him has been read overto the accused and is attached hereto as Exhibit "A". (Sgd) W.D. Langley Lt
Officer detailed to take Summary

I do not require the attendance of 14356299 L/C Smith W for the purpose of cross examination.

(Sgd) Thompson, R.B.

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writting and may be given in evidence.

After caution the accused states:

"I have nothing to say."

Rules of Procedure 4 (C)(D)(E)(F)(G) have been complied with. I certify that the foregoing Summary of Evidence consiting of two pages was taken down by me in writing in the presence and hearing of the accused this 11 day of January 1945.

(Sgd) W.D. Langley Lieut
Officer detailed to take Summary.

(Sgd) ? Ballard CMDC A WDL
244 HQ Provost Coy CMP

CHARGE Army Form B 252
(See King's Regulations)

1st Battalion Black Watch (Cdn) Regiment
~~Battery~~
"A" Coy. ~~Squadron~~
~~Troop~~ or
Company

CHARGE against No. B95807 Rank Pte

Name THOMPSON, R.B. WHC

Place Date of Offence

OFFENCE WAS AWOL from his unit from

until

apprehended by the Military Police in KERK

STRAAT BOOM about 1600 hrs 26th Dec 1944.

Names of Witnesses :—
L/Cpl SMITH W. 244 HQ Provost Coy CM Police
L/Cpl Cobb, J.W. 244 HQ Provost Coy CM Police
Cpl Clenaghon 606 (V2) Coy CMP i/c Guard
Receipt for soldier and certificate of arrest under AA 3 s 103 attached herewith.

Signature of O.C. Battery,
Squadron, Troop or Company

Punishment
Awarded

(Sgd) ? Apt 7Base Sub Area.
By whom
Awarded

Adjutant.

P.T.O.

20133. Wt.W13477/P69. 2,000,000. 5/42. K. & H. Ltd. G.S.O.47.

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Ex "A"

Statement of **EVIDENCE** in the Case of

No f965807 Pte Thompson, R.M.
"A" Coy
1st Battalion Black Watch
2nd Canadian Division

Sir,

At BOOM on 26th Dec 1944 about 1600 hrs on the information of the NTO BOOM I proceeded to KRUIK STRAAT accompanied by L/Cpl COBB, J C.M.Police. There I saw the above named soldier. I aksed him for his pass and he said he had no pass. He then admitted he was absent. I arrested him and conveyed him tothe TOWN GUARD ROOM ANTWERP and handed him over to the NCO i/c Guard to be detained.

In the Field
26th Dec 1944

(Sgd) 14356299 W Smith L/Cpl
244 HQ Provost Coy
C.M. Police

Sir,

I haveread over and corroborate the above statement.

In the Field
26th Dec 1944

(Sgd) 14382753 L/Cpl J M Cobb
244 HQ Provost Coy
C.M. Police

REMARKS

Y FHC ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.95507	Pte	Thompson, H.E.	1 FHC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recommendations for special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For n/a ..... times.

For (Supplementary MFM 6) ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. ~~Particulars of convictions by a court martial or civil court are set out~~ in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused has the following entries in his~~ Conduct Sheet ~~which are not~~ dealt with ~~in the Schedule~~.

4. The accused has been awaiting trial on the present charges for n/a days in civil custody; and for 20 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which n/a days were spent in hospital.

5. The present age of the accused is 21 years

6. The date of his attestation is 29 Dec 41

~~Army Reserve military service~~

7. The service which the accused is allowed to reckon is 3 1/12 years

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ n/a

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of n/a .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*29672) Wt.30721/3701 32,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		n/a		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 Jan 45 day of

??????????????? Capt & A/Adj
OIC Records 1 KHC

. SUPPLEMENTARY

3/17 MFM 6 (AFD 122) 40/PAS/130 (5413)

No. 95507 Name Thompson, Z R.E. Sqn, Battery, or Company Corps Date of enlistment 29 Dec41 GC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award (if of earlier date than entry in this column)	By whom awarded	Remarks

Certified true copy as per Regimental Documents in my possession

(Sgd) ??????????????Capt
Officer i/c Records 1 RHC

FHC

(PTO)

COUNTER NUMBER 589060

HOUR 20.30

OPERATOR'S INITIALS DRW

RELIEVING OPERATOR

4G-76.

A/Sdr.
Snr. Thompson. R.K.

RECORDED AT CMHQ IN AB 160. 46-76

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/FA/B/1098 (8144)
4/38B

Convened by Order of Brig JC Stewart,CBE,DSO Comd "C" Gp,CRU dated 17 Nov 44

RECEIVED 4 DEC 1944 JAG Directorate, C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-17288	Gnr	Robert Kenneth	THOMPSON	1 CARU

PROCEEDINGS REVIEWED 4 Dec 44 (A/Bdr)

REVIEWING OFFICER, JAG DIRECTORATE

JAC

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) N Germany on (*date(s)*) 20 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to Maj [illegible] as shorthand writer ? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M.Thurlow MBE	1 CARU
Member	Capt	G.K.Simpson	1 CARU
Member	Lieut	J.A.Davie	2 CARU
Judge-Advocate	.....	.....	.....
Prosecutor	Lieut	D.S.O.Cox	1 CARU
Defending Offr	Capt	J.H.Kelly	1 CARU

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A-17288 Gnr (A/Bdr) Thompson, R.K. 1 CARU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 18(4)	Guilty	Guilty	
Alt 2nd	AA Sec 40	(Withdrawn by Prosecutor R.T.P.)		
3rd	AA Sec 40	Not Guilty	Guilty	
~~4th~~				
~~5th~~				
~~6th~~				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for Four (4) months Cdn.

(Sgd) ..... 30 Nov 44 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I vary the sentence so that it shall be as follows, 120 days and confirm the finding and the sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 29 Nov 44 Commanding ..... J. C. STEWART, Brigadier, Commanding "C" Group, Canadian Troops. Cdn. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A 17288. Gnr Thompson R.K.	29 Nov. 44	[signature] ADM OFFR 1 CARU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 3rd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 3rd charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. No. Do you intend to call witnesses on your behalf ?

Ans. No. Are they witnesses as to character only ? Ans.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the 3rd charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No, I am satisfied with the evidence already given.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. and Ex. respectively.(2)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

H.Q. CDN REPL UNITS

21 NOV.44

COND
"C" Group,
CRU

FOCM - 20 Nov.44
A-17288 Gnr (A/Bdr) THOMPSON, R.A.- 1 CARU

1. Herewith the m/n proceedings.

2. Attention is drawn to the statement of the accused that he is Category "A". He has been of good conduct for nearly 2 years. The Court respectfully suggests that consideration might be given to an early release of this man and a transfer to a unit which would enable him to be put on active service. suspended sentence

(R.H. Miller) Major
President of the Court.

Copy to:
O i/c Admn.

CHARGE SHEET

The accused, A.17288 Gnr (A/Bdr) Robert Kenneth THOMPSON, R.C.A., on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE,

FIRST CHARGE
A.A. Sec 15(4)

STEALING PUBLIC PROPERTY,

in that he,
at Bordon, Hants on 7 Nov 44, stole three bags of coke, public property, from a vehicle in the M.T. Park No. 1 C.A.R.U.

SECOND CHARGE
A.A. Sec 40
(Alternative)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,
at Bordon, Hants, on 7 Nov 44, was improperly in possession of three bags of coke, public property.

THIRD CHARGE
A.A. Sec 40.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,
at Bordon, Hants, on 7 Nov 44, improperly and without authority used Cdn Mil Veh No. CZ-4206532.

Appointed Deputy of the JAG Can Army O. pursuant to K R(Can) 5 & 6 and O.R.O. 4756(1)
for D.J.A. H.Q.C.A.

(W.A.TOWNSLEY) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.
R.C.A. Canadian Army Overseas

Dated at Bordon, Hants,
this 10th day of
November 1944.

To be tried by Field General Court Martial,

Brigadier,
Commander, "C" Group, Cdn Rft Units.
(Convening Officer)

Bordon, Hants
17 Nov 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-17288	Gnr	(A/Bdr)	Robert Kenneth	THOMPSON	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[illegible] named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet[illegible] attached and on (*date*) this date endorsed by me, (or [illegible]" To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([illegible])
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person[illegible], and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. [illegible]
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. MILLER, ED	HQ CRU

MEMBERS.

Captain	E.E. CAMPBELL	1 CARU
Lieutenant (Rank.)	J.M. DEWIE (Named or detailed. RP 106.)	2 CARU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 17 Nov 44

(Signed personally. RP 105 fn 2.)

Brigadier, (Rank.)

Commanding "C" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MFB 246

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No. A17288 Bdr Thompson, K.

of No.1 Cdn Arty Reinf. Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station. No1CARU

Date. 20 Nov-44

R.R. Willox Capt
Medical Officer
No.1 Cdn Artillery Reinforcement Unit

F.G.C.M. IN THE CASE OF

A-17288 Gnr(A/Bdr) THOMPSON, R.K. 1 CARU

20 Nov.44

- P R O S E C U T I O N -

TRIAL ON THE THIRD CHARGE

PROSECUTOR: I wish to call witnesses to substantiate the charges which are not included in the summary.

DEF OFFR: I have no objection.

WITNESS
F-76944 Sgt WITHERDEN, E.J. on strength of No.1 C.A.R.U. having been duly sworn states:-

Q. What is your job at No.1 C.A.R.U.?
A. I am Transport Sgt.

Q. In what capacity were you working on 7 Nov. 44?
A. Vehicle despatching.

Q. Can any vehicle be taken out of the vehicle park without instructions from the Despatcher?
A. No sir.

Q. Did Bdr Thompson on the 7 Nov.44 ask you if he could use the vehicle?
A. Yes, I said sure as it was a spare vehicle at that moment ~~and~~ if he had it authorized by the Transport Officer.

Q. What did you mean by that?
A. Well, there was a vehicle which he could use, if he had a work ticket.

Q. How long has Bdr Thompson worked with the Transport Section of No.1 CARU?
A. 1½ years.

Q. Do you think that he should know that you yourself could not authorise a journey?
A. Yes sir.

Q. Then your authority was to allow vehicles to be taken from the Park if they had a work ticket?
A. Yes sir.

Q. Is this the work ticket for the vehicle in question?
A. Yes it is.

PROSECUTOR PRODUCES WORK TICKET AND IS MARKED EXHIBIT "A" BY THE COURT

Q. Is this work ticket authority to take a journey to Borden?
A. No sir., the work ticket finished at 11.15 .

Q. Could he have authority to take the truck out in any other form?
A. No sir.

Q. Is there any other work ticket for this vehicle?
A. There is not.

Q. Were any of your trucks carrying civilian coke?
A. No not to my knowledge.

Q. were any carrying civilian coke on 7 Nov.44?
A. No sir.

Q. Is this the work ticket for the truck that Thompson asked that he could use?
A. Yes sir.

Q. Did Thompson ask you if he could use any particular truck?
A. Yes sir, No.532, and this is the work ticket for that truck.

CROSS EXAMINATION:

Q. What was this vehicle allotted to on this particular day?
A. No particular duty, it was a spare vehicle.

Q. What particular duty did it have at that time?
A. To take personnel to Borden station.

Q. When he asked you about using the vehicle, what did he say to you?
A. He asked me if he could use the 532.

Q. Where was the work ticket?
A. The ticket and log book was in the transport office.

Q. Where had to truck been prior to Thompson taking it?
A. Borden station.

Q. How did he get the work ticket?
A. He just went in and took it, I imagine.

Q. Had the work ticket been completed up to that time?
A. Yes, s ir, up to 11:15, the driver completed it.

Q. Did you have the work ticket and log book in your possession as despatching NCO.
A. Yes, Sir, it was in my possession until I left the office.

Q. Then how did he get it?
A. He just w ent in and took it from the office, as I was not there.

Q. Could I have went in and taken the work ticket?
A. Yes, Sir.

Q. Did you see this vehicle go out?
A. No, Sir.

Q. Did you see it come in?
A. No, Sir.

Q. The only reason that you have to believe it came in at 11:15 was the fact that it was completed up to that time on the ticket?
A. Yes, Sir.

Q. Could the Driver have completed the work ticket in the afternoon rather than at 11:15.
A. Yes sir., any time after the journey.

Q. Is the vehicle considered to be on an authorized trip if the work ticket is with the vehicle?
A. No sir, if he had a trip authorized to Farnham, he could not be found in Aldershot.

RE-EXAMINATION BY PROSECUTOR

Q. If a work ticket is made out to go to the Borden Station, does that authorize the Driver to go to the town of Borden?
A. The ticket is made out to the Borden Area, and he could have gone anywhere within that area, but he must be on duty, and cannot make a trip on his own.

QUESTIONS BY THE COURT

Q. Was it not your duty to see that he had a work ticket?
A. No sir, he should have known the score.

Q. But we don't, Explain just what you mean by the "score".
A. Well, he should have turned in this transport work ticket to the transport officer and had it signed by him, authorizing this particular trip.

In the opinion of the Court it is unnecessary to comply with RF 83(B)

- P R O S E C U T I O N -

SECOND WITNESS
D-76062 Cpl. HAWES, C.J. on strength of No.1 CARU, having been duly sworn states:-

Q. What do you do at No.1 CARU?
A. I am at the M.T. Section, just now, I am a driver.

Q. Did you see Thompson at 12:10 hours 7 Nov.44?
A. Yes sir

Q. Where? And what did he say?
A. I ca me down to the Transport Truck that we were working on before dinner, and Thompson drove into the M... park with my 8 cwt truck, the last three numbers of are 738, and he stopped in the yard and he said he had some coke, and I asked him where he was taking the coke and he said to his home. He said he had permission to take the coke, and I helped him load three bags of coke from a C cwt which was in the M.T. Yard. We put it in my truck the 8 cwt. I wanted to stay behind and finish my work, but he said he wanted me to come with him, so we drove up to his home in Borden. We both got out of the truck, went around to the back, took out one bag and put it in a small lean-to between the two houses. When we came out to get another bag of coke, there was a Constable standing at the back of the truck.

PROSECUTOR POINTS TO THREE BAGS OF COKE IN ROOM AND ASKS:

Q. There are some bags over there with something in them, do you recognize them? Also are those the bags in question?
A. Yes sir, I believe they are.

Q. When you put the coke in the lean-to, did you put a whole bag in there?
A. Yes sir, we emptied the bag into a bin in the corner of the lean-to.

Q. What did you do with the bag?
A. Thompson and I took the bag back to the truck., and the Policeman asked Thompson------

OBJECTION BY DEFENDING OFFICER. I object to the witnesses continuing his statement as it has nothing to do with the vehicle.

PROSECUTOR: I will drop the matter.

CROSS EXAMINATION:

Q. Had you been driving this vehicle earlier in the day?
A. Yes I took a Quarter master Sergeant down to Borden in the morning and we came, and my next trip was this one with the accused.

Q. What time was this?
A. About 9:30.

Q. Had the vehicle been used again that morning?
A. No sir, not by me.

Q. Could anybody else have used it?
A. No not to my knowledge.

Q. When you were out with the QMS did you have a work ticket?
A. Yes sir. It was for Borden Area.

Q. Is this trip the last authorized one before your trip with Thompson?
A. Yes sir, because after each trip, I turn my work ticket and log book into the M.T. Office.

Q. When you bring a work ticket into the the M.T. Office, do you fill in the times?
A. No sir, we might run a whole day before doing this, as we would have a work ticket for each truck in the Borden Area.

W7

Q. For this trip with the WMB, will you look on the work ticket and see what time is indicated there?
A. On here it says out at 1400 hours and in a 1445 hours to the Borden Station.

Q. What about 9 a.m in the morning? Where does the 1400 hours come in?
A. My mistake, it was 1000 hours, I checked in again at 11.15 hours.

Q. In what column is that of the work ticket?
A. It is in Column 15 of Exhibit "A".

Q. Did you record 11:15 in the work ticket(Exhibit "A") in column 15?
A. Yes sir.

Q. When did you?
A. When I came in from the trip?.

Q. What did you do with the work ticket?
A. I took it back to the M.T. office.

Q. Did you drive the vehicle without a ticket? for the accused
A. They were in the truck when we went out.

Q. How did they get in the truck?
A. I don't know?

Q. Were you curious and checked to see if the work ticket had been signed?
A. No sir, since it was in the Borden area.

Q. You were quite happy about the situation?
A. Yes sir.

Q. Was it normal for a Bdr to tell you that he was taking a truck?
A. Yes sir, and N.C.O. would have that authority.

QUESTIONS BY THE COURT

Q. You say a trip was authorized to take an NCO to the Borden station?
A. Yes sir

Q. The first entry under the date 7 Nov.44 was a detail to take a trip "Trpn kit stores" is that the trip to Borden?
A. Yes sir, that is the Trip to Borden station.

IN the opinion of the Court it is unnecessary to comply with KR 83(a)

SUBMISSION BY DEF OFFR:

I submit that on the third charge that no evidence has been offered that this trip which appears to be taken was unauthorized. The evidence of the two witness, the Sgt and the Driver indicates that the system of handling work tickets and authorizing such journeys was very loose and an NCO would have the use of trucks at his own wish. Therefore then since this work ticket was issued for this truck ~~trip~~ for the Borden area it would seem that this truck could be in the Borden area any time of that day. The use of the truck for private purposes without proper authority-- I submit that the authority for the use of the truck was the authority of the Transport Sergeant. The truck had been authorized that date in the Borden area. There is no evidence to indicate that it was put to an improper use

REPLY BY THE PROSECUTOR

In reply may I point out, that the truck was put to in improper use, namely, carrying coke to a private residence. Bdr has been with the M.T. Section for a year and a half and would know the Army regulations with regards to the use of army vehicles. To use an army vehicle, the work ticket must be filled out and signed by a Transport Officer. The Sgt in his evidence said that he could not authorize the vehicle going on a journey and from the work ticket it appears that nobody else authorized this particular journey.

ANSWER BY DEF OFFR: The statement by the Prosecution does not agree with the evidence given by the Sergeant.

THE COURT WILL BE CLOSED TO CONSIDER THE SUBMISSION.

THE COURT RECOPENS:

PRESIDENT: The finding of the Court being subject to confirmation will not be announced, but will be promulgated at a later date.

TRIAL ON THE FIRST CHARGE. Summary read - B

Prosecution have notified Defence that 3 unreg case added evidence to that in Summary

- P R O S E C U T I O N -

FIRST WITNESS: as the coke being Public Property.
D-13953 Bdr. McCLATCHIE, S.W. on strength of no.1 CANU having been duly sworn states:-

Q. What is your job at 1 CANU?
A. I am in charge of the fuel.

Q. Do you know anything about the truck full of coke being in the M.T. Park?
A. I loaded a truck of coke at 11:30 hours 7 Nov.44 and sent it to the M.T. Park with a full load on, and the truck reported back to me at 1330 hours.

Q. Did you notice anything missing from it?
A. No sir.

Q. Why did you not?
A. Well it looked like a normal load to me, so I just asked my men to deliver it.

Q. Whose coke was it?
A. It was army coke, I was delivering it to the Officers mess.

Q. Could you recognize any of this coke again?
A. No sir.

Q. Where was this truck left?
A. I could not say, as I didn't go to the M.T.Park with them.

Q. Who was the Driver.
A. Don't know sir, as we have a different driver ever day.

Q. Was there any other truck with coke on it that day?
A. No sir.

Q. Are you the only person who can get at the coke at this camp?
A. Yes sir.

Q. If anyone else was given permission to get coke, how would they go about it?
A. They would have to go to the Guard Room, as there is a key left there in case someone needs some coke.

NO CROSS EXAMINATION

In the opinion of the Court it is unnecessary to comply with RP 83(3)

SECOND WITNESS:
D-76062 Gnr. HAWES, C.J. (Already sworn)

Q. You have already told us that you took coke from the M.T. Park, Did you know what truck it was in?
A. It was in a 15 Cwt belonging to this Unit.

Q. Was there any other truck that had coke on it?
A. No sir.

Q. Did Thompson say anything about the Coke?
A. He said he had some coke, and he had permission to take it.

Q. Was there anything said about it being army coke?
A. No there was nothing said.

Q. Was the authority quoted for taking this coke, army authority?
A. Indirectly yes. He said that the Sgt-Major gave him permission. Later when he was questioned by the Police Officer, he said that he didn't have permission. He said that he had bought the coke, and then retracted this statement and said that he got it from the M.T. yard at 1 CARU.

Q. Did he say whose coke it was?
A. No sir.

CROSS EXAMINATION

Q. Have you ever seen any coke lying on the ground at the M.T. yard?
A. No sir, frankly I have not.

Q. Have you ever seen a vehicle come and be swept out by the Driver?
A. Yes I have seen it done, but to my knowledge I have never seen any coke lying around.

Q. Well what happens to the sweepings of coke?
A. I dont know.

Q. Where did you get the coke?
A. We got it from the 1½ cwt.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

-oo-

THE COURT WILL ~~NOT~~ ACCEPT THE PLEA OF GUILTY

THE PROSECUTOR WITHDRAWS THE SECOND ALTERNATIVE CHARGE.

CHARACTER WITNESS

FIRST WITNESS:
Capt. E.W. PLATT, on strength of No.1 CARU having been duly sworn states:-

Q. What is your position at No.1 CARU?
A. I am Transport Officer.

Q. Will you tell the court your opinion of the accused?
A. Bdr Thompson has worked in our section for about two years. During that time he has always been satisfactory and I have never had any trouble with him at all. He has given us satisfaction until the day this happened.
NO CROSS EXAMINATION.
QUESTION BY THE COURT

Q. Was it you who recommended his promotion to Bdr?
A. I am not sure about that, but I believe ~~--~~ I did, as he came to us as a Lance- Bdr.

In the opinion of the court it is unnecessary to comply with RP 83(B)

PLEA IN MITIGATION: NOTE E-3

Sir:
May I point out to the Court that up until about a year ago he has been in trouble on several occasions, but none of them very serious, and has had no trouble during the last year. Capt Platt for whom he works has evidently found him satisfactory as he recommended his promotion. No good purpose will be served by removing him to a position where he will not be of any further use to the army of himself. He is category "A", and I ask~~ed~~ that the court show lenency in order that he may again serve a useful purpose in the Army.

THE COURT WILL BE CLOSED TO CONSIDER THE SENTENCE

SUMMARY OF EVIDENCE in the case of No. A-17888 A/Bdr. Robert Kenneth THOMPSON, on strength of No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on Oath.

FIRST WITNESS
For the prosecution

John J. Timmins, Police War Reserve Constable of the Hampshire Joint Police Force, having been duly sworn states:

I am a Police War Reserve Constable of the Hampshire Joint Police Force stationed at Whitehill. At 12.30 pm on Tuesday 7th November 44, I was on duty in Chalet Hill, Bordon, when I saw a Military Truck No CZ 420653Stationary in Somerset Avenue, opposite a bungalow. I saw two Soldiers, one a Private and the other a Bombardier, unloading sacks from the rear of the vehicle. I saw them carry one large sack to the rear of the Bungalow. I went to the Bombardier and said, "What have you taken in, in that sack" He said "Coke, why" I then pointed to two smaller bags in the rear of the truck and said, "Do they contain coke as well" He said "Yes" I then said, "Where did you get this from" He said, "I bought it at the Railway Station" I said "From a proper Coal Merchant, and if so, who was he" He said " I might as well tell you, I took it from the Camp" I said "Without permission" He said "Yes". I said to him "I am taking you to Whitehill Police Station." I escorted him there, where I cautioned and charged him. I took possession of the bags of Coke.

The accused declines to cross-examine this witness.

J. J. Timmins
John J. Timmins

SECOND WITNESS
For the prosecution

B-78062, Gnr HAWES, Clinton Jackson, No 1 Canadian Artillery Reinforcement Unit., having been duly sworn states:

I am B-78062, Gnr Hawes, Clinton Jackson No 1 Canadian Artillery Reinforcement Unit, at 12.30pm on Tuesday 7th November 44, I was instructed by Bombardier Thompson to convey him in a truck with some coke to his home in Somerset Avenue. We loaded the coke into 3 sacks from a truck in the M.T. Yard at No 1 C.A.R.U. I assisted to unload at his house, when Bombardier Thompson was questioned by a Policeman I don't know whether Thompson had permission to take the coke or not. I merely obeyed his instructions.

The accused declines to cross-examine this witness.

G.N. Hawes C.J. B78062
B-78062, Gnr. Hawes, C.J.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on Oath and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

H. Macnamara Capt. RCA
(W.L. MacNamara) Capt., R.C.A.
Officer detailed to take the Summary of Evidence.

Bordon, Hants.
10 Nov 44.

DATE (1)	FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING ORS Type (8)	LUBRICATING ORS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Dev (18)
			Brought forward from Reverse														
N																	
11	Own Unit	Personnel	Bordon	Bentley	Tilbatt Capt	Capt Batt				20		15 2	0830				
P																	
12	P 11	Guards Polaire	BORDON	AREA	RETURN												
13	Own Unit	Guards Polaire	Bordon	Area	Return												
Q																	
R																	
S																	
T																	
U																	
V																	
W			O-127														
X																	
Y																	

M.P.G. for week ..... or totals carried to Work Ticket No. .....

LINE	SPECIAL INSTRUCTIONS TO DRIVER	DATE	DRIVER'S REPORT OF BREAKDOWNS, ACCIDENTS AND DEFECTS	SIGNATURE OF DRIVER	COUNTERSIGNATURE
					Rank

TRANSPORT WORK TICKET

A.F.G. 3518 (Revised 1942)
40 P&S/400(1749)

No. A. 16.

MAKE OF VEHICLE: Ford | CLASS: 8 Cwt | UNIT: No 1 CARU | W.D. No. C2 | MONTH & YEAR: Nov 44

DRIVER'S NAME: Hawes GJ. 4206532 | SECTION: M.T. - Hanson Gp

DATE (1)	FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	From (4)	To (5)	Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Day (18)
		Brought forward from Work Ticket No.															
1 A	Gun Unit	Rations	Bordon	Area	Return	Cpl Richards RE							0645	2/30			
2 C	"	"	"	"	"	Cpl Platt RE							0645	2/30			
3 D	"	"	"	"	"	Cpl Platt RE							0645	2/30			
4 E	"	"	"	"	"	Cpl Richards RE				6½			0645	2/30			
5 F	"	"	"	"	"	Cpl Platt RE							0645	2/30			
6	Gun Unit	Kit Stores	Bordon	Area	"	Cpl Platt RE							0645	2/30			
7.	Gun Unit	Officer	Bordon	Bramshott	"	Cpl Platt RE				10			0645	2/30			
		P.P.S.	Bordon	Area	"	Cpl Platt RE			24		21	3	1400				
8 J	"	N.A.A.F.I	Bordon	Bramshott	"	Cpl Platt RE				21	19	2	1000				
8 K	"	Personnel	Bordon	Area	"	Cpl Platt RE							1300				
9 L	"	Ammo	Bordon	Bramshott	"	Cpl Platt RE				17	7	23	1	1000			
9. M	"		Bordon	Area	"	Cpl Platt RE				17	7	23	1	1000			
						Cpl Platt RE				23		22	1	1030			

M.P.G. for week

or totals carried over.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
A-17288	A/Bdr	THOMPSON, B.K.	No 1 C.A.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec15 (1)	N/A times	5 times
For A.A. Sec 40	N/A times	1 times
For ~~A.A. Sec 24 (2)~~	times	~~1~~ times
For A.A. Sec 15(3)	times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct ~~N/A~~

~~or~~

There are no entries in the conduct sheets of the accused ~~N/A~~

2. ~~The accused has not been previously convicted, or~~ ~~N/A~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 53 of the Army Act, are set out in the schedule annexed to this statement.~~ ~~N/A~~

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for ~~N/A~~

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for ~~N/A~~ days in civil custody, and 15 days in military custody, making a total of 15 days, of which ~~N/A~~ days were spent in hospital ~~N/A~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 33 years 7 months ~~N/A~~

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8 Apr 1940 ~~N/A~~

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 7 months 2 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 7 Months 2 d ays service.

9. The accused is entitled to reckon 4 yrs 7 months 2 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to,~~ no military decoration ~~or military award~~ ~~(or is in possession of, or entitled to (state any military decoration or reward))~~ ~~N/A~~ C.V.S.M. & Clasp

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental rank of ~~N/A~~

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of ~~N/A~~, ~~dated~~ ~~N/A~~ and in his regiment ~~(or corps or department)~~ the rank of ~~N/A~~, ~~dated~~ ~~N/A~~.

W.L.57637/1519 20M. 5/44. P. Ltd. TSI-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-17288 *Rank* A/Bdr *Name* THOMPSON, R.K. of No 1 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating there convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	FIELD 10 Mar 43	WOAS, AWL from 2359 hrs 30 Jan 43 to 1240 hrs 28 Feb 43 (28 days 12 hrs 41 mins) A.A. Sec 15 (1) A.A. Sec 24 (2)	30 days detn. Placed under stoppages to the amount of £2-7-2d (Loss of kit)	3 days
F.G.C.M.	FIELD 17 Dec 42	WOAS, AWL from 2300 hrs 29 Nov 42 to 1500 hrs 11 Dec 42 (Absent 11 days 16 hrs) A.A. Sec 15(1)	60 days Detn Ffts 7/8d cost of Apprh'n	27 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of Nov 44

H.L. Thorne Major.

(H.L. Thorne) Major Admin Officer No 1 CARU

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of A/Bdr (7 months 26 days) years, Date of Promotion 16 Feb 44

In the rank of years,

In the rank of years,

(INSTRUCTION—If any matter in any of the above paragraph cannot be stated from the regimental books, the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

No. A-17285 Name THOMPSON, R.K. Sqn, Battery, or Company — Corps R.C.A. — Date of enlistment 5 Apr 40 — OC Badges — Service or Proficiency Pay N/A — 3/17 MFM 6 (AFB 1225) 10/FAR/136 (3418)

Date of last entry in Company Conduct Sheet 16 Jul 40 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No X 1. — Signature OC Company, etc Sgd: D.M. Cooper, Maj. C.O. 26 Coy. Fd. Bty., RCA. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Previous sheet destroyed 8 Oct 40 on completion of 6 mos service in accordance with CARO 2084. Last entry 16 Jul 40 Sgd: D.M. Cooper, Maj.									
Field	20/3/41	Gnr.		Sec.15(1) AA AWL from 2359 hrs 20/3/41 to 0915 hrs 21/3/41 Absent - 9 Hrs 16 mins.	Sgt. Flynn BSM. Gunn	5 days C.B.	21/3/41	Maj. Fleury	Ffts 1 days pay FR&I 149 (1)(a)
Field	25.3.41	Gnr		Sec.40 AA -Conduct etc. (1) driving a WD vehicle in a negligent manner (2) Failed to pay proper respect to an officer.	Capt. Conie	7 days C.B.	29.3.41	Maj. Fleury	
Field	12.6.41	Gnr.		Sec. 15(1) AA AWL from 2359 hrs 12.6.41 to 1500 hrs 15.6.41 Absent / 2 days, 15 hrs 1 Min.	BSM Gunn	14 days C.B.	17.6.41	Maj. Fleury	Ffts 1 days pay FR&I 149 (1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30.9.41	Gnr.		Sec.15(1) AA AWL from 1200 hrs 30.9.41 to 1100 hrs 1.10.41 Absent - 23 hrs.	Bdr. Hunt Sgt Cetry	7 days forfeiture of pay AA Sec 46(2)	8.10.41	Lt-Col. F.F. Lloyd	Forfeits 1 days pay FR&I 149(1)(a) to pay £2-11-2 cost of apprehension.
Field	24.4.42	Gnr.		Sec.15(1) AA AWL from 2400 hrs 24.4. 42 to 1830 hrs 5.5.42 Absent 10 days 18 hrs 30 mins	Sgt.MacMillan Bdr. Hart	27 days Detn.	6.5.42	Lt-Col(PAS TODD)	Ffts 11 days pay FR&I 149(1)(a)
Field	15.8.42	Gnr.		Sec.15(1) AA AWL from 2300 hrs 15.8.42 to 1900 hrs 16.8.42 Absent - 20 hrs	Sgt. Hart Bdr.Fruilere	5 days C.B.	17.8.42	Maj. Cooper.	Forfeits 1 day pay FR&I 149(1)(a)
Field	29.11.42	Gnr.		Sec. 15 (1) AWL from 2300 hrs 29 Nov 42 to 1500 hrs 11 Dec 42 Absent 11 days 16 hrs.	L/Sgt Whitley L/Bdr. Ward Documentary	60 days detn Forf 7/6d cost of appreh'n FR&I 172(8)	17 Dec 42	F.G.C.M.	Forf 12 days pay FR&I 149(1)(a) Forf 6 days pay FR&I 149 (1)(c)

Released from the Detention Barracks H. Down on Jan 28, 1943, sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons 27 days. Commanding Officer Initials JA Lt.

No. A-1728 Name THOMPSON, R.K. Sqn, Battery, or Company — Corps RCA — Date of enlistment 8 Apr 42 — Badges — Service or Proficiency Pay N/A — 3/17 MFM 6 (AFB 122) 60(FAS/136 (54133)

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 2 — Signature OC Company, etc Lt. F.A. Stier (?) — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Jan 43	Gnr		AOAS AWL from 2359 hrs 30 Jan 43 to 1240 hrs 28 Feb 43. (28 days 12 hrs 41 mins), A.A. Sec 15(1) AA Sec 24(2).	Sgt. West Bdr. Serres Documentary	30 days detn. Placed under stoppages to the amount of £2-7s-½d. (Loss of kit.).	10 Mar 43	F.G.C.M.	Total Frt. of pay 69. days pay.

Released from the Detention Barrack F. Downs on Apr 5 1943 SENTENCE HAVING EXPIRED Remission earned under Rules for Detention Barracks and Military Prisons. 3 days

Commandants Initials JSK

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-4-43	Gnr.		A.A.15(3) WOAB beyond the bounds	Documentary from Prov. Corps	3 days C.B.	18-5-43	Capt. W.M.	MacKay

Certified true copy.
11 Nov 44.

(H.L. THORNE) Major, RCA
Offr having custody of Regt Documents

10 Nov 44

I, A-17288 A/Sdr Thompson, R.K. have received copy of charge sheet and copy of Summary of Evidence in connection with my trial by F.G.C.M.

R. K. Thompson

A-17288 A/Sdr Thompson, R.K.

LIST OF WITNESSES

PROSECUTION

B-76062 Gnr. Hawes, C.J. No 1 Cdn Artillery Reinforcement Unit

J.J. Timmins, Whitechill Police Station, Whitechill, Hants

LIST OF EXHIBITS

Exhibit "A" Three Bags of Coke

STATEMENT OF THE ACCUSED

I, A-17286 A/Bdr THOMPSON, R.K. of No 1 Canadian Artillery Reinforcement Unit desire to have Capt. P.H. Kelly of No 1 Canadian Artillery Reinforcement Unit, to represent me at my trial by Court Martial.

R. K. Thompson

A-17286 A/Bdr Thompson, R.K.

55-U

Gen. THOMPSON, R.K.

Correspondence to be PINNED here

550

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixteenth day of December, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 2 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

Proceedings forwarded [illegible] Reviewing Officer (J.A.G.) C.M.G.

77

NOTE. The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
[illegible]	[illegible]	[illegible]

Members.

Rank.	Name.	Regiment.
Captain	T.D. Sutland	4 Cdn Fd Regt R.C.A.
Lieutenant	C.L. Murray	2 Cdn A Tk Regt RCA
Lieutenant	WAITING MEMBER W.D.Stevenson	4 Cdn Fd Regt R C A

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.C. Smith Lt.-Col.

a/Commanding [illegible] 2 Cdn Div

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A178[illegible] Gunner Robert Kenneth [illegible] McKEECK, 4 Cdn Fd Regt R.C.A.	[illegible] 250. 15 (1) while on active Service absenting himself without leave etc. (see charge sheet attached)	Guilty	Guilty 60 days detention - stoppages & pay £0/7/8 in respect of cost of return 17 Dec '42 J Fulmore Maj G Pres	Confirmed P. C. Rees Brig.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (Signed) J Fulmore Maj G

Commanding [illegible] *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 17th day of December 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) NIL.
*(4. The officers under instruction) (one)

were duly sworn.

* Omit if not applicable.

Signed this 17 day of Dec. 1942.

President of the Court Martial.

C.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ RCI

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 18th day of Dec 1942

R C Lees Brig.

Confirming Officer.

Promulgated and extracts taken in the case of A17388 Gnr. Thompson R.K.

(a) (Dated) 19 Dec. 1942 (Signed) L. S. Douglas Lieut

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 4779/1937 30 M. 5/41 K.H.Q.(2) Gp. 698.3

CHARGE SHEET

The accused, A17288 Gunner Thompson, Robert Kennethof the 26 Cdn Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WOAS "Absenting himself without leave" in that he, In the Field, did absent himself without leave from 2300 hrs 29 November 1942 until apprehended by the Canadian Provost Corps at 1500 hrs 11 December 1942.

Cost of apprehension seven shillings and eight pence (7/8 d).

R. C. Goulding

(F.R. Goulding) Major
a/Commanding Officer
4 Cdn Fd Regt, R.C.A.

15 day of Dec 1942
In the Field
To be tried by F.C.C.M.

B. J. Thompson
pmm
pvs

14 Dec 42
In the field
to be tried by F.C.C.M.

A Murray Lt Col
Brigadier
a/C.R.A. 2 Cdn Div

MEDICAL CERTIFICATE (C.R.(Can) 557)

I certify that I have this morning examined No. A172888 Gnr.

Thomson, R.K. of 28 Bty, 4 Cdn Fd Regt, R.C.A., and that in my opinion

he is fit to undergo trial by ~~Court~~ Court-martial.

~~Doctor~~

Station In the Field

Date 13 Dec 42.

Medical Officer
4 Cdn Fd Regt, R.C.A.

CHARGE SHEET

The accused, A17288 Gunner Thompson, Robert Kennethof the 26 Cdn Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WOAS "Absenting himself without leave" in that he, In the Field, did absent himself without leave from 2300 hrs 29 November 1942 until apprehended by the Canadian Provost Corps at 1500 hrs 11 December 1942.

Cost of apprehension seven shillings and eight pence (7/8 d).

R. Goulding
(F.K. Goulding) Major
a/Commanding Officer
4 Cdn Fd Regt, R.C.A.

15 day of Dec 1942
In the Field
To be tried by F.G.C.M.

14 Dec 42
In the field
To be tried by F.G.C.M.
A.C. Murray Lt Col
a/C.R.A. 2 Cdn Div Brigadier

B. J. Thompson
pvt

I, A17288 Gunner Thompson, Robert Kenneth, 26 Cdn Fd Bty, 4 Cdn Fd Regt, R.C.A. desire to have an officer assigned to represent me at my trial by Court Martial.

.....

I desire the services of
if he is available

R. K. Thompson

Dated In the Field
this 14 day of
December 1942.

MEDICAL CERTIFICATE (C.R.(Can) 557)

I certify that I have this morning examined No. A17288 Gnr.

Thomson, R.K. of 26 Bty, 4 Cdn Fd Regt, R.C.A., and, that in my opinion

he is fit to undergo trial by ~~court martial~~.

Station In the Field

Date 13 Dec 42.

Medical Officer
4 Cdn Fd Regt, R.C.A.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Brde field ON THE 12 DAY OF Dec 42

TRIAL OF:- No. A-11286 Gnr RK Thompson Unit 4 Fd Regt RCA

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Capt J. Elsa (Unit) 4 Fd Regt RCA

Defending Officer:- (Name) Lt WR Sinclair (Unit) 4 Fd Regt RCA

At 1430 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q2. Do you object to be tried by me as President or by any of the officers whose names you were heard read over? A2 - No, Sir.

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President Maj A J Gilmour (Unit) HQ 2 Cdn Div

Members Capt T. G. Gulland (Unit) 4 Fd Regt RCA

Lt W. D. Stevenson (Unit) 4 Fd Regt RCA

The officers under instruction are duly sworn.

Q2 Do you object to ..... acting as shorthand writer? A2.-

The shorthand writer is duly sworn.

The accused pleading guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Capt J Elsa (Unit) 4 Fd Regt RCA sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - No Sir

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The Defending Officer Lt Sinclair in mitigation reads a written statement attached. Enlarges on the fact that accused was under considerable mental strain as result of interviews with civil police & accused thought his pass had been unjustly dealt with. Also thought charge was dismissed & would not be free to go away for some time. No premeditation to go AWL as he properly applied for pass. The Court is closed to consider sentence.

J J Gilmour Maj
Pres.

Abstract of evidence in the case of A17288 Gnr. THOMPSON Robert Kenneth R.K. taken 14th December 1942 by Lieut R. S. Douglas pursuant to order of Major F. E. Goulding, A/C.O 4th Cdn. Fd. Regt. RCA.

First witness A17220 L/Bdr Ward J.E. having been duly sworn stated:- He was orderly N.C.O. for E Troop 26th Battery, 4th Cdn Fd Regt of which A17288 Gnr Thompson R.K. was a member on the 29th November 1942 until 30 Nov 1942. He called the roll at 2300 hrs., Gnr Thompson R.K. was absent. He called all subsequent E Troop parade roll calls ~~until~~ and Gnr Thompson was absent. A17288 Gnr. Thompson R.K. was posted to Battery Headquarters on 30 November 1942.

Second witness B9179 L/Sgt. Whitely G.D. having been duly sworn stated:- He is N.C.O. i/c A Sub Section BHQ 26 Battery to which A17288 Gnr. Thompson R.K. was on 30th Nov. 42 posted. He called the roll call on all parades and Gnr. Thompson was absent from barracks until returned under escort on 12 December 1942.

Documentary Evidence CARO 2371

(I) Certificate in accordance PC 2797 of 8th April 1942 signed by Officer i/c Detention Room No 6 Cdn. Provost Coy.

(II) Expense voucher signed by Officer issuing Ely warrants etc No.6 Cdn. Provost Coy. London.

A17288 Gnr. Thompson, Robert Kenneth, having been duly warned declined to make a statement.

Abstract of evidence taken this 14th day December 1942 in accordance with App "A" D.R.O. 772 - 1941

R. S. Douglas Lieut.

J. T. Johnson Maj. per

Certificate in accordance with the Army Act, Sect. 163(1)(ii).

I certify that No. A/17288 Rank GUNNER Name R.K. THOMPSON.

26th FIELD BATTERY ROYAL CANADIAN ARTILLERY, Unit, was arrested at WILLESDEN GREEN.

at 15.00 hrs on 11 DEC.1942.

C.L.R.C., Whitehall, S.W.1.

Date 11 DEC. 1942.

Lieutenant-Colonel
Assistant Provost Marshal,
London District,

Into whose custody the above named person was taken on arrest.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. A17258 Rank Gnr. Name Thompson, P.K. Unit 4 Fd. Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
12 Dec 42	Escorts return fare from LONDON To Pulborough (½ portion)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pulborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

(2) H. H. Hutchinson Lieut.

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

M.F.M. 6
A.F.B. 122

No. A17288 Name Thompson, R.K. Sqn., Battery, or Company — Corps RCA — Date of enlistment 8 Apr 40 G.C. — Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: n.a. — No. and date of last drunk: n.a. — Period not reckoning towards freedom from extra fine: n.a. — Sheet No. 2 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed				8 Oct 40 on completion of 6 mos service in accordance with CARO 2084. Last entry 16 Jul 40.					
Field	20-3-41	Gnr		Sec 15(1) AA AWL from 2359 hrs 20-3-41 to 0915 hrs 21-3-41 Absent 9 hrs - 16 mins	D.M. Cooper, Major Sgt Flynn BSM Gunn	5 days C.B.	21-3-41	Maj Fleury	Forfeits 1 day pay F.R.& I 149(1)(a)
Field	25-3-41	Gnr		Sec 40 AA - Conduct etc. (1) driving a MD vehicle in a negligent manner (2) Failed to pay proper respect to an officer	Capt Conie	7 days C.B.	29-3-41	Maj Fleury	
Field	12-6-41	Gnr		Sec 15(1) AA AWL from 2359 hrs 12-6-41 to 1500 hrs 15-6-41 Absent 2 dys, 15 hrs, 1 min	BSM Gunn Sgt Ostry	14 days C.B.	17-6-41	Maj Fleury	Forfeits 1 days pay F.R. & I 149(1)(a)

(F.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	30-9-41	Gnr		Sec 15(1) AA AWL from 1200 hrs 30-9-41 to 1100 hrs 1-10-41 Absent 23 hrs	Bdr Hunt Sgt Ostry	7 days forfeiture pay AA Sec 46 (2)	8-10-41	Lt-Col F.F. Lloyd	Forfeits 1 days pay F.R.&I To pay 2-11-2 Cost of apprehension
Field	24-4-42	Gnr		Sec 15(1) AA AWL from 2400 hrs 24-4-42 to 1830 hrs 5-5-42 Absent 10 days 18 hrs 30 mins	Sgt MacMillan Bdr Hart	27 days detn	6-5-42	Lt-Col F.F. Lloyd	Forfeits 11 days pay F.R.& I. 149(1) (a)
Field	15-8-42	Gnr		Sec 15(1) AA AWL from 2300 hrs 15-8-42 to 1900 hrs 16-8-42 Absent 20 hrs	Sgt Hart Bdr Pruliere	5 days C.B.	17-8-42	Maj Cooper	Forfeits 1 days pay FR&I 149(1)(a)

CERTIFIED TRUE COPY

J.E. Stoneham
Lieut

A17288 Thompson, R.K. 4 Cdn Fd Regt, R.C.A.

31 M 2

8 Apr 40

Nil. ~~7~~ 6

Nil ~~7~~ 6

Nil.

R. L. ~~Thompson~~ Lieut.
A/Adjutant 4th Fd. Regt. R.C.A. C.A.

~~O. Ofcr Capt RCA.~~
4th Can Fld. Regt. R.C.A.

17 Dec.

E. J. Thompson
Major

19 Dec 49.

Sir:

Several days before the 29 Nov I made application for a forty eight hour pass to take effect from After Duty on the 28 Nov. I was late in completing my duties that day and found that there was no pass available for me at the Battery Office when I called for it. I made inquiries at the guard room and found that the pass was not there either. From these circumstances I presumed that my pass had been turned down.

On the 26 Nov I had been interviewed by a constable of the civilian police and he had informed me that proceedings were going to be taken against me on a serious charge. If I was proved guilty of this offence I felt that I would be sentenced to imprisonment. Naturally I was under a very heavy strain and felt that I would like to get away for a short time. Consequently although I had no pass I decided to leave anyway.

I would like to impress the Court of the fact that I had no intention of running away from any punishment I might receive in connection with the civil charge.

(A.17288 Gnr Thompson, R.K.)

R K Thompson

REVIEW SHEET

F.G.C.M. - Trial of No.: A17288, Gnr Thompson, R. K., 4 Cdn Fd Regt RCA

Date of Trial: 17 Dec 42

President of Court: Major F. J. Gilmour, R C A attd H. Q. 2 Cdn Div

---

1. For the information of the Officers asked to sign below the following irregularities are noted:

(i) The accused Christain names should precede his surname in the charge sheet

(ii) The words "For the following reasons, namely" should be struck out in the lst page of A.F.A. 3.

(iii) The Delay Report should be signed by the Convening Authority, as well as the C.O.

2. May these remarks and the authorities quoted be read by the following Officers, signed and returned to this H.Q., please

O.C. _____

Adjutant _____

President _____

Staff Officer for Convening Officer _____

Staff Officer for Confirming Officer _____

Rear H.Q. 1 Cdn Corps (Legal)

C R A 2 Cdn Div: Please circulate.

POST/DRLS
Encls.

21 Dec 42

W.M.S. Law
(W.M.S. Shaw), Capt.,
A.D.J.A. 2 Cdn Div

A.A-10 (case #2)

O. H. M. S.

GNR THOMPSON R.K.

See K-55 for 1st case

M. F. B. 270
725M-6-41 (789-91)
H.Q. 1772-39-67

A-17288 Gnr. Thompson, A.R.
1 C.A.R.U.
A.A-10

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this EIGHTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint
*(1. Three Officers to form the Court;)
*(2. A Field Officer as President;)
for the following reasons, namely:—]

Capt.
25 Mar. 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT/COLONEL	D.L. REIMAN	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.A. BIGGAR, RCA	3 C.A.R.U.
LIEUT.	E. SHOREY, RCA	1 C.A.R.U.
LIEUT.	G.D. JACK, RCA (Waiting Member)	3 C.A.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R. Heward Brigadier,
Commanding "C" Group, Cdn. Rft. Units.
Convening Officer.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of March, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The Interpreter~~
4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of March 19 43

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 12 day of March 1943

Confirming Officer.

Promulgated and extracts taken in the case of A172 88 Gnr Thompson, R A

(a) (Dated) 12th March 1943 (Signed) C.O. - I CA...

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[20704] Wt.47523/242 25,000 7/42 A.& E.W.Ltd. Gp.698
[21785] Wt.18088/7359 40,000 7/42 " "

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-17288 GNR. THOMPSON, R.K. (RCA) 1 C.A.R.U.	FIRST CHARGE A.A. Sec 15 (1)	Guilty	Guilty Dangerous and finding and sentence of the court thereon remitted 60 days detention. An investigation of this case by civil authorities has been requested.	
	SECOND CHARGE A.A. Sec 24 (2)	Guilty	Guilty Sentence To undergo detention for a period of Ninety (90) days and to be put under stoppages of pay until he has made good $72-7-0½ the value of his kit lost by neglect 10th June 1943	
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J. Stewart Brigadier, (Signed) [illegible]
Commanding "C" Gp Cdn Rft Units. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET.

The accused, A-17288 Gunner Thompson, R.K., Royal Canadian Artillery, on the strength of "D" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with WHEN ON ACTIVE SERVICE:

ABSENT WITHOUT LEAVE.

First Charge. A.A. Sec 15 (1). in that he at St. Lucia Barracks, Bordon, Hants., absented himself without leave from 2359 hrs. 30 Jan 43 until apprehended by Metropolitan Police, Kensington, at 1240 hrs. 28 Feb 43.
(absent 28 days, 12 hrs., 41 min.)

LOSING BY NEGLECT.

Second Charge. A.A. Sec 24 (2). in that he at St. Lucia Barracks, Bordon, Hants., did lose by neglect his Regimental kit and necessaries to the amount of £2-7-0½, unexpired wear value.

Dated at Bordon, Hants.,
this 4th day of Mar 43.

(D.R. Corbett) Lieut-Col.,
A/Commanding Officer,
No. 1 C.A.R.U.

To be tried by Field General Court Martial

Brigadier,
Commanding "D" Group, Cdn. Mft. Units.
(Convening Officer)

Bordon, Hants.,
8 March 43.

MF3 246

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No. A.122888 ... T.H.M.P.S.O.N. ... R.K. .....

of No.1 Cdn Arty Reinf Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station NIJMEGEN .....

Date 10.3.45 .....

.....
Medical Officer
No.1 Cdn Artillery Reinforcement Unit

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 3 C.A.R.U. BRAMSHOTT HANTS
ON THE 10 DAY OF March 1943

The accused. A.1.7288. Gnr. Thompson. R.J. Unit. 1. C.A.R.U. R.C.H.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt. Col. Redman, Unit. C.A.D. Higher H.Q. C.R.U.

Members. Capt. J.H. Rigger, Unit. R.C.H. 3. C.A.R.U.

Lieut. L. Sharey, Unit. R.C.A. 1. C.A.R.U.

The officers under instruction are duly sworn:-

~~See attached list~~, Unit.

, Unit.

Prosecutor Lieut. P.H.K.A. Unit. R.C.H. 1. C.A.R.U.

Defending officer Lieut. D.G. Struthers, Unit. R.C.H. 1. C.A.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(F) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor ~~is sworn and~~ produces ~~MFR 354~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment.
(b) ~~calls witnesses as to character.~~
(c) ~~calls witnesses in mitigation of punishment.~~
(d) ~~addresses the Court by his Defending Officer.~~

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by the Accused.

The reasons I have been going A.W.L. start backs last April, 1941. The last letter I got was in May, 1941. That was the last letter I got from my wife. I never got any word from her since. The last letter I got I got from my brother. He wrote and told me my wife was in the family way. I went to the paymaster and he said that he would look after her. Six months went by, and nothing was done, and I have heard nothing since. In July 42 I applied to Mr. Gray, a solicitor

in Sarnia, Ontario, and he wrote me saying that my wife had a child born in April 42. She was getting annulled, pay cuts, present [illegible] days absent. I was escorted back to Borden and paraded. The [illegible] told me I could get [illegible] back. And I said "no". That is why I have been going A.W.L. It was cut up when I went A.W.L. for 28 days. I did not sign the papers. I have a letter here to prove what I have been saying. It is from the law firm mentioned. I have no child and have been married 5 years. (The accused handed the court a letter from Lawson, Gray and Kellman, barristers and solicitors which stated courtesy that a child was born to his wife on the 3rd of April, 1942.)

I thought if I went A.W.L. enough they would cancel it out her money off.

The defending officer stated that he had nothing to add to the statement made by the accused.

The court is closed for the consideration of the sentence.

[signature]

Officers under instruction

A17288 Gnr. Thompson R.A. (CARD)

Lieut. F.L. Field. (CARD)

" W.M. Ramsbery (CARD)

" C.A. Lepine "

" T.E. Jarvis "

" D.F. Ryan "

" G.K. Grace. 3 CARD.

" G.D. Jack. 3 CARD

" R.A. Wickware 3 CARD.

Summary of Evidence in the case of A-17228 Gunner THOMPSON, R. on the strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath.

FIRST WITNESS.

L-11163 L/Sjt. Saltmer, S. of No. 1 C.A.R.U., having been duly sworn, states:

I am L-11163 L/Sjt. Saltmer, S. of "D" Battery No. 1 C.A.R.U. As Barrack Block N.C.O. I called Reville Roll on 31 Jan 43 and A-17228 Gnr. Thompson, R., who was on pass until 2359 hours, 30 Jan 43, did not answer to his name and was absent from his bed and room. I checked at St. Lucia Guard Room and found that his pass had not been turned in. I reported his absence to K-8103 Bdr. Serres, E.D., Orderly Sjt. for "D" Battery and turned his remaining kit into Stores, 48 hours after his absence.

The Accused declined to cross-examine this Witness.

L 11163 L/Sgt Saltmer S

L-11163 L/Sjt. Saltmer, S.

SECOND WITNESS.

K-8103 Bdr. Serres, E.D. of No. 1 C.A.R.U., having been duly sworn, states:

I am K-8103 Bdr. Serres, E.D., permanent Orderly Sjt. of "D" Battery, No. 1 C.A.R.U. On 31 Jan 43, L-11163 L/Sjt. Saltmer, S. reported the absence of A-17228 Gnr. Thompson, R. as at 2359 hours, 30 Jan 43. Gnr. Thompson, R. has been reported absent each night and morning from that date until he was S.O.S. this Unit as an Unapprehended Deserter w.e.f. 23 Feb 43.

The Accused declined to cross-examine this Witness.

K-8103 Bdr. Serres, E.D.

THIRD WITNESS.

G-7105 B.Q.M.S. Anderson, E.C. of No. 1 C.A.R.U., having been duly sworn, states:

I am G-7105 B.Q.M.S. Anderson, E.C. of Wing Stores, No. 1 C.A.R.U. On 1 Mar 43 I checked the complete kit of A-17228 Gnr. Thompson, R. and found him deficient in the amount of £3.2.8½ Vocabulary Price and in the amount of £2.7.0½ Unexpired Wear Value as listed in Appendix "A" attached.

The Accused declined to cross-examine this Witness.

E C Anderson B.Q.M.S.

G-7105 B.Q.M.S. Anderson, E.C.

FOURTH WITNESS.

K-92034 S/Sjt. Bowser, H.G. of No. 1 C.A.R.U., having been duly sworn, states:

I am K-92034 S/Sjt. Bowser, H.G. Orderly Room Sjt. for "P" Training Wing H.Q. and as such, I produce from Orderly Room files the following document, marked Appendix "B", being Army Form O 1617, a Certificate of Arrest of a Deserter or Absentee without Leave, showing that A-17228 Gnr. Thompson, R. was arrested at 1240 hours, 28 Feb 43 by Metropolitan Police, Kensington.

The Accused declined to cross-examine this Witness.

H.G. Bowser

K-92034 S/Sjt. Bowser, H.G.

The Accused, having been duly cautioned in accordance with R.P. 4 (e), declined to make a statement.

Certified that R.P. 4(c), (d), (f) and (g) have been complied with.

Certified that this Summary of Evidence, consisting of two pages and two Appendices, marked "A" and "B", was taken down before me in the presence and hearing of the Accused.

Paul H. Armstrong, Lieut.

(P.H. Armstrong) Lieut., R.C.A.
No. 1 C.A.R.U.

Dated at Bordon, Hants., this 3 Mar 43.

1 Mar 43.

APPENDIX "A".

Deficiencies of Kit. A-17288 Gnr. Thompson, R.

Article.	No.	Vocab Price.	Unexpired wear value
Boots ankle	1	1 6	16 1½
Braces, prs.	1	1 6	1 1½
Dressing first field	1	1 1	10
Gloves woollen	1	2 7½	2
Shirts flannel	1	9 2	6 10½
Covers Messtin	1	4½	3½
Tins. mess	1	3 1	2 4
Respirator A/G.			3 3
Haversack	1	4 4	6 4½
Facepiece	1	8 6	4 10½
Cannister	1	6 6	1 8
Eyeshields	6	2 3	2
Anti dim	1	2½	1 2
Ointment A/G	2	1 7	
Total Vocab price		3 2 8½	2 7 0½
Total Unexpired wear value			

E L Anderson BQMS

G-7105 BQMS Anderson, E.C.

APPENDIX "B". Army Form O.1618

Descriptive Return of a Deserter or Absentee without Leave/

Descriptive return of Private A-17288 Thompson, R.K. who arrested at 12-40 p.m. (hour) on the 28th Feb day of 1943, and was committed to confinement at Kensington Police Station the 28th day of Feb 1943 as a Deserter from the 26th field Battery, 4th R.C.A. Regiment of Stationed at Bordon Camp, Hants.

Age 32 Height Five Feet eight inches
Complexion fresh Hair brown eyes blue
Marks nil In uniform or plain clothes Uniform.
Probable date and place of attestation. London, Ontario, 8/4/40
Probable date of desertion or beginning of absence and from what place. 28/1/43. From Bordon Camp, Hants.
Name, Occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured. Arrested by P.C.300 F.Division, Metropolitan Police.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he belongs to the forementioned Corps.

(Sgd) E. Walters Major Signature.
28/2/43. Date of Signature.

Paul H Armstrong Lieut.

(P.H. Armstrong) Lieut R.C.A.
No. 1 C.A.R.U.

CERTIFIED TRUE COPY.
3 March 43.

DESCRIPTIVE RETURN OF § Private A 17388, Thompson, R. who
‡ arrested at 12-40 p.m. (hour) on the 28th FEB day
of 1943, and was committed to confinement at Kensington Police Station
on the 28th day of FEB 1943 as a Deserter (or Absentee without
leave) from the 36th Bn. of the Field Battery, 4th R.C.A.
Regiment of Stationed at Bordon Camp, Hants.

Age 29	Height Five feet eight inches		
Complexion Fresh	Hair brown	Eyes blue	
Marks nil	In uniform or plain clothes Uniform		

Probable date and place of attestation	London, Ontario. 8/4/40.
Probable date of desertion or beginning of absence and from what place.	28/1/43. From Bordon Camp, Hants.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Arrested by P.C. 308 F. Division, Metropolitan Police.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	*

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and that he declared in my presence that he BELONGS TO the before-mentioned Corps.

Signature, Residence, Post Town } of Committing Magistrate.

28/2/43 Date of Signature

Signature of Prisoner

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature, Residence, Post Town } of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

APPENDIX "B"

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____

Regiment at ____ on ____ by ____

who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

Signature of Committing Magistrate.

28th February 1943
Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Army Form O.1618.

IMMEDIATE. PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*17999) Wt.11812/244 50,000 5/41 A.& E.W.Ltd. Gp.698 Forms/O.1618/22

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the

Police in connection with the apprehension of and are

payable to

Nil

METROPOLITAN POLICE
KENSINGTON
"F" DIVISION

Superintendent or Officer in charge Police Station at

Date 28th February 1943

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster is hereby authorised to

pay to being the person recommended by the

Committing Magistrate, a reward of for the apprehension

of

(O.C. Unit)

Date Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

10 Mar 43.

TO WHOM IT MAY CONCERN.

I, B.S.M. Collard, A.N. Of No. 1 C.A.R.U., wish to make the following statement on behalf of the accused, A-17288 Gnr. Thompson, R.K. on strength of No. 1 C.A.R.U.

I have known the accused for a period of approximately 14 years. During this time I have formed a very good opinion as to his character and feel that all the trouble that he has been getting into arrises from the fact that no attention has been paid to his request for the cutting off of all allowances to his wife.

Gnr. Thompson has had advice from Canada that his wife has not only been unfaithful, but has had a child by parties unknown and showed me the letter to this effect. I advised him to take the matter up with the unit paymaster but seemingly no action has been taken, and I firmly believe that this is the cause of all his trouble.

Witness. [illegible]

BSM Collard

L-18018 BSM Collard, A.N.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(6)

I, A-17288 Gunner Thompson, R.K., No. 1 C.A.R.U., Cdn. Army (Overseas) desire to have Lieut. P.H. Armstrong of No. 1 C.A.R.U. appointed to represent me at my trial by Court Martial if available, otherwise desire to have an Officer assigned by the Convening Officer to represent me.

R K Thompson

A-17288 Gnr. Thompson, R.K.

No. A17288 Name Thompson, R.K. Sqn., Battery, or Company — Corps RCA — Date of enlistment 8 Apr 40 G.C. Badges — Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet n.a. — No. and date of last drunk n.a. — Period not reckoning towards freedom from extra fine n.a. — Sheet No. # 1 — Signature O.C. Company, etc. — Character

M.F.M. 6

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed 8 Oct 40 on completion of 6 mos service in accordance with CARO 2084. Last entry 16 Jul 40.									
Field	20-3-41	Gnr		Sec 15(1) AA AWL from 2359 hrs 20-3-41 to 0915 hrs 21-3-41 Absent 9 hrs - 16 mins	D.M. Cooper, Sgt Flynn BSM Gunn	5 days C.B.	21-3-41	Maj Fleury	Forfeits 1 day pay R.R. 149(1)(a)
Field	25-3-41	Gnr		Sec 40 AA - Conduct etc. (1) driving a WD vehicle in a negligent manner (2) Failed to pay proper respect to an officer	Capt Conie	7 days C.B.	29-3-41	Maj Fleury	
Field	12-6-41	Gnr		Sec 15(1) AA AWL from 2359 hrs 12-6-41 to 1500 hrs 15-6-41 Absent 2 dys, 15 hrs , 1 min	BSM Gunn Sgt Ostry	14 days C.B.	17-6-41	Maj Fleury	Forfeits 1 day pay R.R. 149(1)(a)

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-9-41	Gnr		Sec 15(1) AA AWL from 1200 hrs 30-9-41 to 1100 hrs 1-10-41 Absent 23 hrs	Bdr Hunt Sgt Ostry	7 days forfeiture pay AA Sec 46 (2)	8-10-41	Lt-Col F.P. Lloyd	Forfeits 7 days pay F.R.&I. To pay £2-11-2 cost of Apprehension
Field	24-4-42	Gnr		Sec 15(1) AA AWL from 2400 hrs 24-4-42 to 1830 hrs 5-5-42 Absent 10 days 18 hrs 30 mins	Sgt MacMillan Bdr Hart	27 days detn	6-5-42	Lt-Col F.P. Lloyd Todd	Forfeits 11 days pay F.R.& I. 149(1)(a)
Field	15-8-42	Gnr		Sec 15(1) AA AWL from 2300 hrs 15-8-42 to 1900 hrs 16-8-42 Absent 20 hrs	Sgt Hart Bdr Pruliers	5 days C.B.	17-8-42	Maj Cooper	Forfeits 1 days pay FR&I 149(1)(a)
Field	29-11-42	Gnr		Sec 15(1) AA AWL from 2300 hrs 29 Nov 42 to 1500 hrs 11 Dec 42 Absent 11 days 16 hrs.	1/Sgt Whitley 1/Bdr Yard	detn Forf 7/8d cost of apprehn FRI 172(8)			Forf 12 days pay FRI 149(1)(a) Forf 6 days pay FRI 149(1)(a)

4 Mar 43. CERTIFIED TRUE COPY

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

A-17288 Gnr. Thompson, R of the No. 1 Cdn. Artillery Reinf. Unit.

Note.—The Regimental and Squadron, Battery or Company Conduct sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

†See Para. 664, K.R. 1935.

	*Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	3 times	6 times.
For A.A. Sec 40.	times	2 times.
For	times	times.
For	times	times.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, reference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguishing conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct

OR

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

OR

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 49645/661 50,000 E/40 W. & Ltd. 51—6004

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of March 1943

(J.D. Killick) Capt & Records Officer,
No. 1 Cdn Arty. Reinf Unit.

3. The accused is not under sentence at the present time.

~~or.~~

~~The accused at the present time is under sentence for~~

~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges for 1 days in Civil Custody,

and 9 days in Military Custody.

Total 10 days.

Of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 8th April 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 11/12 years.

8. The accused is entitled to deferred pay or gratuity in respect of 2 11/12 years' service.

9. The accused is entitled to reckon 2 11/12 years' service for the purpose of determining his pension, &c.

10. ~~The accused is in possession of an unexpired military reward~~ ~~is not entitled to any military reward~~

~~11. The said~~ ~~the accused was present at the~~ ~~was made of~~ ~~was made~~ ~~before the accused~~ ~~was made~~ ~~

4G-138

Rfm. Thompson. R R.

FIELD GENERAL COURT-MARTIAL

4G-139

CPA96 (To limit of APA3)
40 P & S/1668 (4/38)

4/38B

Convened by Order of Brigadier R.H. Bramwell Comdg 2 Cdn Inf Bde dated 21 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.32434	Pte		Certified true Copy		

D.J.A.G.

Cdn. Sec. G.H.Q.

PROCEEDINGS RECEIVED 5 APR 1944 CANADIAN ARMY OVERSEAS HQ Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 23 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

13/118

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1235 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter ? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	E.F. Lee	48th Highrs of Can
Member	Maj	W.J. Lacy	Edmonton Regt
Member	Capt	J.A. Ballantyne	Seaforth Highrs of Can
Judge-Advocate			
Prosecutor	Lt Col	J.D. Thompson	HQ 2 Cdn Corps
Defending Offr	Capt	W.D. Sutherland	R Regt of Can

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ~~are~~ before arraignment make(s) (no) (A) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

Except charge withdrawn by prosecutor RP 35(C)

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A. 1 of 9

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Alt 18(a)	Guilty	Guilty	
2nd	Alt 40 alternative		Withdrawn by Prosecutor RP 35(c)	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Nil beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) — Judge-Advocate, if any. Date awarded 22 Oct 44 (Sgd) "C P Lee" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 34(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) CAB
(1. AA 57A. Delete if not used.)

(Sgd) "A.W. Beament"
(A.W. BEAMENT) BRIGADIER
OFFICER IC CANADIAN SECTION
SHQ TECH 21 ARMY GROUP

Date ..... Commanding .....

28 OCT 1944 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 52457 Gnr Russell Roy Thompson	4 Nov 44	"A Green" Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 105 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) of~~ Court may be closed to consider the statement. Delete whole or part not used.) The President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes I have sworn evidence and also Statement of Accused.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~Statement(s) as to Character and Particulars of Service~~, and certified true copy (copies) of Conduct Sheet(4)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex respectively.(2)
(1. *MFB 355 or AFB 296.* 2. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the ~~Statement(s) and~~ Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defending Officer.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 1123, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.52434 Rfmn Russell Roy THOMPSON, Royal Winnipeg Rifles, attached No.21 Cdn General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE.

in that he

In the Field on 26 Sep 44 while with his regiment in the line by discharging a pistol wilfully injured himself by shooting himself through the right hand with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40.

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 26 Sep 44 while with his regiment in the line so negligently handled a pistol as to shoot himself through the right hand thereby rendering himself unfit for service.

"A M Cameron"

In the Field,
16 October, 1944.

(A.M. Cameron) Colonel,
OC No.21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"A W Beament"

In the Field,
24 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

"E Phee"
Major
Pres.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.52434	Rfmn		Russell Roy	THOMPSON	R Wpg R att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	B.P. Lee	Gen List - Cdn Sec GHQ 1 Mch 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy	Alg Regt - att Cdn Sec GHQ 1 Mch 21 A Gp
Capt	F.A. Baillargeon	Gen List - att Cdn Sec GHQ 1 Mch 21 A Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

"A.W. Beament" (Signed personally. RP 105 fn 2.)
(A.W. Beament)

Brigadier (Rank.)

Date 21 Oct 44

Commanding Cdn Sec GHQ 1 Mch 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4031) (See overleaf for oaths and notes for use on trial.)

Approved
"B.W. Howard" Capt
ADJA

"B.P. Lee"
Maj
Pres

I certify that I have today examined Reg No B.52434 Rfmn Thompson R.
Royal Win Rifles and he is fit to undergo trial by Court Martial.

"N.T. Kohnnst" Maj
Medical Officer.

In the Field
25 Oct 44

"E.P. Lee Maj" Pres

R.1 Accused duly sworn states.

B.52434 Rfm Thompson, Russell Roy No.16 Pltn R.W.R. att 21 Cdn Gen Hosp.

sworn states:

I was born at "Sauble Falls," Ontarion 20th January 1923. My parents were both Chipewa Indians. They are both dead now. I was seven and a half when my mother died and nineteen when my father died. I went to school at "Sauble Falls", I went to Grade V in Country School. I left when I was 14 years old. I then worked around home. My home was situated in the "Suageen Reserve" near Owen Sound Ontario. I enlisted in the army on the 4th February 1942. I was a volunteer. I did my basic training at Chatham Ontario for two months and my advanced at Halifax Nova Scotia for six months. I had a little battle training during this time. I came to the UK on the 23rd June 1944. I was there for 3 weeks. I came over as a reinforcement. I came to France on the 25rd of July. I went to CHRG. I went up to the RWR's three days later. During the period 26th July to 26th Sept I had one period of rest lasting 8 days. I was with the Regiment during all the rest of the time.

I got a brother wounded. He was in the Algonquin Regiment. I want to go back to my own Regt "The RWR's". I was happy there. I have friends there. I just learned of his wounding today.

My category is B-1. I had a broken arm once, the left arm. I am right handed. I have no dependents. I have more right to fight for my country rxthxx really than the white man and I am anxious to get back because of this fact & also because of my friends.

R.3 B.52434 Rfm Russell Roy Thomspn Royal Winnipeg Rifles att 21 Cdn Gen Hosp

---

Plea in mitigation by defending officer.

This accused is a full blooded Chipewa Indian. He hails from the "Suageen Reserve" near Owen Sound Ontario. His mother died when he was seven years of age and his father when he was nineteen.

He is anxious to return to action and restore his honour - as evidence of this we have his remark to the effect that he has even more right to fight for his country than the white man. I think we all admire his sincerety in this regard. He knows full well that the fighting qualities of his people are admired all over the world. He also knows he has made a great mistake and when he thinks of his own brother being wounded there is only one foremost thought in his mind; he wants to get back and fight.

Gentlemenx, I have no hisitation in asking you to give him that chance by recommending suspension of sentence to senior authority.

Meaniers Wn
Bray Nr
Neufchatel
France
25:10:44

"W.D. Rungerford"
Captain
Defence Counsel
Battle Ex - Cases.

"E.P. Lee" Maj
Pres

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H. 92434 Pte
Russell Roy THOMPSON, R Hpgs R, att 21 Cdn Gen Hospital
charged with, when on active service wilfully injuring
himself with intent thereby to render himself unfit for
service (AA Sec 18(2)), alternative, when on active
service neglect to the prejudice of good order and mili
tary discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

Major M.T. Kobrinsky, No.21 Cdn Gen Hospital, sworn, states:

I am Major M.T. Kobrinsky, Med Offr at No.21 Cdn Gen Hospital. Pte Thompson is a patient under my present care. Review of his med documents reveal that he had a through and through GSW of his right hand in the region of the second metacarpal phalangeal joint. He still requires further hospital treatment for approximately three weeks. In all likelihood there will be a slight disability in the movement of this joint. However, in my opinion it will not necessitate the lowering of his 'U' grade and at the completion of his treatment he should be fit for full duty. The wound could have been caused by a weapon held in the man's own hands.

The accused declines to cross examine this witness.

"M.T. Kobrinsky" Major
Witness.

SECOND WITNESS

U.2015 Sgt Gatehouse, W.H., S.I.S., Cdn Provost Corps, att 21 Cdn Gen Hospital, sworn, states:

On 1 Oct 44, in company with Cpl Horton, I interviewed the accused, whom I recognize, at No.7 Cdn Gen Hospital. I identified ourselves to him, told him we were members of the SIB and we were enquiring into the circumstances surrounding an injury sustained by him in the right hand. He was cautioned that he need not say anything unless he wished to do so but whatever he did say would be taken down in writing and may be used in evidence. He understood the caution, read it and signed it. He then made a voluntary statement which was taken down in writing. It was read over to him and he read it himself and then signed the statement. There were no threats, promises or inducements held out to the accused in order to obtain the statement. He was not under arrest at the time.

The accused declines to cross examine this witness.

"W.H. Gatehouse"
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say at present".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

J.B. Bane Lt

In the Field,
17 Oct 44.

Officer detailed to take the Summary of Evidence.

(Copy)

STATEMENT OF D-52434 Rfmn. THOMPSON, Russell

I have been cautioned by Sgt. CA
Investigation Section, Cdn. Provost Corps,
anything unless I wish to do do, but anything
down in writing and may be given in evidence.
To show I fully understand this caution.

R.R. Th

I am Rfmn. THOMPSON of the Royal Winnipeg Rif
D Coy. I came to France on the 23 July 44 and joined my r
on its way to Caen, two days after landing, that would be a
About a mile and a half outside of Caen, we dug in
field and stayed in this position for three days and while then
bombers raided our supporting artillery. I felt pretty nervous u
bombing. We left this position and went up near Fontaine Henry for
eight day rest period. After this we followed up the attack on Fala.
a support battalion. Things in the support position were quieter than
before and we went right on to the Seine, where we ran into some very
hot action. They mortared, shelled and machine gunned us. This made me
even more nervous than before. I was with the regt. then all through
its actions and about the 25 day of Sept. we made an attack on Coquelles
the whole battalion was in it. Our own artillery was dropping shells about
50 yds ahead of us. I felt pretty sick and I knew I couldn't stand much
more of it. That same night I had only about three hours sleep. In the
morning about 6 o'clock I found a pistol. I don't know what kind it was
but when I took it out of its leather case I found about 8 rounds of .32
ammunition in the bottom of the holster. Just about this time we were
ordered out to round up some Jerries and I put the pistol away. We
finished this job about noon. Then in the afternoon about three o'clock
I got the pistol again and loaded it. I tried to fire it but the shells
wouldn't go off, although it revolved the chamber alright. I changed the
pistol into my left hand and put my right hand over the barrel and pulled
the trigger. I was pretty well shaken up at the time and I figured it
would be a good way to get out of the line. I never thought it would go
off anyway. It is time it went off and the bullet went into my right hand
where my first finger joins the palm and came out behind my knuckle. I
threw the gun on the ground and I don't know where it is now. Rfmn.
NEWMAN who is in my pltn. was with me when I found the gun and was there
when I shot myself. He took me to the Coy. H.Q. and got my wound dressed.
I told Capt. ORMISON, the 2 i/c I had done it accidentally.
I was taken to No.16 Hospital and from there I cameXX to No.7
Cdn. General Hospital. I don't really want to go back into action because
I don't think I could stand any more of it.
I have read this statement over and have had it read to me
and it is the truth.

(Sgd) R.R. THOMPSON X

After reading over the above statement I would like to add that
the pistol is at Battalion H.Q. Oneof the stretcher bearers there has it.

(Sgd) R.R. THOMPSON X

I was present when the above statement was taken and witness
both statement and signatures.

(Sgd) T.H. MORTON, Cpl.

This is Exhibit 'A' referred to in the Summary of Evidence
in the case of D 52434 Rfmn Thompson R R, taken
before me this 17th day of October, 1944.

"J.R. Bare" Lt
Officer taking Summary

(Copy)

STATEMENT OF B-52434 Rfmn. THOMPSON, Russell, Roy. No.16 Pltn. R.W.R.

I have been cautioned by Sgt. CARSHOUSE of the Special Investigation Section, Cdn. Provost Corps, that I am not obliged to say anything unless I wish to do do, but anything I do say will be taken down in writing and may be given in evidence.

To show I fully understand this caution I sign my name here.

R.R. THOMPSON X

I am Rfmn. THOMPSON of the Royal Winnipeg Rifles, No.16 Pltn. D Coy. I came to France on the 25 July 44 and joined my regt. which was on its way to Caen, two days after landing, that would be about 25 July 44 About a mile and a half outside of Caen, we dug in in a wheat field and stayed in this position for three days and while there German bombers raided our supporting artillery. I felt pretty nervous under this bombing. We left this position and went up near Fontaine Henry for an eight day rest period. After this we followed up the attack on Falaise as a support battalion. Things in the support position were quieter than before and we went right on to the Seine, where we ran into some very hot action. They mortared, shelled and machine gunned us. This made me even more nervous than before. I was with the regt. then all through its actions and about the 25 day of Sept. we made an attack on Coquelles the whole battalion was in it. Our own artillery was dropping shells about 50 yds ahead of us. I felt pretty sick and I knew I couldn't stand much more of it. That same night I had only about three hours sleep. In the morning about 6 o'clock I found a pistol. I don't know what kind it was but when I took it out of its leather case I found about 8 rounds of .32 ammunition in the bottom of the holster. Just about this time we were ordered out to round up some Jerries and I put the pistol away. We finished this job about noon. Then in the afternoon about three o'clock I got the pistol again and loaded it. I tried to fire it but the shells wouldn't go off, although it revolved the chamber alr ght. I changed the pistol into my left hand and put my right hand over the barrel and pulled the trigger. I was pretty well shaken up at the time and I figured it would be a good way to get out of the line. I never thought it would go off anyway. T is time it went off and the bullet went into my right hand where my first finger joins the palm and came out behind my knuckle. I threw the gun on the ground and I don't know where it is now. Rfmn. NEWMAN who is in my pltn. was with me when I found the gun and was there when I shot myself. He took me to the Coy. H.Q. and got my wound dressed. I told Capt. ORMISON, the 2 i/c I had done it accidentally.

I was taken to No.16 Hospital and from there I camexx to No.7 Cdn. General Hospital. I don't really want to go back into action because I don't think I could stand any more of it.

I have read this statement over and have had it read to me and it is the truth.

(Sgd) R.R. THOMPSON X

After reading over the above statement I would like to add that the pistol is at Battalion H.Q. Oneof the stretcher bearers there has it.

(Sgd) R.R. THOMPSON X

I was present when the above statement was taken and witness both statement and signatures.

(Sgd) T.H. MORTON, Cpl.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of B-52434 Rfmn Thompson R.R. taken before me this 17th day of October, 1944.

"J.R. Barre" Lt
Officer taking Summary

I B. 52434 Pte Thompson R.R., desire to have an officer assigned to represent me at my trial by court martial. I desire the services of Capt W.D. Hungerford if he is available.

17 Oct 44

"R" Thompson R.R."
Signature of accused.

No 352434 Name Thompson RR | Sqn, Battery, or Company | Corps C/C | Date of enlistment 4 Feb 42 | GC Badges | Service or Proficiency Pay 1-1-43

MFM 6 (AFB 122) 40/PAS/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Gander	19-3-43	Pte		Failing to fulfil duty		4 days C.B. 7 days pay			

Certified to be a true extract from the regimental books and documents in my custody.

E.G. Hayward-Patterson Lt
12 Oct 44
D Sqn 6 Recruits Regt
6 Airfield Const Sqn 2 Const Wing

Ex B
E Phx
Pay
Pers

(PTO)

RECEIVED 15 DEC 1944 JAG BRANCH D H Q

RECORDED AT CMHQ IN AB 160.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier W. Bramwell Comd 5 I C Tank Bde dated 21 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B52434	Rfmn	Russell Roy	Thompson	Royal Canadian Regt

PROCEEDINGS REVIEWED 15 Dec 44

JAC

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 25 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1745 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ Ans ~~as shorthand writer~~

The Interpreter is sworn.(1) Do you object to

The ~~shorthand writer~~ is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Brig	E P Kirkman	Comd 1 Can Armd Bde 1 Can Army Tank Bde
Member	Brig	H A Crerar	Comd 1 Can Corps
Member	Lt Col	F A Ballerjon	Comd Lincoln & Welland Regt
Judge-Advocate			
Prosecutor	Lt Col	J G Thompson	HQ 2 Can Corps
Defending Offr	Capt	W G J Hungerford	Royal Canadian Regt attached 1 Can Armd Bde

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conf Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (~~no~~) plea(s)

(1. If a special plea is made for separate trial on one or more charges (RP 22(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form [illegible]

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Rfmn B52434 Thompson R R

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AO 40(a)	guilty	guilty	
2nd	AO 40 Alternative			
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N I L beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 1/2 days, of which N I L days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be cashiered and to undergo imprisonment with hard labour for two years and to be dismissed with ignominy from His Majesty's service

25 Oct 44 (Sgd) E P Kirkman President. (RP 45, 50.)

(Sgd) — Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

[illegible] (1. AA 57A. Delete if not used.)

(Sgd)

Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B52434 Rfmn Russell Roy Thompson	4 Nov 44.	A E Green Maj.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no irregularities to justify withholding confirmation of the sentence.

D1 A.G. Sec. 3 A.C.P.

A-1149

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative: (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty, there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Nil.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY ~~are read to~~ him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(7) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 46(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~Statement(s) as to Character and Particulars of Service~~(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'B' and Ex ~~C~~ respectively.(3)
(1. *MFB 353 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the ~~Statement(s)~~ and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.52434 Rfmn Russell Roy THOMPSON, Royal Winnipeg Rifles, attached No.21 Cdn General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE.

in that he

In the Field on 26 Sep 44 while with his regiment in the line by discharging a pistol wilfully injured himself by shooting himself through the right hand with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40.

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 26 Sep 44 while with his regiment in the line so negligently handled a pistol as to shoot himself through the right hand thereby rendering himself unfit for service.

In the Field,
16 October, 1944.

(H.M. Cameron) Colonel,
OC No.21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
21 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.52434	Rfmn	Russell Roy	THOMPSON	R Wpg R att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (~~file~~) 21 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

I ~~have unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ stated hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

I ~~have~~ also appoint as Judge Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee.		Gen List - Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	N.L. Troy		Alg Regt - att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F.A. Baillargeon		Gen List - att Cdn Sec GHQ 1 Ech 21 A Gp

~~WAITING MEMBER~~

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

Dat 21 Oct 44

(Signed personally. RP 105 fn 2.)

(A.W. Beament) Brigadier. (Rank.)

Commanding Cdn Sec GHQ 1 Ech 21 A Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/1097 (6143)

Approved Lieutenant-Colonel ADJ4

I certify that I have today examined Re g. No. B52434 PTE Name THOMPSON R.

Unit R.O.S.B. (M.M.) RIFLES and he is fit to undergo trial by Court Martial

In Mr Lines
25 Oct 44

Medical Officer.

61 ground duty, unarm status

B-52434 Rfm Thompson, Russell Roy
No 16 Plt R.W.R.
att 21 cdn Fd Wks R.

sworn states:
"I was born at "Sauble Falls",
Ontario 20th January 1923. My
parents were both Chipewa Indians.
They are both dead now. I was seven
and a half when my mother died and
nineteen when my father died. I
went to school at "Sauble Falls",
I went to Grade I in County school.
I left when I was 14 years old.
I then worked around home.
My home was situated in the "Bruce"
(County) "near town Sauble Ontario"
I enlisted in the Army on the 4th
February 1942. I was a volunteer.
I did my basic training at
Chatham Ontario for two months
and my advanced at the Lipsy
Nova Scotia for six months.
I had a little battle training during
this time. I came to the U.K. on the

2nd June 1944 – I was then for 3 weeks I came one as a reinforcement. I came to France on the 23rd of July. I went to C.B.R.C. I went up to the R.W.R.'s three days later. ~~From~~ during the period 26th July to 26th Sept I had one period of rest lasting 8 days. I was with the Regiment during all the rest of the time. I got a bro the wounded. He was in the Algonquin Regiment. I want to go back to my own Reg't "The R W R's" I was happy then. I have friends there. I got leaves of his wounding to day. My category is B-1. I had a bro the arm once the left arm. I am right handed. I have no dependents. I have never fought for my country really that the whiteman and I am anxious to get back because of this fact & also because of my friends.

E 3

B: 52434 Rfn Russell Roy Thomas
Royal Winnipeg Rifles
att: 21 Cdn Gen Hospital.

Plea in mitigation by Defending Officer

"This accused is a full blooded Chippewa Indian. He hails from the "Saugeen Reserve" near Owen Sound Ontario. His mother died when he was seven years of age and his father when he was nineteen.

He is anxious to return and resume tactical his honours - as evidence of this we have his remark to the effect that he feels he has even more right to fight for his country than the whiteman. I think we all admire his sincerity in this regard. He knows full well that the fighting qualities of his

people are admired all over the world - He also knows he has made a great mistake and when he thinks of his own brother being wounded there is only one foremost thought in his mind: he wants to get back & fight - Gentlemen, I have no hesitation in asking you to give him that chance by recommending the suspension of sentence & denial authority -

Remarks by Brig Hinchcliffe France 25.10.44

W.D. Attorney for Captain
" Defence Counsel "
Battle Ex- Cases.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.52434 Rfmn Russell Roy THOMPSON, R Wpg R, att 21 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

Major M.T. Kobrinsky, No.21 Cdn Gen Hospital, sworn, states:

I am Major M.T. Kobrinsky, Med Offr at No.21 Cdn Gen Hospital. Pte Thompson is a patient under my present care. Review of his med documents reveal that he had a through and through GSW of his right hand in the region of the second metacarpal phalangeal joint. He still requires further hospital treatment for approximately three weeks. In all likelihood there will be a slight disability in the movement of this joint. However, in my opinion it will not necessitate the lowering of his 'U' grade and at the completion of his treatment he should be fit for full duty. The wound could have been caused by a weapon held in the man's own hands.

The accused declines to cross examine this witness.

M.T. Kobrinsky, Major
Witness.

SECOND WITNESS

U.2015 Sgt Gatehouse, W.H., S.I.S., Cdn Provost Corps, att 21 Cdn Gen Hospital, sworn, states:

On 1 Oct 44, in company with Cpl Norton, I interviewed the accused, whom I recognize, at No.7 Cdn Gen Hospital. I identified ourselves to him, told him we were members of the SIS and we were enquiring into the circumstances surrounding an injury sustained by him in the right hand. He was cautioned that he need not say anything unless he wished to do so but whatever he did say would be taken down in writing and may be used in evidence. He understood the caution, read it and signed it. He then made a voluntary statement which was taken down in writing. It was read over to him and he read it himself and then signed the statement. There were no threats, promises or inducements held out to the accused in order to obtain the statement. He was not under arrest at the time.

The accused declines to cross examine this witness.

W.H. Gatehouse
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say at present".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

J R Carre Lt.

Officer detailed to take the Summary of Evidence.

In the Field,
17 Oct 44.

1 Oct 44.

Statement of. B 52434. Rfmn THOMPSON. R. Royal Regt.
No. 16 Platoon Royal Winnipeg Rifles. D Coy

I have been cautioned by Sgt. Gatehouse of the Special Investigation Section. Can Provost Corps. that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

I do know I fully understand this caution and sign my name here.

R.R. THOMPSON. +

I am. Rfmn THOMPSON of the Royal Winnipeg Rifles, No. 16 platoon in 'D' company. I came to France on the 23 rd July 44 and joined my Regiment, which was on its way to Caen. two days after landing that I arrived. about 25 July 44.

About a week and a half ago we were in or near Fontenay Le Pesnel, and stayed in this position for 3 days, and while there German bombers raided our supporting artillery. I felt pretty nervous under the bombing. We left this position and went up near Fontaine Henry, for an 8 day rest period.

After this we followed up the attack on Falaise as a support Battalion. I stayed in the support position with platoon before and we went right on to the Seine, where we ran into some very hot action. They mortared, shelled and machine gunned us

P.T.O

(Statement continued)

This made me even more nervous than before.

I was with the regiment then all through the actions, and about the 25th of Sept. we made an attack on Coquelles, the whole Battalion was in it. Our own artillery was dropping shells about 50 yds ahead of us. I got pretty sick and I knew I couldn't stand much more of it. That same night I had only about 3 hours sleep. In the morning about 8 o'clock I found a pistol. I don't know what kind it was, but when I took it out of the leather case, I found about 8 rounds of 32 ammunition in the bottom of the holster. Just about this time we were ordered out to round up some germs and I put the pistol away.

We finished this job about noon.

I ate in the afternoon about 3 o'clock. I got the pistol again and loaded it. I tried to fire it, but the shells wouldn't go off although it revolved the chamber alright.

I changed the pistol into my left hand and put my right hand over the barrel, and pulled the trigger. I was pretty well shaken up at the time, and I figured it would be a good way to get out of the line. I never thought it would go off anyway. This time it went off and the bullet went into my right hand, under my first finger joint, the palm and came out behind my knuckle. I threw the gun on the ground then and I don't know what it's now.

Riflemen Stevenson who is in my platoon was with me when I found the gun, and was there when I shot myself. He took me to Coy HQ and got my wound dressed.

R.R.T.

I told Capt. Armison etc 2 Fd. I had done it accidentally.

I was taken to No. 16 Hospital and from there I came to No. 1 Can. General Hospital.

I don't really want to go back into action, because I don't think I could stand any more of it.

I have read this statement over, and have had it read to me, and it is the truth.

R.R. THOMPSON +

After reading over the above statement I would like to add that the pistol is at Battalion Hq. One of the stretcher bearers there has it.

R.R. THOMPSON +

I was present when the above statement was taken, and witness to both statement and signature. J.H. Norton Cpl.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of B.52434 Rfmn Thompson, R.R., taken before me this 17th day of October, 1944.

J.R. Barrie Lt.

Officer taking Summary.

(Copy)

STATEMENT OF B-52434 Rfmn. THOMPSON, Russell, Roy. No.16 Pltn. R.W.R.

I have been cautioned by Sgt. GATEHOUSE of the Special Investigation Section, Cdn. Provost Corps, that I am not obliged to say anything unless I wish to do do, but anything I do say will be taken down in writing and may be given in evidence.

To show I fully understand this caution I sign my name here.

R.R. THOMPSON X

I am Rfmn. THOMPSON of the Royal Winnipeg Rifles, No.16 Pltn. D Coy. I came to France on the 23 July 44 and joined my regt. which was on its way to Caen, two days after landing, that would be about 25 July 44.

About a mile and a half outside of Caen, we dug in in a wheat field and stayed in this position for three days and while there German bombers raided our supporting artillery. I felt pretty nervous under this bombing. We left this position and went up near Fontaine Henry for an eight day rest period. After this we followed up the attack on Falaise as a support battalion. Things in the support position were quieter than before and we went right on to the Seine, where we ran into some very hot action. They mortared shelled and machine gunned us. This made me even more nervous than before. I was with the regt. then all through its actions and about the 25 day of Sept. we made an attack on Coquelles the whole battalion was in it. Our own artillery was dropping shells about 50 yds ahead of us. I felt pretty sick and I knew I couldn't stand much more of it. That same night I had only about three hours sleep. In the morning about 8 o'clock I found a pistol. I don't know what kind it was but when I took it out of its leather case I found about 8 rounds of .32 ammunition in the bottom of the holster. Just about this time we were ordered out to round up some Jerries and I put the pistol away. We finished this job about noon. Then in the afternoon about three o'clock I got the pistol again and loaded it. I tried to fire it but the shells wouldn't go off, although it revolved the chamber alright. I changed the pistol into my left hand and put my right hand over the barrel and pulled the trigger. I was pretty well shaken up at the time and I figured it would be a good way to get out of the line. I never thought it would go off anyway. It is time it went off and the bullet went into my right hand where my first finger joins the palm and came out behind my knuckle. I threw the gun on the ground and I don't know where it is now. Rfmn. NEWMAN who is in my pltn. was with me when I found the gun and was there when I shot myself. He took me to the Coy. H.Q. and got my wound dressed. I told Capt. ORMISON, the 2 i/c I had done it accidentally.

I was taken to No.16 Hospital and from there I came to No.7 Cdn. General Hospital. I don't really want to go back into action because I don't think I could stand any more of it.

I have read this statement over and have had it read to me and it is the truth.

(Sgd) R.R. THOMPSON X

After reading over the above statement I would like to add that the pistol is at Battalion H.Q. Oneof the stretcher bearers there has it.

(Sgd) R.R. THOMPSON X

I was present when the above statement was taken and witness both statement and signatures.

(Sgd) T.H. NORTON, Cpl.

I. B-524334 PVT. THOMPSON, R.R. desire to have an officer assigned to represent me at my trial by court martial. I desire the services of CAPT. W.B. HUNGERFORD if he is available.

17 Oct 44.

R R Thompson
Signature of Accused.

MFM 6
(AFB 122)
40/P&S/136 (3438)

No B52434 Name Thompson GR | Sqn. Battery or Company | Corps CIC | Date of enlistment 4Feb42 | OC Badges | Service or Proficiency Pay 1-1-43 | Character

Company Conduct Sheet Date of last entry in | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc

Face	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Gander	18-3-43	Gnr		Failing to fulfil duty		4 days CB 7 days pay			

Certified to be a true extract from the regimental books and documents in my custody.
12 OCT 1944
Officer IC Records
Can Sec GMC 2 Lt. D. A Cp.

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(2)	Guilty	Guilty	
2nd AA 15(3) in the alternative		Withdrawn by Prosecutor RP 73(C)	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Nil beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) — Judge-Advocate, if any. 23 Oct 44 Date awarded. (Sgd) "E P Fee" Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to prison or detention barracks until further order.(1) (1. AA 57A. Delete if not used.)

(Sgd) "H.D.G. Beaman" (H.D.G. BEAMAN) BRIGADIER OFFICER I/C CANADIAN SECTION GHQ 1 ECH 21 ARMY GROUP

Date ..... Commanding ..... 28 OCT 1944 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.52434 Rfmn Russell Roy Thompson	4 Nov 44	"E Fee" Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CF A105 (To 1944) (F AF A2) 40-P.M.-8-1944 (4600)

4/38B

Convened by Order of Brigadier H.D.G. Beaman Cmdg I/C Can Sec dated 21 Oct 44

GHQ 1 Ech 21 Gp

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.52434	Rfmn.	Russell Roy	Thompson	Royal Canadian Regt attd 1 Can Corps Guard Coy

Certified true copy
D. A. Vaughan Major
D. J. A.
Cdn Sec G.H.Q. 2

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 23 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13/18

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. Ent

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) Ent

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1700 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2) Ent

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to as interpreter ? Ans~~ Ent

~~The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : Ent

President	Maj	E.P. Fee	Can Inf. Can Sec GHQ 1 Ech 21 Gp
Member	Maj	M.F. Troy	R Reg of Can Inf attd Can Sec GHQ 1 Ech 21 Gp
Member	Capt	D.A. Vaughan	Cdn Inf Regt attd Can Sec GHQ 1 Ech 21 Gp
Judge-Advocate			
Prosecutor	Lt Col	J.D.R. Thompson	HQ 2 Can Corps
Defending Offr	Capt	W.G.D. Richmond	R Regt of Can Inf attd Can Sec GHQ 1 Ech 21 Gp

Questions by President : Is the Prosecutor a lawyer ? Ans Yes If the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conf Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea(s) Ent (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

Record sworn with reason by annexation RP 73(C)

A9. The accused is (are) arraigned, (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form BY 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A-109

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir.(5)

(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to Guilty on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D6.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans He to give sworn evidence myself.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~Statement(s) as to Character and Particulars of Service~~(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex ..... respectively.(3)

(*1. MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the ~~Statement(s) and~~ Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my defending officer.(2)

(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 13.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP* 71 (*2*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 98, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D.52434 Rfmn Russell Roy THOMPSON, Royal Winnipeg Rifles, attached No.21 Cdn General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE.

in that he

In the Field on 26 Sep 44 while with his regiment in the line by discharging a pistol wilfully injured himself by shooting himself through the right hand with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40.

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 26 Sep 44 while with his regiment in the line so negligently handled a pistol as to shoot himself through the right hand thereby rendering himself unfit for service.

"J W Cameron"

In the Field,
16 October, 1944.

(J.W. Cameron) Colonel,
OC No.21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"A W Beament"

In the Field,
21 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Echn 21 A Gp.

"E Phee" Major
PAS

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(5).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B.52434	Rfmn		Russell Roy	THOMPSON	R Wpg R att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) 21 Oct 44 endorsed by me, [redacted], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee	Gen List - Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy	Alg Regt - att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F.A. Baillargeon	Gen List - att Cdn Sec GHQ 1 Ech 21 A Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

"A.W. Beament" (Signed personally. RP 105 (n 2.)) Brigadier (Rank.)

(A.W. Beament)

Date 21 Oct 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFARS (In lieu of AFA3) 40/P & S/1697 (4891)

Approved
"B.W. Howard" Capt
ADJA

"E.P. Lee"
Maj
Pres

I certify that I have today examined Reg No B.52434 Rfmn Thompson R. Unit Royal Win Rifles and he is fit to undergo trial by Court Martial.

In the Field
25 Oct 44

"M.T. Kohnnst" Maj
Medical Officer.

"E.P. Lee Maj" Pres

E.1 Accused duly sworn states.

B.52434 Rfm Rhompson, Russell Roy No.16 Pltn R.W.R. att 21 Cdn Gen Hosp.

sworn states:

I was born at "Sauble Falls," Ontarion 20th January 1923. My parents were both Chipewa Indians. They are both dead now. I was seven and a half when my mother died and nineteen when my father died. I went to school at "Sauble Falls", I went to Grade V in Country School. I left when I was 14 years old. I then worked around home. My home was situated in the "Suageen Reserve" near Owen Sound Ontario. I enlisted in the army on the 4th February 1942. I was a volunteer. I did my basic training at Chatham Ontario for two months and my advanced at Halifax Nova Scotia for six months. I had a little battle training during this time. I came to the UK on the 23rd June 1944. I was there for 3 weeks. I came over as a reinforcement. I came to France on the 23rd of July. I went to CBRC. I went up to the RWR's three days later. During the period 26th July to 26th Sept I had one period of rest lasting 8 days. I was with the Regiment during all the rest of the time.

I got a brother wounded. He was in the Algonquin Regiment. I want to go back to my own Regt "The RWR's". I was happy there. I have friends there. I just learned of his wounding today.

My category is B-1. I had a broken arm once, the left arm. I am right handed. I have no dependents. I have more right to fight for my country really than the white man and I am anxious to get back because of this fact & also because of my friends.

E.3 B.52434 Rfm Russell Roy Thomson Royal Winnipeg Rifles att 21 Cdn Gen Hosp

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Plea in mitigation by defending officer.

This accused is a full blooded Chipewa Indian. He hails from the "Suageen Reserve" near Owen Sound Ontario. His mother died when he was seven years of age and his father when he was nineteen.

He is anxious to return to action and restore his honour - as evidence of this we have his remark to the effect that he has even more right to fight for his country than the white man. I think we all admire his sincerety in this regard. He knows full well that the fighting qualities of his people are admired all over the world. He also knows he has made a great mistake and when he thinks of his own brother being wounded there is only one foremost thought in his mind: he wants to get back and fight.

Gentlemen, I have no hisitation in asking you to give him that chance by recommending suspension of sentence to senior authority.

Mesniers En
Bray Nr
Neufchatel
France
25:10:44

"W.D. Hungerford"
Captain
Defence Counsel
Battle Ex - Cases.

"E.P. Lee" Maj
Pres

Ex A
"E.P.K." Major
Jdg.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H. 72436 Rfmn Russell Roy THOMPSON, R Regt R, att 21 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

Major W.F. Kobrinsky, No.21 Cdn Gen Hospital, sworn, states:

I am Major W.F. Kobrinsky, Med Offr at No.21 Cdn Gen Hospital. Pte Thompson is a patient under my present care. Review of his med documents reveal that he had a through and through GSW of his right hand in the region of the second metacarpal phalangeal joint. He still requires further hospital treatment for approximately three weeks. In all likelihood there will be a slight disability in the movement of this joint. However, in my opinion it will not necessitate the lowering of his 'C' grade and at the completion of his treatment he should be fit for full duty. The wound could have been caused by a weapon held in the man's own hands.

The accused declines to cross examine this witness.

"W.F. Kobrinsky"
Witness.

SECOND WITNESS

W.2015 Sgt Gatehouse, W.H., S.I.S., Cdn Provost Corps, att 21 Cdn Gen Hospital, sworn, states:

On 1 Oct 44, in company with Cpl Norton, I interviewed the accused, whom I recognize, at No.7 Cdn Gen Hospital. I identified ourselves to him, told him we were members of the SIS and we were enquiring into the circumstances surrounding an injury sustained by him in the right hand. He was cautioned that he need not say anything unless he wished to do so but whatever he did say would be taken down in writing and may be used in evidence. He understood the caution, read it and signed it. He then made a voluntary statement which was taken down in writing. It was read over to him and he read it himself and then signed the statement. There were no threats, promises or inducements held out to the accused in order to obtain the statement. He was not under arrest at the time.

The accused declines to cross examine this witness.

"W.H. Gatehouse"
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say at present".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

"J.R. Barr" Lt.
Officer detailed to take the Summary of Evidence.

In the Field,
17 Oct 44.

(Copy) 18 Oct 44

STATEMENT OF B-52434 Rfmn. THOMPSON, Russell, Roy. No.16 Pltn. R.W.R.

I have been cautioned by Sgt. GATEHOUSE of the Special Investigation Section, Can. Provost Corps, that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.

To show I fully understand this caution I sign my name here.

R.R. THOMPSON X

I am Rfmn. THOMPSON of the Royal Winnipeg Rifles, No.16 Pltn. D Coy. I came to France on the 25 July 44 and joined my regt. which was on its way to Caen, two days after landing, that would be abo t 29 July 44. About a mile and a half outside of Caen, we dug in in a wheat field and stayed in this position for three days and while there German bombers raided our supporting artillery. I felt pretty nervous under this bombing. We left this position and went up near Fontaine Henry for an eight day rest period. After this we follow d up the attack on Falaise as a support battalion. Things in the support position were quieter than before and we went right on to the Seine, where we ran into some very hot action. They mortared shelled and machine gunned us. This made me even more nervous than before. I was with the regt. when all through its actions and about the 26 day of Sept. we made an attack on Boquelles the whole battalion was in it. Our own artillery was dropping shells about 50 yds ahead of us. I felt pretty sick and I knew I couldn't stand much more of it. That same night I had only about three hours sleep. In the morning about 8 o'clock I found a pistol. I don't know what kind it was but when I took it out of its leather case I found about 8 rounds of .32 ammunition in the bottom of the holster. Just about this time we were ordered out to mount to some Jerries and I put the pistol away. We finished this job about noon. Then in the afternoon about three o'clock I got the pistol again and loaded it. I tried to fire it but the shells wouldn't go off, although it revolved the chamber all right. I changed the pistol into my left hand and put my right hand over the barrel and pulled the trigger. I was pretty well shaken up at the time and I figured it would be a good way to get out of the line. I never thought it would go off anyway. It is true it went off and the bullet went into my right hand where my first finger joins the palm and came out behind by knuckle. I threw the gun on the ground and I don't know where it is now. Rfmn. MCNEAL who is in my pltn. was with me when I found the gun and was there when I shot myself. He took me to the Coy. H.Q. and got my wound dressed. I told Capt. GILLSON, the R.S.M. I had done it accidentally.

I was taken to No.16 Hospital and from there I went to No.7 Can. General Hospital. I don't really want to go back into action because I don't think I could stand any more of it.

I have read this statement over and have had it read to me and it is the truth.

(Sgd) R.R. THOMPSON X

After reading over the above statement I would like to add that the pistol is at Battalion H.Q. One of the stretcher bearers there has it.

(Sgd) R.R. THOMPSON X

I was present when the above statement was taken and witness both statement and signatures.

(Sgd) [illegible] HORTON, Cpl.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of B-52434 Rfmn Thompson R.R., taken before me this 17th day of October, 1944

"G. P. Payne" Lt
Officer taking Summary

I, B. 52737 Pte Thompson R.R. desire to have an officer assigned to represent me at my trial by General Court Martial. I desire the services of Capt G.T.D. Hungerford if he is available.

17 Oct 44

"R.R." Thompson R.R.
Signature of Accused.

MFM 6
(AFB 122)
40/P&S/156 (3438)

No. 352434 Name Thompson RR | Sqn, Battery, or Company | Corps C/C | Date of enlistment 4 Sep 42 | GC Badges | Service or Proficiency Pay 1-1-43 | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk nil | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pander	19-3-43	Pte		Failing to fulfil duty		4 days C.B. 7 days pay			

Certified to be a true extract from the regimental books and documents in my custody.
C.P. Stewart Patterson Lt
12 Oct 44 Officer i/c Records "X"
6 Duplee Blvd 2 Ecd 2 i/a 9 p

(PTO)

ZZ-22

PTE THOMPSON R.S.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 20929 Pte REGINALD SPEECHLY THOMPSON Cameronians of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 22	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Twenty seven days FD Punishment beginning on (date) 18 NOV 43 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of four days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: Three months detention and stoppages of pay to the amount of one pound and Thirteen shillings.

(Sgd) ..... Judge-Advocate, if any. 9 Dec 43 Date awarded. (Sgd) J McMaud major President (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) G S N Costling Brig
Date 10 DEC 1943 Commanding Comd 6 Cdn Inf Bde Confirming Officer.

Proceedings reviewed 10 Jan 44 [illegible]

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-20929 Pte Thompson, R.S.	10 Dec 43	G P Kidd, Capt — Adjt Cameronians (Scottish)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

22-22

CF A96 (in lieu of AFA2) A/P S & R/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig GSN Costling Comd 6 Cdn Inf Bde dated 9 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-20929	Pte	Reginald Speechly	THOMPSON	Camerons of C.

PROCEEDINGS REVIEWED 10 Jan 44 [illegible] REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND. on (date(s)) 9 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans ND.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. M. P. Sauve	Fus M.R.
Member	Capt	E. R. Dillon	Camerons of C.
Member	Lt	A. D. Frederickson	S Baskets
~~Judge-Advocate~~			
Prosecutor	Capt	D. F. Storey	Camerons of C.
Defending Offr	Lt	D. J. Gillespie	Camerons of C.

Questions by President: Is the Prosecutor a lawyer? Ans ND Is the Defending Offr a lawyer? Ans ND.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused REGINALD SPEECHLY THOMPSON before arraignment make(s) (no) ~~no~~ plea.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.(1)
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read aloud as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 2 and Ex 3 respectively.(2)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Def. Offr. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 91(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-20929 Private Reginald, Speechly, THOMPSON, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 22

Whilst on Active Service, when in confinement escaping,

in that he,

at about 2030 hrs on 20 Nov 43, when in confinement at No 1 Fd Punishment Camp, Cdn Provost Corps, escaped.

SECOND CHARGE
AA Sec 15(1)

Whilst on Active Service, Absenting himself without leave,

in that he,

absented himself from No 1 Fd Punishment Camp at about 2030 hrs on 20 Nov 43 until apprehended by Military Police in Eastgate Street, Gloucester at about 2115 hrs on 5 Dec 43 incurring cost of apprehension to the amount of £1-13-0. Absent 15 days, 0 hrs, 45 mins.

In the Field
8 Dec 43

(A.T. Law) - Lt-Col,
Comd Camerons of Canada

To be tried by FIELD GENERAL COURT MARTIAL.

In the field
9 Dec 43

(G.S.N. Gestling) Brigadier
Commander 6 Cdn Inf Bde

I hereby certify that I have received one copy of the Summary of Evidence and one copy of the Charge Sheet.

R S Thompson

(H-20929 Pte Thompson, R.S.)

I hereby request that an officer be appointed to represent me at my trial.

R S Thompson

(H-20929 Pte Thompson, R.S.

A-2.

Pte

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/PAM/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-20929	Pte		REGINAL SPEECHLY	THOMPSON	Camerons of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Dec 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.M.P. Sauve (Must be named. RP 106.)	Fus M R (Unit.)

MEMBERS.

Capt	E.R. Talbot	Camerons of C
Lt (Rank.)	A.H. Frederickson (Named or detailed. RP 106.)	S Sask R (Unit.)

WAITING MEMBER.

Lt (Rank.)	V.A. Ridgeway (Named or detailed, if any. RP 106.)	Camerons of C (Unit.)

JUDGE-ADVOCATE.

(Rank.)	N/A (Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 9 Dec 43

(Signed personally. RP 105 fn 2.)

(G.S.N. Gostling)

Brigadier (Rank.)

Commanding 6 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

A. H. Bell pres

9 Sec

H20929 Pte Thompson R. S.

H.

is fit to undergo General Court Martial on the morning of 9 Sec 43

D V Moroney Capt

E 3 pers

For President and gentlemen

Before you make a decision regarding sentence about the accused I would like you to take into consideration his age which is 20 years and the fact till about 3 months ago he had been a good soldier, good enough in fact to have been a NCO

As you can see he has only 5 offences in 2 years, of 3 of these have been minor offences, he has never been tried by D.G.C by before This soldier is young and irresponsible and been influenced by the so called desperados around the unit who he has been associating with and I believe he has finally learnt his lesson and if you can show as much leniency as possible in

his case we will have the material for a good soldier when he has paid for his crime.

E-3 just pvt

J Gillespie Lt

LIST OF WITNESSES

K-38051	Sjt Cook, H.F.	No 1 Fd Punishment Camp, Cdn Provost Corps.
H-19136	CSM Cheetham, P.	Camerons of Canada

LIST OF EXHIBITS

Exhibit "A"	Evidence purporting to have been signed by K-38051 Sjt Cook, H.F.
Exhibit "B"	Certificate of Apprehension
Exhibit "C"	Certificate of cost to the amount of £1-2-2
Exhibit "D"	Certificate of costs to the amount of £0-10-10.

EXHIBIT "A"

Army Form B 252
(See King's Regulations)

CHARGE

No.1.F.P.Camp,Cdn Pro C. — Regiment / Battery / Squadron / Troop or Company

Attached from Camerons of Cdn

CHARGE against No. H.20929 Rank Pte

Name Thompson, R.S.

Place In The Field Date of Offence 20 Nov 43.

OFFENCE W.O.A.S. Escaping from confinement in that he at approximately 2030 hrs on 20 Nov 43, escaped lawful custody of No.1. Field Punishment Camp, Cdn Pro C.

Names of Witnesses:— K.38051 Sgt Cook, R.F.

Signature of O/C: Battery, Squadron, Troop or Company

Punishment Awarded — Remanded for Summary

By whom Awarded — William B Hamilton Lt Col

Adjutant.

P.T.O.

3000 W1-W5467-406 1,500,000 12-41 K. & R., Ltd. G65747

SIR,

EVIDENCE

On 20 Nov 43, I was Orderly Sgt at No.1. P.P.Camp, Cdn Pro C.

At 1820 hrs I held a muster parade of S.U.S. in camp and found all to be present and coprect. At 2030 hrs I held a further muster parade and found H.20929 Pte Thompson, K.S. to be missing. This soldier was sentenced to 28 days F.P. on 18 Nov 43, was admitted to this camp on 19 Nov 43 and was due for release on 15 Dec 43.

A check of the buildings and camp area established the fact that this soldier had escaped. I reported his absence to R.S.M. Tosdevin.

The S?I.S., Nos 11 & 13 Provost Coys and Orderly Sgt of the Camerons of Cdn were notified of the escape.

On checking his kit, I believe him to be wearing battle dress, military boots. He was not wearing a field service cap and did not have K.R.R.C.1 Parts I, II or III in his possession.

H 7 Cook Sgt.
K.30051 Cook, H.F.

REMARKS

CERTIFICATE IN ACCORDANCE WITH PARA. 4(2) OF SECT. 163 (1) (A) (i).

I certify that No. H. 20919 Rank. Pte Name. THOMPSON R.S.
Queens Own Cameron Highlanders Unit was arrested at Gloucester
at 21.15 hrs. on 5/12/43

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above mentioned person was taken on arrest.

J. Marsh STAFF LT.
155 PRO COY. S.R.C.

A.C.I. 2253/43.

EXHIBIT "B"

EXHIBIT "C"

Expense Voucher Re—: Ref. K.R. & O. (Can) 539

Reg. No. H20929 Rank Pte Name Thompson, R.A. Unit C&I of Can

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Gloucester

Date	Particulars (½ portion	Amount		
8 Dec. 42	Escorts return fare from LONDON To Gloucester		8	10
	Prisoners single fare to LONDON From Gloucester		8	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		4	6
	Total £	1	2	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.S. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483(3287)

EXHIBIT "D"

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. H/20929 Rank Pte. Name Thompson, R.S. Unit Con. 2 Con

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (Exportion)	Amount		
8 Dec 45	Escorts return fare from LONDON To Woking		6	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Woking		4	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

T. L. Thompson Capt.

Officer Issuing Railway Warrant and Expense money
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/4853(3287)

A-1 [illegible]

Off under instruction:
Lt V. A. Ridgway Cameroons of C.

SUMMARY OF EVIDENCE

In the case of H-20929 Private Reginald, Speechly, THOMPSON, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence be given under oath.

FIRST WITNESS K-38051 Sjt Cook, H.F., Cdn Provost Corps, Cdn Army Overseas:-

A written statement of this witness' evidence purporting to have been signed by him has been read to the accused and is included in the summary as Exhibit "A" having regard to the escape from No 1 Fd Punishment Camp of H-20929 Pte Thompson, R.S. at about 2030 hrs on 20 Nov 43.
The attendance of this witness cannot, in my opinion, be readily procurred.

SECOND WITNESS H-19136 CSM Cheetham, P., Camerons of Canada, Cdn Army Overseas, having been duly sworn states:-

I am H-19136 CSM Cheetham, P., Camerons of Canada, Cdn Army Overseas. I present:-

(a) As evidence of the accused's apprehension Certificate of Apprehension purporting to be signed by Lt. J.A. Leach, Staff Lt, 159 Provost Coy, S.M.D. Areas(Exhibit "B").

(b) Certificates of costs to the amount of £1-2-2 and £0-10-10 respectively purporting to be signed by Capt L.S. Grayson, D.A.P.M., London Area(Exhibits C & D).

(H-19136 CSM Cheetham, P.)

The accused declines to question the witness.

The accused having been duly cautioned in accordance with R.P. 4(e) declines to make a statement.

This is to certify that R.P. 4(c) to (e) have been complied with.

Taken down by me in the presence of the accused on 8 Dec 43 in Worthing, Sussex.

(D.F. Storey) - Capt,
Camerons of Canada

No H-20929 Name Thompson, R.S. Sqn, Battery, or Company

1st sheet destroyed in accordance with CARO (OS) D/28-4-42

Corps Camerons of Canada Date of enlistment 28-10-41 OC Badges Service or Proficiency Pay 1.50

MFM 6 (AFB 122) + 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet Nil No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Denton Sussex	23 May 43	Pte		Conduct to the prejudice of good order and military discipline in that he did turn on guard mounting improperly dressed	H-19876 Sjt Thorburn, J C	7 days C B	25 May 43	Lt. P Jackson	
Field	24 Jul 43	L/Cpl		WOAS Absent without leave in that he was absent from 0600 hrs 24 Jul 43 to 2210 hrs 25 Jul 43 Absent: 1 day 16 hrs 10 min AA Sec 15 (1)	H-20085 L/Sjt McNaughton WG H-19680 Sjt Gibson H.T.	Reverted to Pte	26 Jul to Pte	26 Jul 43	Lt-Col A T Law
Field	25 Oct 43	Pte		WOAS Absent without leave in that he was absent from 0600 hrs 25 Oct 43 to 0800 hrs 25 Oct 43 AA Sec 15	H-19517 Sjt Rothnie W J H-19709 CSM Moody B R	5 days C B	26 Oct 43	Capt R H Lane	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Nov 43	Pte		(1) WOAS Absenting himself without leave, in that he did absent himself without leave from 2245 hrs 10 Nov 43 until apprehended by CMP at 1130 hrs 15 Nov 43. Absent: 4 days 12 hrs 45 min incuring cost of apprehension of £ 2-7-4. AA Sec 15(1) (2) An act to the prejudice of good order and military discipline in that he made use of a document Purporting to be a genuine pass. AA Sec 40 (3) WOAS Wilfully making a false statement to a superior officer in that he did at approx 1130 hrs on the 15 Nov 43 make a statement (cont'd page 3)	H-20466 L/Cpl McDonald H A Docy	28 days F P	18 Nov 43	Lt-Col A T Law	3 days pay

MFM 6
(AFB 122).
40/P&C/130 (3438)

No H-20929 Name Thompson, R.S. Sqn, Battery, or Company — 1st sheet destroyed in accordance with CARO (OS d/28-A-42 Corps Camerons of Canada Date of Enlistment 28-10-41 Service or Proficiency Pay 1.50 Character

Date of last entry in Company Conduct Sheet N11 No and date of last drunk N11 Period not reckoning towards freedom from extra fine Sheet No 2 Badges Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(cont'd from Sheet 2)					
Field	10 Nov 43	Pte	(3)	to L/Cpl Monk,E. that he was on leave. AA Sec 27(4) CERTIFIED TRUE COPY (G.P. Kidd) - Capt. Adjt Camerons of C.					

(PTO)

M.F.D. 355
40/F & S/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-20929	Pte	Thompson, R.S.	Camerons of Canada

1. The following is a fair and true summary of the entries in the Regimental ~~xxxxxxxxxxxx~~ 27X Conduct sheets ~~xxxxxxxxxxxxxxx~~ 27X of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~xxxxxxxxxx~~ 27X of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For AA Sec 15(1)	three	times	AA Sec 15(1) three	times
For AA Sec 27(4)	one	times	AA Sec 27(4) one	times
For AA Sec 40	one	times	AA Sec 40 two	times
For		times		times

For ~~xxxxxxxxxxxxxx

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of Dec 43 (G.P. Kidd) - Capt Adjt Camerons of C

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

AA-59

SGT THOMPSON V.R

O. H. M. S.

M. F. B. 270
5003M-1-40 (8787-8-9-90)
H. Q. 1772-39-67

AA-59

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Ninth day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "E" Group, Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for the appearance of a qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[A Field Officer is to be the Senior]
*[A Field Officer is to be the Junior]

*Omit if not applicable.

for the following reasons, namely :—]

Proceedings Reviewed
Deputy Judge Advocate General, CMHQ
2 Apr 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.R. MacDougall	1 CACRU

Members.

Rank.	Name.	Regiment.
Captain	C.D. Lough	1 CACRU
Lieutenant	A.H. Cooper	1 CACRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (S.A. Lee) Colonel,
Commanding Comd "E" Gp, CRU.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B 4520 Sgt Thompson, V.R. 3 CACRU	First Charge: Army Act Sec 19 Whilst on Active Service, Drunkeness	Not Guilty	Guilty. To be reduced to the rank of Trooper. [illegible] Tried at F.G.C.M. 10 March 43	Finding and Sentence Confirmed [signature]

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] (Signed) [signature]
Commanding "E" Group, Cdn Rft Units No 1 CACRU. President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the TENTH day of MARCH 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The Interpreter)~~
*~~(4. The officers under instruction)~~

*Omit if not applicable.

were duly sworn.

Signed this 10th day of March 1943.

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

[signature]
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 13th day of March 1943

[signature]
Confirming Officer.

Promulgated and extracts taken in the case of B4520 Sgt. Thompson, V.R.

(*a*) (Dated) 13 Mar 43 (Signed) [signature] Capt. Adjt.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) W1.46179/850 50,000 7/43 A.& E.W.Ltd. Gp.698

B.

CHARGE SHEET

The Accused, B-4520 SGT. THOMPSON, VERNON RICHARD, on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with:-

First Charge A.A. Sec 19 WHILST ON ACTIVE SERVICE, DRUNKENESS,

in that he

at Dettingen Barracks on 27 Feb 43., was drunk and incapable of performing his duties as orderly sergeant, thereby causing K-998 Cpl. Fleck, W.P. to be appointed in his stead.

(G.W. Little) Colonel,
Officer Commanding,
No. 3 C.A.C.R.U.

In the Field
3 Mar 43.

To be tried by Court Martial.

(S.A. Lee) Colonel,
Comd "E" Gp, CRU.

In the Field
9 Mar 43

Pres. of F.G.C.M.

A

MEDICAL OFFICER'S REPORT

I certify that No. Thompson U.R. Sgt
of # 3 CACRM is in a fit state of health,
and fit to undergo Trial by Court martial.

Interim Capt
Medical Officer

Station Dettingen Barracks

Date 10-3-43

M. F. B. 246
25M—6-41 (702)
H.Q. 1772-39 480

Adm-Insp 1st Army
Present at F.G.C.M

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT DETTINGEN BARRACKS, BLACKDOWN, HANTS ON THE 10 DAY OF MAR 43.

Evidence taken down at the trial by F.G.C.M. of B.4520 Sgt. Thompson, V.R., on the strength of No. 3 C.A.C.R.U. a soldier of the Canadian Army Overseas held at Dettingen Barracks, Blackdown, Hants on the 10 Mar 43.

.....

The Order Convening the Court, (R.P. 105),

The Charge Sheet (R.P. 108) (Exhibit A) and

The Summary of Evidence are laid before the Court (R.P. 22 (A)). The Court complies with Rs. P. 22 and 23.

At 0900 hours the Court opens.

The accused and all person including all witnesses are now brought in.

Prosecutor - Lieut. G.G. Pitt

Defending Officer - Lieut. L.M. Hanway (Lawyer)

Medical Certificate is laid before the Court by the Prosecutor (and signed by the President) (Exhibit B)

The Convening Order is read by the President to the accused. The President and Members of the Court answer to their names. (R.P. 25 and 110)

By the President to the Accused:

Q. Do you object to be tried by me as President or by any of the officers whose names you have heard read?

A. No.

The President and Members are duly sworn (R.P.111)

The Court is constituted as follows:-

President - Major P.R. MacDougall

Member - Capt. C.D. Lock

Member - Lieut. A.H. Cooper

Q. Do you object to D.82697 L/Sgt. Clark, W.V. acting as shotthand writer (R.P. 72)

A. No, Sir.

The Court Stenographer is duly sworn (R.P. 27).

The Charge is signed by the President and annexed to the Proceedings (Exhibit A).

The accused is arraigned upon the charge in the above mentioned Charge Sheet (Rs.P. 62 and 108).

By the President:

Q. Are you guilty or not guilty of the charge against you which you have heard read?

A. Not Guilty.

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence.

A. No, Sir.

The Prosecuting Officer makes the following opening Opening Address (R.P. 39)(B)):

The case before the Court is that of B.4520 Sgt. Thompson, V.R., charged with drunkenness. This offence in itself is serious enough but it was aggravated by the fact that the accused was at the time of the alleged offence, the Unit Orderly Sergeant. It will be brought out in the evidence that Sgt. Thompson was incapable of carrying out the responsible duties of Orderly Sgt. owing to the fadt that he was under the influence of liquor and that it was necessary to replace him with another N.C.O.

The Prosecutor proceeds to call his witnesses (R.P.39(C)).

FIRST WITNESS For the Prosecution

Lieut. T.B.W. Bird, No. 3 C.A.C.R.U., an officer of the Canadian Army Overseas, having been duly sworn (R.P.82), is examined by the Prosecutor:

Q. What is your name?

A. Lieut. T.B.W. Bird.

Q. Were you Orderly Officer on the 27 Feb 43 and was your Orderly Sgt., Sgt. Thompson, the accused?

A. Yes.

Q. Is he present in the Court this morning?

A. Yes.

Q. Will you tell the Court what occurred on the 27 Feb 43 at 2100 hrs to the time the accused was placed under arrest?

A. At 2100 hrs I had an appointment with Sgt. Thompson. He was to meet me at the Orderly Room, I waited until 2100 hrs. My first call was the N.A.A.F.I., on entering the N.A.A.F.I. I saw Sgt. Thompson standing in the bar, when he saw me enter the room he approached me and informed me that he had come directly to the canteen to see that it was closed. I noticed that he smelt heavily of liquor, I said nothing at the moment because as there were a number of other ranks present. At this time we left the canteen and went upstairs to see that the Billiard Room was closed, on investigation there I found the Billiard Room still open. I inquired who was in charge and instructed him to clear the room immediately. Sgt Thompson stepped forward and informed the man that he was

under open arrest. When he wastaking down the man's name and number, I noticed that he was very unsteady and seemed to have difficulty in writing. I realised at this point that Sgt. Thompson was incapable of carrying on with duties of Orderly Sgt. and there were still some other ranks present I said nothing and we left the building together and proceeded to the Unit Orderly Room. On the way to the Orderly Room I decided to go into the kitchen, Men's "A" Mess, to get Sgt. Thompson something hot to drink. Shortly after entering the kitchen Sgt. Thompson leaned against one of the tables and upset the contents on the floor. I immediately left with and proceeded across the Parade Square in the direction of the Unit Orderly Room. On the way there he was walking very unsteady and on several occasions stumbled. When I arrived at the Orderly Room I saw him into the Orderly Room and then went out to get the Sgt. of the Guard, whom I instructed to accompany me to the Orderly Room, where I placed Sgt. Thompson under close arrest. And In company with the Guard Sgt. accompanied him to his quarters, where I detailed Sgt. Seaton to act as his escort.

Cross Examined by the Defending Officer

Q. In your opinion was Sgt. Thompson incapable of carrying out his duties?

A. Yes.

Q. Mr. Bird, when was the last time you saw the accused?

A. At 1800 hrs 27 Feb 43.

Q. And at that time did he appear sober to you?

A. Yes.

Q. The accused got drunk you believe on liquor between 1800 hrs and 2130 hrs?

A. Yes.

Q. But he told you where he was going when he left?

A. Yes

Q. What sort of duties was he to perform before 2100 hrs?

A. No set duties as far as I was concerned.

Q. Was he in to inspect the blackouts?

A. Yes.

Q. What did you do after the N.A.A.F.I. was closed?

A. We usually went in to Men's "A" Mess and the Guard House.

Q. Is the kitchen a duty?

A. Yes.

Q. And what had to be done at the Unit Guard House?

A. Nothing more than to sign and ensure that all

prisoners were bedded down for the night and that there were no complaints.

Q. And in the bar was Sgt. Thompson standing or sitting?

A. He was standing.

Q. He was not drinking at the time?

A. No, definitely not.

Q. What became of Cpl. Fleck?

A. When I went to the N.A.A.F.I. and saw Sgt. Thompson I dismissed Cpl. Fleck as it was his night off and Sgt. Thompson was to stay at the Orderly Room.

Q. Do you consider that Sgt. Thompson performed his duties in the N.A.A.F.I.?

A. He made his rounds but the fact remained that he was very unsteady on his feet.

Q. Was there lunch prepared for the Orderly Officer at the kitchen?

A. No.

Q. How long have you been Orderly Officer?

A. All the week in question.

Q. Where was Sgt. Thompson walking with you on the Parade Ground?

A. On the left.

Q. Could this table in the kitchen be upset by a sober man in the same manner as Sgt. Thompson upset it?

A. I do not think a sober man would lean on it like he did.

Q. Would you mind explaining how he upset the table?

A. He sat upon one end of the table causing the top to raise up and therefore upset it.

Q. Could a sober man have a similar accident?

A. I believe it possible.

Q. What duties are there for the Orderly Sgt at the Guard Room?

A. To check to see that all lights not in use are extinguished at 2300 hrs and shortly after that the Orderly Sgts job is to receive all the Tattoo Reports from the Wings.

It is the ruling of the Court that in the presence of a shorthand writer R.F. 83 (B) need not be complied with.

SECOND WITNESS
For the
Prosecution

K.37891 Sgt. Brook, H.G., 28 C.A.R.(BCR) on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.O., having been duly sworn (R.P.82), is examined by the Prosecutor:

Q. Were you Sgt of the Guard 27 Feb 43?

A. Yes.

Q. In your opinion had Sgt. Thompson been drinking?

A. Yes.

Q. Was Sgt. Thompson, in your opinion, incapable of carrying out his duties due to the fact that he was under the influence of liquor?

A. Yes.

Cross Examined by the Defending Officer

Describe the state of Sgt. Thompson.

A. When we entered the Orderly Room, he was sitting at a desk writing and he had the appearance of someone that had been drinking. We entered the Orderly Room and Sgt. Thompson was informed that he would be placed under arrest for being drunk on duty. He had his tunic off at the time when he was informed of the circumstances he said 'thank you', and proceed to write in his book which afterwards he asked Lieut. Bird to sign. We then proceeded across the Parade Square a and took Sgt. Thompson to his quarters.

Q. Have you ever seen Sgt. Thompson before?

A. No.

Q. Have you ever seen Sgt. Thompson write before?

A. No.

Q. Did he have any difficulty in finding his quarters.

A. No.

Q. What quarters is Sgt. Thompson living in?

A. No.5 Bermuda.

Q. How did Sgt. Thompson walk to his Quarters?

A. Very quickly.

Q. Is it not possible that Sgt. Thompson is a quick walker?

A. Yes.

Q. When he was taken to his billets that meant that he had been placed under close arrest?

A. Yes.

Q. Do you know anything about close and open arrest?

A. No, Sir.

Q. You were the Sgt. of the guard 27 Feb 43?

A. Yes, my normal duties are of S.Q.M.S. I am not aquainted with the procedure in that case.

It is the ruling of the Court that in the presence of a shorthand writer R.P. 83 (B) need not be complied with.

THIRD WITNESS for the Prosecution

G.662 Tpr. Doherty, J. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.O., having been duly sworn (R.P. 82), is examined by the prosecutor.

Q. Tpr. Doherty did you see Sgt. Thompson in the N.A.A.F.I. about 2130 hours?

A. Yes.

Q. Would you say that Sgt. Thompson had been drinking?

A. Yes.

Q. And in your opinion did Sgt. Thompson appear to be drunk under the influence of liquor?

A. Yes.

Cross Examined by the Defending Officer

Q. Tpr. Doherty did you see Sgt. Thompson have a drink?

A. No.

Q. What makes you say that he was drunk?

A. The way he was carrying himself and the look of him.

Q. Do you know Sgt. Thompson?

A. Yes.

Q. How was he carrying himself?

A. Not in his usual manner.

Re-examined by the Prosecutor

Q. How long have you been on Regimental Police?

A. Five weeks.

Q. Have you known a great many to be drunk in the unit?

A. No.

Q. How long have you been in camp?

A. Ten months.

Q. Have you seen many chaps who were largely under the influence of liquor, and how can you tell?

A. I can judge a man when he is under the influence of liquor.

It is the ruling of the Court that in the presence of a shorthand writer R.P. 83 (B) need not be complied with.

FORTH WITNESS For the Prosecution

M.36173 L/Cpl. Jacobs, J.B. on the strength of No.3 C.A.C. R.U., a soldier of the C.A.C., having been duly sworn (R.P. 82), is examined by the prosecutor:

Q. L/Cpl. Jacobs, you wereon duty in Men's "A" Mess on 27 Feb 43?

A. Yes.

Q. You are the night cook?

A. Yes.

Q. Wil you try to tell what happened when Sgt. Thompson and Lieut. Bird came into the kitchen?

A. Yes, Lieut. Bird and Sgt. Thompson came into the kitchen as they generally did the nights they were on duty. I prepared them a lunch of tea and sandwiches and set it on the table. After I had set it on the table, Sgt. Thompson in his unsteady condition leaned against it and upset it and the contents on the floor.

Q. Did you notice anything peculiar when Sgt. Thompson came into the kitchen?

A. Well I thought he was in an unsteady condition.

Q. Was he walking straight or unsteady?

A. Not as steady as could be.

Q. You state in your statement, in an unsteady condition, what do you mean?

A. He had a little stagger.

Q. How long have you known Sgt. Thompson?

A. A year.

Q. Did you know him well enough to know when he was under the influence of liquor?

A. Yes.

Q. By his actions did you know he was under the influence of liquor?

A. Yes.

Cross Examined by the Defending Officer

Q. L/Cpl. Jacobs, in youropinion could this table be upset by a sober man?

A. Yes.

Q. In the same manner?

A. Yes

Q. Did Sgt. Thompson's actions appear if he had been drinking?

A. Yes.

It is the ruling of the Court that in the presence of a shorthand writer(R.P. 83) need not be complied with

FIFTH WITNESS For the Prosecution - L.54822 Tpr. Buckner, T.P. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.O., having been duly sworn (R.P. 82), is examined by the prosecutor:

Q. Tpr. Buckner, do you know Sgt. Thompson?

A. Yes.

Q. Explain what happened on the night of 27 Feb 43?

A. Sgt. Thompson came into the Billiard Room at about 2145 hrs, Saturday night the 27 Feb 43, ordered the room to attention and asked who was in charge. I informed his that I was in charge of the room and he took my name and number and told me to consider myself under open arrest. I then accompanied the Orderly Sgt. to the library to lock it up and when we got there, there were still some chaps there, I was then asked who was in charge of the library and I told him that I was in charge of there also and he told me to consider myself on another charge. I then locked up the library at approximately 2150 hrs, when I left.

Q. Did Sgt. Thompson appear to be drunk?

A. No.

Q. As you say in your statement, would you say that Sgt. Thompson had been drinking?

A. Yes.

Q. In your own opinion did Sgt. Thompson appear to have been drinking?

A. Yes.

Cross.Examined by the Defending Officer

Q. What time does the Billiard Room close?

A. We were told to close the Billiard Room if the games were finished by 2110 hrs or after.

Q. Are there orders posted in the Billiard Room?

A. I am not sure.

Q. Do you recall in the Summary of Evidence you stated that there was a sign on the door stating the Billiard Room would close at 2130 hrs.

A. Yes.

Q. In your own opinion had Sgt. Thompson been drinking?

A. Yes.

It is the ruling of the Court that in the presence of a shorthand writer (R.P. 83 (B)) need not be complied with.

The Prosecution is closed.

By the President to the accused:

"Do you wish to give evidence on oath or do you wish to make a statement not on oath? You do not have to do either. If you elect to give evidence on oath, you are liable to cross-examination as any other witness. If you make a statement you will not be sworn and you will not be cross-examined, nor will you be obliged to answer any questions. Evidence on oath carries more weight than a statement. If you make a statement it will be taken down in writing and will be given due consideration."

Q. Do you wish to give evidence yourself as a witness?

A. Yes, Sir (R.P.40(A)), on oath.

Q. Do you intend to call any other witnesses on your behalf?

A. Yes, Sir,

Q. Are there witnesses as to facts or as to character or both?

A. Witnesses as to fact.

THE ACCUSED

B.4520 Sgt. Thompson, V.R. on the strenght of No. 3 C.A.C.R.U., having been duly sworn, states as follows:

At 1800 hrs the guard was mounted and then the Orderly Officer and I proceeded across the parade square to the Orderly Room. At approximately 1630 hrs I sent a note to the Cpl. of the A.A. posts that we would not make our inspection of his posts at 1715 hrs but at 1845 hrs. The Orderly Officer was in one half of the room, I was in the other and I asked him if he was going to inspect the posts, he said not as the ~~XXX~~ duty officer had not yet come on duty. It being time for Blackout I started on my tour of blackouts. I completed my tour of blackouts at about 2015 hrs. Then I went directly to my quarters and wrote a letter and brought it to the Sgts. Mess to be posted. Between 2045 hrs and 2050 hrs, while in the Mess I met Sgt. deVries standing at the bar and I had a bottle of beer. While I was having the bottle Of beer, R.Q.M.S. Goldie and S.Q.M.S Ashley came in. We each had a Scotch, each of us paying a round. At approximately 2115 hrs I left the mess and went to meet the Orderly Officer at the N.A.A.F.I. I was a few minutes late arriving at the N.A.A.F.I. I waited in the Cpls. side of the N.A.A.F.I. and when I entered there it was a few minutes before 2130 hrs. I proceeded then to the men's part of the N.A.A.F.I. and walked into the bar, there was a few remaining there and the Provost seemed to have the bar in hand, I then left and went back to the Cpls. side of the N.A.A.F.I. and was there a few minutes when Lieut. Bird and Cpl. Fleck came in and I explained why I had not met him at the Orderly Room.

The tea room was cleared and we proceeded upstairs to theBilliard Room. The Billiard Roomand the library were open at the time and the time was exactly 2140 hrs. Lieut. Bird asked who was in charge of the room and he was told by Tpr. Buckner that he was. Lieut. Bird then told the Troopers in the room to clear out and I placed Tpr. Buckner under open arrest for having the Billiard Room open 12 minutes past time. We then went to the library, the time was 2150 hrs. There were two or three persons in the library and I told Tpr. Buckner to get them out and to consider himself on another charge. Lieut. Bird and I then left there and proceeded to the Orderly Room stopping on the way at Men's "A" Mess to get a cup of tea or some lunch as we had time. While there I accidently upset a table and its contents on the floor. Lieut. Bird and I then left and proceeded across the Parade Square to the Unit Orderly Room. On reaching there Lieut. Bird did not enter and I went in to make out my report. After awhile Lieut. Bird and the Sgt of the Guard came in and said that they were taking me to my quarters. It seemd rather odd to me but I said nothing and just wrote down in my book that my duties were turned over to Cpl. Fleck at 2230 hrs and had Lieut. Bird sign it and proceeded to my quarters there I remained in close arrest until Monday at 1130 hrs.

Cross Examined by the Defending Officer

Q. Sgt. Thompson were your drinks single or double?

A. Single.

Q. Do you consider that the drinks were well within your capacity to hold?

A. Yes.

Q. Did you feel any effects from them?

A. No.

Q. Was your mind clear?

A. Yes.

Q. Were you able to understand?

A. Yes.

Q. Did you have trouble remembering names or writing?

A. No.

Q. Were there any duties to perform between 2100 hrs and 2130 hrs?

A. No.

Q. No arrangements with Lieut. Bird?

A. No.

Q. Was it an order to meet Lieut. Bird, in the N.A.A.F.I.?

A. No.

Q. Was it understood that you would be at the N.A.A.F.I.?

A. Yes.

Q. Were you staggering?

A. No.

Q. Any difficulty in walking?

A. No.

Q. What further duties did you have to perform?

A. No further duties to perform until 2300 hrs which was the time for the Orderly Officer and I to inspect the Guard Room, that being the usual time all week.

Q. What are the duties at the Guard Room?

A. The officer signs the book and checks the prisoners to see if there are any complaints and leaves.

Q. What other duties have you then?

A. No other duties except to receive the tattoo reports.

Q. How long had you been Orderly Sgt?

A. One week.

Re-examined by the Prosecutor

Q. How many drinks did you have?

A. One beer and three scotches.

It is the ruling of the Court that in the presence of a shorthand writer (R.P. 83(B)) need not be complied with.

FIRST WITNESS For the Defence

M.17414 L/Cpl. Loney, A.J. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.O., having been duly sworn (R.P.82), is examined by the Defending Officer:

Q. Where are you employed?

A. No. 3 C.A.C.R.U.

Q. And what are your duties?

A. Tending the bar in the Sgts Mess.

Q. Were you on duty in the Sgts Mess, 27 Feb 43?

A. Yes.

Q. At what time did you come on duty?

A. 1800hrs, but my official duty was from 1900 hrs in the evening until 2200 hrs.

Q. Do you know Sgt. Thompson?

A. Yes.

Q. What time did Sgt. Thompson come in?

A. Approximately 2045 hrs, Sgt. deVries was standing at the bar and Sgt. Thompson came in and he bought him a drink.

Q. What size drink?

A. A pint.

Q. Did you see Sgt. Thompson have something else to drink?

A. R.Q.M.S. Goldie and S.Q.M.S. Ashley came in and met Sgt. Thompson and they each bought a round of scotch.

Q. What size drinks?

A. One ounce.

Q. Was there water available?

A. Yes, Sgt. Thompson filled his with water.

Q. How many drinks did Sgt. Thompson have?

A. Three drinks.

Q. What time did he leave?

A. Approximately 2110 hrs.

Q. He could not have had any more drink other than what he already had?

A. No.

Q. Did he appear to be getting drunk?

A. No.

Q. Were his actions normal?

A. Yes.

Q. Was he walking alright?

A. Quite steady.

Q. Have you known Sgt. Thompson long?

A. About 12 months.

Cross Examined by the Prosecutor

Q. Would you say that the glasses were full?

A. Yes.

Q. Liquor does not have an immediate effect on a man?

A. No.

Q. It could have possibly effected Sgt. Thompson later?

A. Quite possibly.

Re-examined by the Defending Officer

Q. Has he been seen around drunk before?

A. No.

Q. Do you consider Sgt. Thompson drank more than he usually did?

A. No.

Q. Did he get drunk on other occasions?

A. I have never seen him drunk.

It is the ruling of the Court that in the presence of a shorthand writer (R.P. 83 (B)) need not be complied with.

SECOND WITNESS For the Defence

B.19518 Sgt. deVries, M.S. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.C., having been duly sworn, (R.P. 82), is examined by the Defending Officer:

Q. Where are you stationed?

A. No. 3 C.A.C.R.U.

Q. Were you there on the night of 27 Feb 43?

A. Yes.

Q. Do you know Sgt. Thompson?

A. Yes.

Q. Did you see Sgt. Thompson on the evening of the 27 Feb 43?

A. Yes.

Q. Where did you see him?

A. I saw him once about 1700 hrs, once again coming up from the Mess and I saw him again about 20 50 hrs.

Q. Did you see him again in the Mess that night?

A. Yes.

Q. What time?

A. Anytime between 2050 hrs and 2100 hrs.

Q. Before nine o'clock?

A. Yes, when Sgt. Thompson came into the bar, I was standing at the bar and he came in the Mess and had a drink at the bar.

Q. Did Sgt. Thompson have a drink of beer?

A. He had a beer.

Q. What size of a beer?

A. A pint.

Q. Did you see Sgt. Thompson have any more drinks?

A. Two small scotches.

Q. Could you state what size?

A. I only heard him order one single.

Q. Were you quite sober that evening?

A. Yes.

Q. Did he appear quite sober?

A. Yes.

Q. Was he staggering?

A. No.

Q. Did you know the Orderly Officer?

A. Yes.

Q. Do you know the duties of Orderly Sgt.?

A. Yes, at 2130 hrs close the N.A.A.F.I., back to the Orderly Room for Tattoo Reports.

Q. Did you go over to the Guard Room with the Orderly Officer?

A. Yes., to get the Tattoo Reports.

It is the ruling of the Court that in the presence of a shorthand writer (R.F. 82 (B)) need not be complied with.

THIRD WITNESS For the Defence

B.4802 R.Q.M.S. Goldie, N.A. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.C., having been duly sworn, (R.P. 82), is examined by the Defending Officer:

Q. Where are you stationed?

A. No. 3 C.A.C.R.U.

Q. Were you stationed there on 27 Feb 43?

A. Yes.

Q. Do you know the accused?

A. Yes.

Q. Did you see him on the 27 Feb 43?

A. Yes.

Q. Where?

A. In the Sgts Mess.

Q. What time?

A. 2050hrs, I entered the bar with S.Q.M.S. Ashley, at approximately 2050 hrs and I saw Sgt. Thompson there and we commenced talking to him and between then and 2100 hrs we had three rounds of drinks each (singles). At approximately 2110 hrs Sgt. Thompson left, and we followed him out.

Q. Was Sgt. Thompson in the Mess when you came in?

A. Yes.

Q. What size of single drinks are there in the Mess?

A. One ounce.

Q. Was each round single drinks?

A. Yes.

Q. Do you think that three drinks were enough to make him drunk?

A. No.

Q. Were three single drinks enough for Sgt. Thompson?

A. Never had been, Sir.

Q. Have you ever seen Sgt. Thompson drink a similar amount of liquor?

A. Yes.

Q. Any effect?

A. No.

Q. Was he walking alright?

A. Yes.

Q. No signs of liquor?

A. No.

Q. What time did you leave the Sgts Mess?

A. Between 2200 hrs and 2215 hrs.

Cross Examined by the Prosecutor

Q. If the man had one drink or a dozen drinks in your own opinion would he be under the influence of liquor?

A. Not with one, possibly with a dozen.

It is the ruling of the Court that in the presence of a shorthand writer (R.P. 82 (B)) need not be complied with

FOURTH WITNESS For the Defence

B.95349 S.Q.M.S. Ashley, B.K. on the strength of No. 3 C.A.C.R.U., a soldier of the C.A.C., having been duly sworn,(R.P.82), is examined by the Defending Officer:

Q. Where are you stationed?

A. No. 3 C.A.C.R.U.

Q. Were you there on 27 Feb 43?

A. Yes.

Q. Do you know the accused?

A. Yes.

Q. Did you see him on the night of 27 Feb 43?

A. Yes.

Q. Where?

A. In the Sgts Mess.

Q. What time?

A. 2050 hrs.

Q. Will you tell what occurred?

A. R.Q.M.S. Goldie and I dropped over to the Mess, when we entered we met Sgt. Thompson standing at the bar. We each bought a round of drinks and Sgt. Thompson left.

Q. What were the drinks?

A. Sgt. Thompson had a single scotch.

Q. What size are the drinks?

A. One ounce (1/30 of a 26 oz)

Q. Did Sgt. Thompson put water in his drinks?

A. Yes.

Q. Did he drink a similar amount before to be under the influence of liquor?

A. Not to a great extent.

Q. Do you in your opinion consider that he was under the influence of liquor?

A. No.

Q. Was he walking alright?

A. Yes.

Q. Do you think he was fit to carry out his duties as Orderly Sgt.?

A. Yes.

It is the ruling of the Court that in the presence of a shorthand writer (R.P. 82(3)) need not be complied with

The Defending Officer Makes The Following Final Address.

Gentlemen,

As I see this case it is a matter of opinion and I would like to point out that while you may find Sgt. Thompson had something to drink while he was Orderly Sgt., it must be proven that he was incapable of carry ing out his duties. I would like to point out that Sgt. Brooks of the Guard, while he states that he considered Sgt. Thompson incapable of carrying on as Orderly Sgt., he also stated that he considered not man enough to carry on as Orderly Sgt. while he had a drink. I would like to point that while Lieut. Bird said that he considered Sgt. Thompson incapable of carrying out his duties he dismissed Cpl. Fleck at the N.A.A.F.I. when he found Sgt. Thompson and carried on with Sgt. Thompson. There was nothing wrong when he went upstairs and told Tpr. Buckner he was under open arrest, it was for a good cause. The fact that the table was upset in Men's "A" Mess proved nothing. I would like to point out that Tpr. Buckner, one of the witnesses, for the prosecution said that Sgt Thompson was under the influence of liquor. I would like to point out that Lieut. Bird considered Sgt. Thompson fit to finish his rounds in the N.A.A.F.I. and he must have also considered him fit until required to go to the Guard Room. I leave with you the fact that the majority of persons who had anything to do with Sgt. Thompson that evening were of the opinion that Sgt. Thompson was quite sober and able to carry on with his duties.

The Prosecuting Officer Makes The Following Closing address.

I would like to point out that the Orderly Officer is the man to judge whether or not the Orderly Sgt. is able to carry out his duties in a satisfactory manner.

I would like to point out that the witnesses for the defence did not see Sgt. Thompson performing any of his duties after leaving the Sgt's Mess. I would also like to point out that my witness, L/Cpl. Jacobs, has known Sgt. Thompson for a year and has seen him every day and knows whether or not Sgt. Thompson was normal on that night. He has seen Sgt. Thompson on several previous nights in the mess and stated that he was not normal on the night of 27 Feb 43 and known Sgt. Thompson as well as he does, stated that Sgt. Thompson was definitely under the influence of liquor.

Judging from Sgt. Thompson actions the Orderly Officer stated that Sgt. Thompson was not capable of performing his duties as Orderly Sgt. which is the most important N.C.O. in the camp and he had to replace him. The point the defence brought out about dismissing the Orderly Cpl. would be the natural thing to do after finding Sgt. Thompson.

After finding Sgt. Thompson was not capable of carrying out his duties in a proper manner he laid the charge which is before the court.

The Court is closed for consideration of the Finding (R.P.43).

The Court find that the accused B.4520 Sgt. Thompson, V.R., No. 3 C.A.C.R.U.: Guilty.

Rank G.G.P.S. No 3 C.A.C.R.U. being duly sworn produces certificate AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents. No cross examination. Above documents read signed by the President and attached to the proceedings

The Reporting Officer Rank L.M. Hanning makes a statement in mitigation of Punishment

Sgt. Thomson V.R. has been employed as Mess Sgt. for five years and has only recently been placed on Regimental Duties therefore he is not aware of all the duties and importance of the Orderly Sgt.

SUMMARY OF EVIDENCE

(Accused present at Summary)
(when evidence of witnesses)
(taken down in writing)

NO. 3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT,
Dettingen Barracks,
3 Mar 43.

Summary of evidence in the case of B-4520 Sgt. Thompson, V.R., No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken under oath.

FIRST WITNESS
For the Prosecution.

Lieut. T.B.W. Bird, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

Q. On 27 Feb 43, were you Orderly Officer and acting in this capacity?

A. Yes.

Q. Will you give such evidence as you have in this case?

B-4520 Sgt. Thompson, V.R., was to meet me at the Unit Orderly Room at 2100 hrs., prior to proceeding on our night rounds. I waited until 2130 hrs., at which time he had not put in an appearance and I detailed the Orderly Corporal, K-998 Cpl. Fleck, W.P., to accompany me and we proceeded on our night rounds. The N.A.A.F.I. Canteen was our first visit. On arriving there at approximately 2135 hrs., I found Sgt. Thompson standing in the bar, when he saw me he approached and informed me that he had come directly to see that the N.A.A.F.I. was closed up. I noticed that he smelled heavily of liquor and that his speech was halting. I said nothing at the time as there were a number of other ranks passing us on their way out, we left the tea room and I went upstairs, Sgt. Thompson following me, on investigation I found the billiard room still open and a number of other ranks still playing on the tables. I inquired who was in charge and instructed him to clear the room immediately, at this point Sgt. Thompson stepped forward and informed the Trooper that he should consider himself under open arrest, he had great difficulty in writing down the man's name and number and appeared unsteady on his feet. I realized at this point that Sgt. Thompson was not capable of carrying on his duties as Orderly Sergeant. I still said nothing as we were still in the presence of other ranks and we left the building together and proceeded to the Unit Orderly Room. On the way back I decided to take Sgt. Thompson into "A" Mess kitchen and get him something hot to drink, shortly after we entered the kitchen Sgt. Thompson leaned against one of the tables and in his unsteady condition upset it and its contents on to the floor. I immediately left with him and proceeded across the Unit Parade ground in the direction of the Unit Orderly Room. He was unable to walk straight and tripped on several occasions, on arrival I saw him into the Orderly Room and I went for the Sergeant of the Guard. I ordered the Sergeant to accompany me and we proceeded back to the Orderly Room where I placed Sgt. Thompson under close arrest. With the Guard Sergeant, Sgt. Brooke, H.J., I accompanied

him to his quarters where I detailed Sgt. Seaton to act as escort.

Had definite arrangements been made between you and Sgt. Thompson to meet at 2100 hrs, at a definite place?

Yes.

Up to 1800 hrs, at the time of these arrangements had Sgt. Thompson performed his duties in the proper manner and did he appear to have had anything to drink at this time?

He had performed his duties unquestionably and in my opinion appeared to have had nothing to drink.

The Accused declines to cross-examine the witness.

W.T. Bird Lieut.
W.T. Bird (Lieut.)

SECOND WITNESS For the prosecution. K-37891 Sgt. Brooke, H.J. 26 CAR (BCR) on strength 3 CACRU., a soldier of the C.A.O., having been duly sworn states:

Q. Will you give such evidence as you have in this case?

A. I am K-37891 Sgt. Brooke, H.J., I was acting as Sgt. of the Guard 27 Feb 43. Around or about 2230 hrs., I was called from the Guard Room by the Orderly Officer, Lieut. W.T.B. Bird, who at the time informed me that we had an unpleasant duty to perform. I accompanied the Orderly Officer to the Unit Orderly Room where he placed Sgt. Thompson under close arrest, charged with being drunk in the performance of his duties. The Orderly Officer and myself escorted Sgt. Thompson to his billets. The Orderly Officer then detailed a Sgt. to be escort of the accused.

Q. Did the accused Sgt. Thompson appear under the influence of liquor?

A. He had been drinking.

Q. Would you say he was incapable of performing his duties in the proper manner?

A. I do not believe he could have carried out his duties in the proper manner.

The accused stated he wished to cross examine the witness.

ACCUSED: Did I have difficulty in locating my quarters Sgt. Brooke?

No.

How did I walk from the Orderly Room to my quarters?

Walked very quickly.

H.J. Brooke
K-37891 Sgt. Brooke, H.J.

THIRD WITNESS
For the prosecution.

G-662 Tpr. Doherty, J., on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I am G-662 Tpr. Doherty, J., employed in the Regimental Police at No. 3 C.A.C.R.U. I and another Trooper were making our nightly rounds at closing time, 2130 hrs., and we were in the Men's bar and we found a few men still in there. While we were there Sgt. Thompson came in and he questioned us as to what we were doing there. We explained our duties to him. He appeared satisfied with our explanation and carried on.

Q. Did Sgt. Thompson appear to have been drinking?

A. Yes, sir.

Q. In your opinion did Sgt. Thompson appear to be under the influence of liquor?

A. Yes, sir.

The Accused declines to cross-examine the witness.

J Doherty
G-662 Tpr. Doherty, J.

FOURTH WITNESS
For the prosecution.

L-54822 Tpr. Buchner, T.P., on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, having been duly sworn states as follows:

I am L-54822 Tpr. Buchner, T.P. At about 2145 hrs., 27 Feb 43., Sgt. Thompson and the Orderly Officer came up to the billiard room and Sgt. Thompson ordered the room to attention and asked who was in charge of the billiard room. I informed the Orderly Sgt., I was in charge of the billiard room and he took my name and number and told me to consider myself under open arrest until Monday morning. After placing the covers on the billiard tables I accompanied the Orderly Sgt., to the library in order to lock it up, then I was asked who was in charge of the library, I informed him that I was in charge of the library also. Sgt. Thompson informed me I would be placed on another charge. The time was now 2150 hrs. Sgt. Thompson then left me.

Q. Would you say that Sgt. Thompson had been drinking?

A. Yes, sir.

Q. Did Sgt. Thompson's actions appear out of the ordinary?

A. No, sir.

Witness cross-examined by the accused.

Q. Is there not a sign on the door at the N.A.A.F.I. stating the doors will close at 2130 hrs?

A. Yes, there is.

J.P. Buchner
L-54822 Tpr. Buchner, L.

The Accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

(The Accused elects to give evidence on oath)

The Accused No. B-4520 Sgt. Thompson, V.R., on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas states as follows:

I finished blackout patrol at approximately 2015 hrs., as I had no other duty to perform until 2100 hrs. with the Orderly Officer I went to my quarters wrote a letter and appeared at the Sergeants Mess at approximately 2050 hrs. prior to that I had not been drinking. While in the Sergeants Mess I can remember not having any more than three scotch single whiskys and a bottle of beer. It was 2110 hrs and knowing that I was to meet the Orderly Officer and was ten minutes late already decided it was best to go direct to the N.A.A.F.I., that being the first visit of our night round, this would explain why I did not meet the Orderly Officer at the appointed place. With these few drinks that I already had ~~and~~ I still felt quite normal and quite capable of carrying on for the remainder of the evening with my duties.

QUESTION TO THE ACCUSED

Do you wish to call any witness on your behalf?

ANSWER BY THE ACCUSED

No, sir.

B.4520 Sgt. Thompson V.R.
B-4520 Sgt. Thompson, V.R.

I certify that the foregoing Summary of Evidence consisting of five pages was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

L. MacDonald Lieut.
L. MacDonald (Lieut.)
Officer detailed to take this Summary of Evidence.

FIFTH WITNESS FOR THE PROSECUTION

M 36173 L/Cpl Jacobs, J.S., on the strength of No 3 C.A.C.R.U., having been duly sworn states as follows:-

I am M 36173 L/Cpl Jacobs, J.S. On the night of 27 Feb 43, I was on Duty in Men's A Mess as Night Cook.

Lieutenant Bird and Sgt Thompson came in to the kitchen as they generally did the nights they were on Duty. I prepared them a lunch and served it to them in the kitchen at a small table.

After I had set the lunch on the table, Sgt Thompson leaned against it, and in his unsteady condition upset it and its contents unto the floor.

Q. Did Sgt Thompson appear to be under the influence of liquer?

A. Yes, Sir.

Q. Did Sgt Thompson's actions appear as if he had been drinking?

A. Yes, Sir.

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

R.P. 76

J. S. Jacobs

(M 36173 L/Cpl Jacobs, J.S.)

LIST OF WITNESSES FOR THE PROSECUTION

Lieut. W.T.B. Bird - No. 3 C.A.C.R.U.

K-37891 Sgt. Brooke, H.J. - 28 C.A.R. (B.C.R.)

G-662 Tpr. Doherty, J. - No. 3 C.A.C.R.U.

L-54822 Tpr. Buchner, T.P. - No. 3 C.A.C.R.U.

LIST OF WITNESSES FOR THE DEFENCE

NIL

In the Field
3 Mar 43.

I, B-4520 Sgt. Thompson, V.R., (do) (~~do not~~) desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of Lieut. Campbell-Line, if available.

B.4520 Sgt. Thompson V.R.
B-4520 Sgt. Thompson, V.R.

In the Field
5 Mar 43.

No. B-4520 Name Thompson, V.R. Sqn., Battery, or Company D Corps C.A.C. Date of enlistment 9 Jan 40 G.C. Badges Service or Proficiency Pay M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Nov 42	Sgt.		W.C.A.S. A.W.L. at Dettingen Brks. from 2359 hrs. 15 Nov 42 and remained absent until 0845 hrs. 16 Nov 42 (Absent 8 hrs. 46 mns.) A.A. Sec. 15 (1)	SSM Murray, W.	Reprimand	16 Nov 42	Col. G.W. Little.	Forfeits 1 days pay FR&I 149 1 (a)

Certified True Copy from the Regimental Books in my custody.

(C.L. Nelson) Capt., & Adjt.,
No. 3 C.A.C.R.U.

(P.T.O.)

No. B-4520 Name Thompson, V.R. Sqn., Battery, or Company D Corps C.A.C. Date of enlistment 9 Jan 40 G.C. Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6
A.F.B. 122
175M—7-41 (1310-20)
H.Q. 177-20-1403

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Nov 42	Sgt.		W.O.A.B. A.W.L. at Dettingen Bks. from 2359 hrs. 15 Nov 42 and remained absent until 0845 hrs. 16 Nov 42 (Absent 8 hrs. 46 mns.) A.A. Sec. 15 (1)	SSM Murray, W.	Reprimand	16 Nov 42	Col. G.W. Little.	Forfeits 1 days pay FR&I 149 1 (a)

Certified True Copy from the Regimental Books in my custody.

(C.L. Nelson) Capt., & Adjt.,
No. 3 C.A.C.R.U.

(P.T.O.)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-4520	Sgt.	Thompson, V.R.	No. 3 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the regimental [redacted] conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	• Within last 12 months.		• Since Enlistment.	
For	one	time[redacted]	one	times
For	A.W.L. (8 hrs., 46 mns)	times		times.
For	Reprimand.	times		times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, [redacted]

or

There are no entries in the conduct sheets of the accused [redacted]

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

• The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the cases for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted [redacted]

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 1½ days in military custody, making a total of 1½ days, of which no days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 31

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 9 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs. service.

9. The accused is entitled to reckon 3 yrs. service for the purpose of determining his pension, etc.

10. The accused [redacted] the Regiment

[redacted]

(*16148) Wt.30246/862 70,000 12/40 A.& E.W.Ltd. Gp.698
(17603) Wt.48491/1987 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-4520 Rank Sgt. Name Vernon, Richard, Thompson of No 3 CACRU Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6 day of Jan 43

Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

	Date of Promotion.
In the rank of	
In the rank of	years.
In the rank of	years
In the rank of	years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

MMM 74

TPR THOMPSON V R

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.45270 Tpr Thompson V.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	N-t Guilty	N-t Guilty	
2nd Alternative	N-t Guilty	Guilty.	
3rd	N-t Guilty	N-t Guilty	
4th	N-t Guilty	Guilty.	
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for 28 days + to be placed under stoppages until he has made good the sum of £3.6.2 to Advance HQ Supreme Mob HQ. First Canadian Army.

(Sgd) J.M. Kennan Capt. — 24 May 44 — (Sgd) H.J. Wilkey Major — President (RP 45, 50)

Judge-Advocate, ~~if any~~. — Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further notice.~~ (1. AA 57A. Delete if not used.)

(Sgd) W.H.H. Roaf
LT-GEN BOARD BRIG
COMD ARMY TROOPS
FIRST CDN ARMY

Date 25 MAY 1944 — Commanding — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B4570 Tpr Thompson V.R.	28 May 44	J.H. Stout Major A557 Camp Commandant, Base Reinforcement Unit, Army.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 31 MAY 1944 [illegible]

RECORDED AT CMHQ IN AB 160 [illegible] CFAB06 (In lieu of AF A31) [illegible] (2064)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier W.H.H. Roaf Comd Army Troops First Canadian Army dated 19 May 44 ; 19 May 44 ; 21 May 44

PROCEEDINGS REVIEWED Date 30 May 44 JAG 21 Army Gp

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.45270	Trooper	Vernon Richard	Thompson	Reconnaissance Regt (4th Armd Bde) 4th Canadian Armoured Div

PROCEEDINGS REVIEWED 31 May 44 R. Beaulieu Capt REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 22 May 44 + 24 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(2) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to~~ as interpreter ? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	H.J. Wilkey (RAC)	HQ First Canadian Army
Member	Captain	D.A. Wilson (RCA)	HQ First Canadian Army
Member	Captain	F.R. Coyle (RCEME)	HQ First Canadian Army
Judge-Advocate	Captain	J.M. Kennan, (ERA List)	HQ First Canadian Army
Prosecutor	Lt.	W.N. Barclay (RMR)	HQ First Canadian Army
Defending Offr	Captain	H.E. Clarke	HQ First Canadian Army

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B.45270 Trooper V.R. Thompson before arraignment make(s) ~~and~~ (a) plea to the charges should be taken separately. See P.I. of Transport Road (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on ~~all~~ charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; securing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to ~~make~~ in reference to the charge(s).(1) If it appears from your statement that there are circumstances which ~~in respect of which in your interest~~ stand the effect of the plea of Guilty(2), or which show provocation or extenuation ~~; and~~ anything you say will not be used the witnesses for the Prosecution should be examined(3), we shall, or it appears to the Court that your statement making a statement you will not be sworn or subject to cross-examination, you will not be advised to change your plea and you in evidence against you after you change your plea to Guilty ; but if you desire to make a statement by sworn testimony, if you so desire.(4)

affects only the amount of punishment do you wish to make a statement ? Ans .....(5)

will be given an opportunity to call witnesses as to character and make an address in mitigation of punishment.

(*1. See fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Delete words not used. Delete whole or part not used.*)

President : Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (a) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st, 2nd Charges charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st & 2nd charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Give evidence of a witness ..... Do you intend to call witnesses on your behalf ?

Ans No . ~~Are they witnesses as to character only ? Ans~~

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s), being subject to confirmation, will be promulgated later.(1) of the Court on the 1st charge(s).

~~On the President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. See written record for Proceedings on Third & Fourth charges.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No .

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true ~~copy (copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P and Ex Q respectively.(3)

(*1. MFB 355 or AFB 296. 2. MJM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Through my defending officer. (See p 37. Notes.)(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.4520 Trooper Vernon Richard Thompson, Headquarters, First Canadian Army, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, UTTERING A FORGED DOCUMENT, CONTRARY TO SECTION 6(1) OF THE FORGERY ACT 1913,

in that he

in the Field, on 8 Feb 44, uttered a certain forged document purporting to be a Navy, Army and Air Force Institute receipted invoice, No. E61757, for supplies to Advance First Canadian Army HQ on a day in Feb 44, knowing the same to be forged and with intent to defraud.

SECOND CHARGE
(Alternative)
Section 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, on or about 8 Feb 44, when, as Mess Steward of Advance HQ Sergeants' Mess of HQ First Canadian Army, it was his duty on proceeding on privilege leave to ensure the safe custody of the petty cash of the said Mess and to account for the sum of £5. to the Sec-Treas. of the said Mess, so negligently performed his duties as to be unable to account for £3-6-2 part of the said sum, thereby causing a loss of the said £3-6-2.

THIRD CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in London on various days between 14 Feb 44 and 24 Feb 44 improperly and without authority represented to Messrs W & B Gilbey Ltd and Messrs Knowland Bros, both wholesale wine and spirit merchants, that he, the accused, was acting on behalf of the Officers' Mess, HQ First Cdn Army and wanted to purchase liquor for the said Mess, and having thereafter purchased from the said firms 18 bottles of gin ostensibly for the use of the said Mess, sold the said bottles to military personnel in public houses at a profit to himself.

FOURTH CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field on ~~27~~ 10 Feb 44 was improperly in possession of 153 soap coupons, public property.

In the Field
18 May 44

CAMP COMMANDANT,
H.Q. FIRST CDN ARMY.

Approved as to form on behalf of JAG.
Maurice Lt Col
A JAG HQ First Can Army
18 May 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

Brigadier,
Comd, A Tps, First Cdn Army
Convening Officer.

In the Field
19 May 44

Whereas, By Order, dated 19 May 44, I detailed Major N. Pattulo (BCR) HQ First Cdn Army, to be President of a Court for the purpose of trying by Field General Court Martial, B.4520 Trooper Vernon Richard THOMPSON, Headquarters First Canadian Army, and:

Whereas it appears that the said Major N. Pattulo is not available to sit as President of the said Court;

Now Therefore; I do hereby detail Major H.J. Wickey ~~J. Wickis~~ (CAC) HQ First Cdn Army, to be President of the said Court in place and stead of the said Major N. Pattulo, and the said Order, dated 19 May 44, is hereby amended to read accordingly.

Signed this Twenty-Second day of May, 1944.

W. H. Roach

Brigadier,
Comd A Tps, First Cdn Army
Convening Officer.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1607 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.4520	Trooper	Vernon Richard	THOMPSON	Headquarters First Canadian Army

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) this date endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	N. Pattulo (BCR)		HQ First Cdn Army

MEMBERS.

Captain	D.A. Wilson (RCA)	HQ First Cdn Army
Captain (Rank.)	F.R. Kaye (RCEME) (Named or detailed. RP 106.)	HQ First Cdn Army (Unit.)

WAITING MEMBER.

Captain (Rank.)	G.A. Campbell (CAC) (Named or detailed, if any. RP 106.)	HQ First Cdn Army (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	J.M. Kennan (ERE List) (Must be named, if any. RP 106.)	HQ First Cdn Army (Unit.)

On Active Service in the Fd

in England (Country.)

Date 19 May 44

W.H. Roach

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding Army Troops, First Cdn Army.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

I hereby certify that I have this day examined

B.70.20 No. Dpr Rank Thompson J.R. Name

and in my opinion he is fit to undergo trial by Court-Martial.

Date May 22/44

J.P. Fletcher Lt/ Medical Officer.

H/W - 1

H/W

MEDICAL CERTIFICATE

I hereby certify that I have this day examined

B.4520	Tpr	Thompson, V.R.
No.	Rank	Name

and in my opinion he is fit to undergo trial by Court-Martial.

Date 24 May 44

J P Webster Maj
Medical Officer

46/48

1. Submission by Defending Officer under R.P. 62 (2).

4 Charges: 1st, 2nd are alternative arising out of same circumstances.

3. 4 Charges have no relation to the first two charges or to each other. Any Evidence heard of them will be of no assistance to Court in determining the result of any other charges.

Rule is one of convenience.

No loss of time if tried separately.

If tried together, defence might be embarrassed in that Defence might desire to call accused on one charge & not on the others.

Request separate trials on 3rd & 4th charges: 1st, 2nd together.

Submission by Prosecutor

I leave matter to Court to decide whether they desire to try charges separately or together.

Court closes to consider Claim

Court opens. Request for separate trials granted. 1st, 2nd charges to be taken together: 3rd, 4th separately.

H/W.

Opening address by Prosecuting Officer

First Charge. Definition of Uttering.

Here NAAFI Invoice uttered.

8 Feb. 44 accused gave Clerk & Sgt Rothard knowing it to be forged & with intent to defraud, in that petty cash used for chocolates etc £ which Rum never received.

Second Charge will be clear in evidence.

First witness for the Prosecution

B 63598 A/CPO Rothard R.M. sworn states:-

But. in Feby & 13 March 44. I was Secretary - Treasurer of Advance HQ Sergeants Mess 2nd Canadian Army. I recognise accused as Trooper Thompson who at that time was Mess Steward of my Mess. He was then Sgt. Thompson. At that time he was in possession of £5 change fund & £5 petty cash, which was used for incidental expenses such as transportation in emergency purchases. Sometimes he would use the petty cash for NAAFI purchases. If he did then he would receive the goods, with an invoice & receipt dated the same day. Such invoice & receipt would be given

HHH

to me. The accused was already Paid Steward when I took over my duties & he ceased to be Paid Steward on 8 Feb. 44. On this day he proceeded on 14 days pending leave. Before he left I checked over bar stock & stock book with him, checked the change fund, which was correct, & received from him £1.11.10 & stock cash, & a chit for 2/0 covering purchase of newspapers, & an invoice & receipt from NAAFI for £3.6.2. This made £5 petty cash.

I now produce (Ex. A & B) Invoice E 61757 for £3.6.2 & Receipt B 149631 for same sum. These I received from accused on 8 Feby. & made up £5 petty cash fund.

If I had not received this invoice & receipt as part of petty cash the petty cash would have been deficient & the sum of £3.6.2

Accused returned on 22 Feb. 44 but did not resume his duties. The Mess Accounts were checked on 6 March 44 with Sgt O'Neeley. On checking out Stores, purchases were checked against invoices & bank cheques. While doing this, we came upon NAAFI bill, receipt Ex. A & B, & found that the £ s. d. of invoice differed from that in receipt. Receipt date was 26 October 43 : invoice date (apparently) 7 Feb. 44.

Book 1 receipt should be dated some day.

When purchases are made for the Mess, they are entered in the Stock Book. I have checked the Stock Book for the month of February 44: the separate pages of this Book were produced to me at different times by the accused for initialling, came from his custody. I made many items also to be in his handwriting. I produce Book Ex C. During Feb. 44 there were only 3 purchases of chocolates, matches, cigarettes. We then checked entries, receipts, cheques, found. All these three purchases could be covered by cheques without taking into account the entries for £3.6.2. I produce Ex. D, entries cheques covering purchases in Feb. items of which in Stock Book are in accused's handwriting. I produce Ex. E entries, receipt for purchases on 12 Feb. I produce Ex F. entries, receipt for similar purchases on 1 Feb. 44. The entries Ex. D, F are signed by accused. Entries Ex E. is signed by Sgt. McNulty.

The purchases shown on Entries E 61757 were chocolate, cigarettes, matches. Our deficit should be in Feb. 44 the Mess had paid £3.6.2, not received the

H/W

Jones chairman & Hon. Secretary. No. responsible for [illegible]
or any sums [illegible] been made to the Bar by Mr
Thompson.

Cross-examined.

Petty cash £5 was [illegible] before I arrived.
It was custom. We had a cash book which
covered all transactions, kept by Secretary-Treasurer.
When Steward made a payment, he reported it
to me. He had keys to the Bar. Bills were
filed generally in a box in the Bar. I think
others not. Bills were in file[d] [illegible] Case. Other
bills could have been put in. On 8 Feb. this account
was not in hurry to get away. I came to Rim
for check. He produced the vouchers. He had
it all ready for me. I cannot recollect
exactly what occurred. I was certainly handed
£1.11.10 in cash & two vouchers. I [illegible]
checked to see sum of £5 made up. I cannot
remember whether it in case I or [illegible] who
said the balance owing petty cash was £1.11.10
There is nothing on [illegible] to show payment to
B.A.A.F.I. Receipt shows this. Ex B. I was
mistaken at the time. I did not check bills or

4476

8 Feb. 44. If I had been disappointed I would have enquired into the matter. I also then received Stock Book Sheets from accused up to 7 Feb. 44. Nothing on these sheets to indicate Ex. A. Had I been notified I would not have been misled.

No Re-examination

By Court

The signature on Ex. A. is that of accused. I had had daily checkings up to 8 Feb. 44 with accused, but the date on first items I had had a general check with him.

On 1 Feb. 44 when I became Secretary-Treasurer I drew the £5 change fund, the £5 petty cash in possession of accused. The accused was responsible to me. No receipt was given by me to accused on 8 Feb. 44 for amount handed over to me. I was satisfied at the time. Exhibits A, B were produced together when I received them from Thompson, receipt a bit of service. When he handed them to me, they came from his pocket. The change fund has been + Court is to table.

H.M.

but everything he gave me to make up to petty cash.

cash came from his pocket
Thought he knew of record of Ordinary Office.

I have seen Thompson's signature [illegible] often.
I have seen him write his name in my presence.

As far as I know the accused has never been authorised to pay back £3.6.2 to the Mess.

By the Court

There was several deposits things like newspapers which was specifically authorised to come out of petty cash. If it was necessary to purchase cigarettes or chocolate from NAAFI, he would be authorised to pay cash out of petty cash, if he had not been given a cheque to cover the purchase. If not I do Sending. Treasurer who would give the authority.

R.P. 83 (b) complied with.

1st Witness for the Prosecution

George William Kerridge. 18 c. Hamlet Road, Dorking.
sworn states:-

I am cashier at West Humble, Dorking, NAAFI.
I recognise Ex. A as bill to 11th Canadian Army for £3.6.2 in respect of chocolates, cigarettes & matches.
I also recognise Ex. B. as NAAFI receipt, upon which my signature appears. This means that I took the money

K/170

1 Jenkins, J.B.C. No 2.

I have traced the duplicate of Ex A. of 61757 service through the NAAFI books & now produce it. Ex. G. I am quite certain that Ex. G is the duplicate of Ex. A. Ex. A has been altered in signature & date. The date of the original transaction was 26 October 1943. The same number could not be given to a different duplicate. The receipt Ex. B. is connected with Ex. A. by the date & particulars thereon.

Cross-examined

I did not make out Ex A. but I think I know who did. It was done through E in for payment. I received J.B.C.2. Carbon duplicate is made out with original service. No further charges could be made. I worked out amount of discount & therefore from this discount on original service. The alteration in the discount. No charge could be made in date in our office. I keep the old books. Bill is handed to man who draws goods. If it was altered after being handed to the man, it would not be shown on the carbon duplicate. I could not answer to what

H/W

happened 6 months ago. I cannot say [illegible] Smith.
alterations were made, but I say it was after
it left my hands. Ex B has not been altered.

By the Court

I took the date & particulars of Ex B but
as Ex B. from the date & particulars in Ex A
as it came to hands to me, namely 28 Oct. 45.
It is not possible to get goods without the
receipt. I might put in the date of the receipt
from my own knowledge of the day's date without
looking at the date on the carriers. If a dispute not
connected to my act I would accurately get the
date from the carriers

R.P. 53(b) complied with.

Prosecutor closes case on 1st & 2nd Charges

Defendant's Counsel submits no case on
following grounds:—

(1) There must be a forged instrument
(2) Counsel admitted it
(3) It is doing to know it is to forge. Ex
intent to defraud

Evidence on (1) only admissible crossing.
Evidence of originator of document is not before Court.

H/116

Possible for originator to have altered document.

No evidence of a forgery or that accused knew of it.

No evidence of intent to defraud.

2nd Charge

No evidence of duty to safeguard petty cash in order

Nothing said about * no provision made

Prosecution invites no reply

J.A. sums up on submission — Prima facie only need be made out at this stage. Evidence reviewed.

Court closes to consider submission

Court opens. President announces submission disallowed. See Para D 4 CFA 96 & Para D 5.

Defence.

No. B. 4520 Trooper Thompson, V.R. sworn states:-

On 8 Feb. 44 I was to go on Guard at midday & the morning checking of Box inventory, cash on hand, sales, petty cash took place in the morning. We first checked inventory. we both agree that it was in order. We then checked sales of previous day. This also in order. Cash changed hand was checked & found in order

KMC.

Lastly we checked the petty cash which originally consisted of £5. As S/Sgt Rapkins kept the cash book, petty cash expenditures I was not in a position to recommend advice to him what the petty cash consisted of. I gave him an invoice for papers I took 2/- from cash & a NAAFI invoice with my signature on it. He totalled the sum up & I paid the balance of £5. In our both notebooks & for the two being. After I had gone through my books I found S/Sgt Rapkins a NAAFI indent which I had been using as a NAAFI indent. I had it down for £3.4.2. I then within a few hours afterwards left I was in possession of the money belonging to the Sergeants Mess. I handed to corporal Rapkins, was informed that he had gone to 2nd Echelon, would not be back for remainder of day. I put the money in safe custody in a strong box in my room, proceeded on leave. When I returned from leave, for some reason unknown to me I had been dismissed from [illegible] my position as Mess Steward as from 8 Feb. 46. No explanation was given me as to why I was dismissed & in my own mind I immediately established the idea that

HW

1

Re account of the money I owed the Sgts Mess. ~~[illegible]~~ Jack. We at one time went on a scheme, I never took the money with me. It remained in the strong box in the barracks. I did not see Raphael while on the scheme. Had the Mess or Secretary asked me at any time for the money I would only have been too willing to produce the £3 and hand it to the Mess.

The matter as to the £5 was that I was given the money to use as petty expenditure. I had the authority to spend it on any merchandise needed for the Mess. When a expenditure was made from the petty cash the voucher was handed in, the petty cash brought back to £5. Receipts were kept by Raphael. Exhibits A & B were carried by me since 17 January 44 when I took up duties of Mess Steward. I was told by A as an indent for what I should draw; as a guide to amount. The goods on this invoice were taken from NAAFI on 4 Feb. 44. Such goods were purchased up. to Stock Sheets for that date.

The dt. 4 Feb. 46 was given to me by myself in Ex. A in Court. I was in possession of it. I more than likely did so. I knew the writer was an old one. The writer was in the Car in the Rec when I took over & had him in my pocket since 17 Jany. Then I made my first purchase for the Rec. The documents left my possession when I went on leave. I gave them to Jack. Sgt Pritchard took possession of them. The signature on Ex B. is mine. I put it on when I took possession of the bill originally, because I was not running round with these bills in my pocket.

Cross-examined

Knowledge of details of petty cash was not responsibility. As ten bills was normally in my custody. On 5 Feb. 46 petty cash was in my pocket. I did not always keep it up. It was in my pocket with my own money. It was my responsibility.

No re-examination

By Court

I found out the mistake about 16 or 17 Feb in B Troop & returned to Headquarters Court but could not find

Rafter. I did not speak to anyone else re
leave nor for him. I did not write during
my 14 days leave. I have not told anyone
until today. I have not told anyone as I have
not spoken to anyone re been interviewed by any
one over rank? Sgt. I have been interviewed
by a S.I.B. Sgt. The box I mentioned is
in the possession? Sgt Maj- Barnes. It is not
here today. I handed Sgt Rafter Ex. A & B but
it was by accident. I agree Ex. A. has been
altered. It was used as a precedent. By
putting my signature it only made no difference
to it as was on each. Ex. D was for
signature. 4 Feby. 44. Between 17 January 44 &
4 Feb. 44 I made partially note of cost?
on 4 trips to NAAFI. receipts given will show
same, receipt. I altered the date on Ex A
during time. I agree it was my duty to see the FS
petty cash was handed over for safe custody &
accounted for. Then I went on leave on 8
Feb. 44.

(53) Re Ex. I have mentioned was by own property.

RP 83(a) complied with.

4/16

Defence closes

Prosecution addresses the Court, submits 1st Charge established. A. of intent & defence in substantial point remaining in dispute. S.3. 6. 2 admitted & G missing. His conduct at least negligent.

Defending Officer addresses Court.

S. 6. Forgery Act. 1913.

Does not be a forged document.

Definition of forgery in S.I. Forgery Act.

Evidence must show nothing with intent to defraud. If accused did this, it was very stupid attempt. No charge on Receipt. Could not expect to get away with it.

J.A. sums up.

Review of definitions in Forgery Act.
Onus of Proof on Prosecution.
Intent to defraud essential in 1st Charge. Negligence only in 2nd Charge. Review of evidence. Any doubt on intent to defraud, acquit. 2nd Charge.
Position of any S.40 charge. Criminal charge. Penal Section. Reference of military court.
Court closes to consider Finding. Court opens. See Paras D7 & D8. CFA. 96.

A/1/16

Proceedings on 3rd Charge RP. 39(1) complied with.

Accused arraigned. Pleads Not Guilty. Ans: No:

Prosecutor makes an opening address, outlining the evidence he proposes to call.

Third Witness for the Prosecution

Christopher Edwin Crockett, of 90 Cranley Gardens London. N.10

sworn states:-

I am receptionist clerk for Messrs W. A. Gilbey Ltd Wholesale, Imperial House, Regent Merchants of London. I think I remember the accused. He called on us about 14 Feb 44 at our premises, asked for & saw the manager of export. He said he was a friend of Mr. Watson, New Toronto. I passed him on to our export manager, Mr Musgrave. I heard Mr Turner supply the accused with spirits. He paid in my check. He proposed to me to put in drops cork. I cannot remember exactly how much. I produce a piece of paper Ex. I on which he had written his name, various particulars. I now remember that 12 bottles of Gin together with those for by him at controlled retail prices.

Cross-examined by Ex I

The only notes made by accused were memo. of instructions & friend's name Mr. Wilson.

RP 83 (B) complied with.

4th Witness for Prosecution

James Turner, of 26 Brentway London N3. Sworn states -

I am sales manager for W. & R. Chilley Ltd. The accused when I recognise came to our premises on 14 Feb 44. I [illegible] Mr Prockter spoke to me. I exhibited the sale of 12 bottles of Crystal Dry Gin at trade price to the accused. I only had a few words with him did not question him. The bottles were supplied by me for the Mess. Mr Prockter / accused came and how he supplied as a private individual. Duty information given to me upon which I exhibited the sale

No cross-examination. was not given by the accused but by Mr Prockter.

R.P. 83 (B) complied with.

On application of Prosecution under R.P. 86(A) the third witness is re-called for a question to be asked through the Court.

Q. Was anything said by the accused or by Mr Prockter

A. Yes. the said that he wanted to purchase liquor?

H.R.W.

was not an Officer's Mess he represented.

Cross-examined on this question & answer.

I only remember the purport of what the accused said & not the exact words. I do not recall the words "Ors Mess". But he might have used those words. He conveyed the impression he was representing an Officers Mess. He might have used the words "I can't get any spirits at our Mess" will you give me some

RP 83(B) complied with.

5th. Witness for the Prosecution

A. 1913 Sgt. Sutherst, R.S. No I. Special Investigation Section 1st Canadian Army, sworn states:

On 24 Feb. 44 I interviewed the accused when I recognise. I searched him & found in his possession 2 documents, one relating to a purchase from Rosses Knowlands Bros. of London. I produce this document Ex. J. Which is comprised of an Order form & Receipted Invoice. The other document Ex. K. is a Memorandum from W. & B. Gilbey Ltd of London, bearing the accused signature. I cautioned the accused & asked him whether he wished to account for these two documents. He told me that he had bought 18 bottles of gin at

a total cost of £22; 6 on 14 Feb. 44 at 3 49
Knowland Bros & the rest the following day
at W.H.A. Gillespy. He said that the gun was
taken to an address of some people called O'Williams
at 2 Hanover Court Shepherds Bush where he had
stayed during his leave & when the gun had
been unscrewed. He further stated that O'Williams
had contributed £4 towards the cost of the gun.

As a result of further enquiries I saw accused
again on 25 Feb. 44 & I told him that enquiries
had been made at 2 Hanover Court Shepherds Bush

At this stage Defending Officer stated
he proposed to object to admissibility of any further
evidence & notes of admissions made by accused
to this witness. Leave given to cross-examine on
question of admissibility.

Cross-examined by Defence, witness states:-

On 25 Feb. I told accused that he was not
obliged to say anything unless he wished to do so
but that anything he did say might be taken down
in writing & may be given in evidence. I think
three people were present, two of our office
staff, & also an investigator. The interview at the

KW.

SFS / Spic = Leatherhead. We had sent for the accused. Nothing was said as to the advantages of making a statement or what would happen if he did not.

J.A. refers Court to pp. 90, 91, 92, 93. MAH. 1929.

Court states he rule on admissibility of any further statement made by this witness.

Court Upons : rules evidence admissible.

Witness proceeds with evidence: —

As a result of what I told him the accused being duly cautioned the accused said that "the gun was not taken to be O'Sullivan's home but did he sold it to American soldiers in public houses in the Hammersmith District for 30/- per bottle. I asked the accused if he wished to make a written statement concerning the gun. He said he was willing so to do. After further caution I made a statement which I wrote out. It was read over to him & signed by him.

[Parts relating to this charge read to Court by Prosecutor. Document not yet made an Exhibit]

H136
Cross-examined.

My notes were only written up 2 days ago.
I made a previous report in February from
original notes which have been lost in one move
of HQ. On 25 Feb. 44 the accused was spoken
spoken about the matter.

~~Not re-examined.~~ No re-examination

RP 58 (B) complied with.

6th Witness for prosecution.

B.63595 A/CMS Raphael, R.M., recalled & re-sworn states:-

I am Secretary Treasurer of Advance HQ ~~Base~~
Sergeants Mess HQ 1st Canadian Army during
Feb. 44. I did not give accused at any
time any authority to purchase gin on Sticky
on behalf of the Sergeants Mess. At that time there
were 8 Officers' Messes & 2 Sergeants Messes of HQ
First Canadian Army. All were reputably run
& had their own officers' stewards. The chief clerk
Orderly Room HQ. I have no knowledge of
the running of these messes. I have never heard of
a Sgt. buying liquor collectively for Messes.

Cross-examined

The only authority I have had is a P.M.C. Sgts Mess. He can
only buy liquor from authorised sources. If authority were

H.H.S.

. Friend & P.M.C. might give it. I can not [illegible]

acquainted with the methods of the Press in obtaining Liquor.

RP 83(B) complied with.

The Prosecution closes his case on the 3rd charge.

The Defending Officer submits no case on following grounds: —

No evidence that accused represented that he was acting on behalf of Officers Mess.

The Provost, after great difficulty, paid that he gained impression that accused was acting on behalf of Officers Mess, First Canadian Army. This insufficient.

Submit no evidence of any representation of authority. Pte. J. is not sufficient. Vauxhall Bros. may have made a mistake. No witness called from that firm.

~~Defending Officer~~ Pte

Prosecution submits that the Provost provided prima evidence & that documents corroborate charge.

4/10.

J. A. addressed Court in Submission 103.

Court closes to consider submission.

Court opens & disallows submission.

Questions to Accused:

Record From D. Para. D5 complied with.

D.5. This information given to accused.

President to Accused: Do you wish to give evidence yourself - as witness, make a statement, or do neither?

Ans. Give evidence as a witness

Q. Do you intend to call witnesses on your behalf

Ans. ~~No.~~ Yes.

Q. Are they witnesses as to character only? Ans. No.

Defence

B.4530 Trooper Vernon Richard Thompson, HQ 1st Canadian Army, sworn states: —

On 14 Feb. 44 whilst on leave I went to Messrs Gilbey to purchase some spirits from them. I had been to the firm on 4 different occasions before, once on my own behalf, once for Officers Mess HQ 1st Canadian Army, on other occ. for Officers Mess CACRU. No 3. & once for Sgts Mess. I gave addresses, & made purchases for them. I made my acquaintance of Gilbeys London in April 1942

Shortly after my arrival overseas, my introduction was given to me by Mr Hugh Wilson, Kellogg Co New Toronto. On mentioning Mr Wilsons name I had no trouble at any time to purchase spirits from the firm. On 14 Feb. 44 I asked the reception clerk if Mr Norland, Manager of Export Dept. was in, & could I see him. Following a conversation with Mr Norland Mr Trimmer was called, told to let me have a dozen gins. I then approached Mr Norland on the subject of an account for the Sgts Mess 1st Canadian Army, after some debating as to whether it should come from the Export Dept or not, he finally consented to the same. I called back at the afternoon to pick up my purchase, paid Mr Brockton, left.

On 15 Feb. 44 I called at Kinsland Bros. Ltd Waymarket & see if I could get an account for the Sgts Mess HQ First Canadian Army. Kinning Capt. Kinsland, who at one time was a member of the Mess HQ 1st Canad. Army, of which I was the caterer. I was allowed an interview with Mr Kinsland. After a great deal of debating,

trying to get an account from them. I was refused but allowed a purchase of 6 bottles of gin. These 6 bottles were originally purchased for the Sergeant Mess.

On previous occasions when I purchased spirits for Messrs Gibbs Bright & Co I went into an Open Depot signed by Mess Treasurer, RMC.

On these occasions I had original authority from the Mess. The Sgts Mess in Jan. 44 gave me authority to purchase spirits on behalf of the Mess when & where I could. This authority was given to me direct by the then Secretary - Treasurer Sgt. Heyland. He told me that I was at any time & could get hold of anything, buy it. I made purchases therefore for the Mess, two in fact in Jan. 44. On 28 Jan. 44 I made a purchase for Sgts Mess of 6 bottles gin from Watney Combe Reid & Co, invoice for which I produce Ex. L. The reason why this invoice is headed "Officers Mess G." is that at this time there was no account vacant, but the Sgts Mess was allowed to purchase by cash on "G" Officers Mess account.

H/SW.

This invoice / goods were delivered to Sgts Mess, taken to the Bar, then I handed the bill to the Secretary-Treasurer. I was told that they had no money to pay for the goods. Consequently the goods being paid for by me were sold over the Bar to members of the Mess at cost. Having got my £6.12.3 back, it was forgotten about.

With regard to profit mentioned in the charge, I deem it unwise to comment that there is no profit in it for anyone. Ex. J shows that I paid Kimbers Bros 25/9 a bottle which is 2/6 more than it can be purchased for at a wine shop. This gin is sold in the Mess at 29/- a bottle, a profit of 3/3 is to be realised per bottle out of this transaction.

Firstly it cost 4/3 cab fare to travel from Shepherds Bush to Haymarket, return trip 8/6. Lunch cost 3/9; a round of drinks to get a introduction to Mr Kimbers cost me 4/6; train fare London - Leatherhead would have cost me 2/10. I fail to see any profit in

14/6.

this transaction.

Cross-examined

By instruction was to buy the gin at Kwanbura for the Mess at cost & not to exceed £ 1 per gallon. Was told how much they would have paid it for. The 12 bottles purchased from Gibbys was not bought on behalf of the Mess. I asked Mr Norton during an conversation whether I could open an account for the Mess but I had already made my purchase of spirits that day.

No re-examination

By the Court

I sold 6 bottles on one day to American soldiers & further known - made for 30/- a bottle

Of the other 12 bottles at least 6 were sold in the same way, the others consumed by myself & my friends. I use a uniform, the 6 bottles mentioned first were sold in one transaction. I carried them in a container.

I thought I was entitled to sell the bottles for 30/- each in view of my expenses & trouble. I did not mention any Mess to Mr Franklin. He knew me. I had been there before. I got a Mess

H/W

Toronto - 1934 I was employed as a checking clerk for Messrs Gilbey.
RP 83 (B) complied with.

Pte. Witness for the Defence

M. 16503. Sgt. Heaysett, N. HQ. 1st Canadian Army.

sworn states:-

From Nov. 43 - Jan 44 I was Sec. - Treasurer of Sgt. Mess HQ. 1st Canad. Army.

Accused was Steward during Jan. 44

I regularly remain on 2 or 3 occasions on the authority of CMC I was given permission to sell accused 4 purchase liquor over + above normal NAAFI allotment. Purchases were in fact made by the accused for the Mess.

No cross-examination

By the Court

The purchase made by the accused for the Mess was between 6 + 12 bottles. No particular address was given to him.

RP 83 (B) complied with.

Defending Officer addresses the Court.

Not every charge + deal with. Number of incidents alleged. S. 40 very general charge.

K/W

Words like improper ... Lack of authority often give sinister sound to fairly normal conduct. Evidence examined on each point of particulars of charge, submission made that evidence insufficient to establish conduct to prejudice of good order & military discipline.

Prosecutor addresses the Court & submits question of fact for Court to decide.

J.A. sums up.

Importance of regarding S.40 charge as being brought under final section. Onus of proof on prosecution. Course of conduct alleged in Particulars to charge must be established. Also that question even if latter not, conduct would amount to conduct to prejudice etc. In conduct = Particulars = Evidence of Lack of authority to represent Himself as acting for them: fact of representation essential. Particulars established.

Court entitled to make special finding altering wording of particulars but not to re-write charge.

Court closed. Court opens. Finding of Not Guilty announced.

Fourth Charge

Application by Prosecution under RP. 33 (B) for Court to apply to Convening Authority to amend charge by substituting "10 Feb. 46" for "24 Feb. 46". Court adjourned to apply to Convening Authority. Authority has authorised amendment. Court re-opened. Accused arraigned on amended charge. Pleads Not Guilty. Q/F.D.I. CFA 96 other. Acc. No. Prosecutor makes no opening address.

H.Q.
5.7. Witness for the Prosecution

A 31411 B.Q.M.S. Heffernan, M.J. 1st Can. Inf. Can. Army, sworn states:-

As B.Q.M.S. 1st Canadian Army I am responsible for issue of soap supplies to all personnel. H.Q. The procedure for issue to Officers Mess is that N.C.O. i/c Mess draws in bulk sufficient soap coupons for the Mess or canteen. He submits a covering nominal roll with signatures of recipients. Each man gets 2 coupons per month.

On 9 Nov. 43 I issued 240 soap coupons to accused as Mess Caterer "C" Mess. He gave me receipt. Pte. M. On five occasions thereafter I asked accused to deliver nominal roll. It has not been sent in.

Soap coupons are supplied & furnished monthly from R.C.A.S.C. on scale of 2 per man per month. are public property.

Cross-examined Laid down by procedure not to write orders. Office procedure. Nominal rolls are filed. The proper

H/W

81

usual period for distribution is 2 weeks.
Dec/Jan. Accused did not pick up October
issue. He requested October & November issue
together. If coupons are not issued they should
be returned to me. I do not know when
accused left 'C' Pln but I phoned him
43
in November. Accdg. I enquired of a
Corporal Clerk who took over accused's job.
RP 83 (3) complied with.

8th Witness for Prosecution

U. 1913 Sgt. Sutherst, R.S. No I. S.I.S.
1st Canadian Army. sworn

Says:-

On 10 Feb. 44 I searched kit of
accused & found therein 153 prop coupons
in his large pack. I produce them. Ex. N.
(in envelope). On 26 Feb. 44 I saw the
accused at S.I.S. H.Q. & cautioned him.
I told him I had taken possession of 153
prop coupons. I asked if he desired to make
any explanation concerning them. He said
that he had them given to him in an envelope

H/Ms

by a unknown soldier at No. 3 C.A.R.C.
about 18 months ago. He also made a
statement which was reduced to writing
on 25 Feb. 44, after caution. It was read
over to him & signed. I produce this signed
statement Ex. O, one paragraph of which
refers to this matter.

No cross-examination

By the Court

Are you Service company.

At request of Defending Officer

I was a civilian prior to 1942, had
a rotin book - which I was entitled
to draw rest. Since joining the army I
have been on rations practically all the
time. I was issued with a civilian ration
card. I did not have this type of ration
coupon issued to me. I am not prepared to
swear that such coupons are not issued
to persons outside the Services.

RP. 83(3) complied with.

Defending Officer — No submission
no case.

33

No evidence that property further property.

Prosecutor replies. Relies on evidence of SS.
Submit.

~~The Court sums up.~~ Jmk

~~Court adjourns. Defendant~~

J.A. sums up. Prima facie only needs to be established.

Court closed.

Court open. No submission. Trial on 4th Charge to proceed.

D.S. CFA.96. complied with. Pros.

Warned & Cautioned. Do you wish to give evidence yourself or a witness, or do a statement or do neither? Ans. "Give evidence on oath." Do you intend to call witness on your behalf? Ans "Yes". Are they witness as to character only? Ans. No.

Pros. D.6. CFA.96. complied with.

Defence

B.4520. Trooper Vernon Richard Thompson. 1st. Pl.

Cautioned Oath sworn states:-

These were empty Ex. N. cards have been in my possession since 10 Feb. 66.

When we first came to England we took over a house. When clearing up, empties were found

by a soldier working for me. They had no value for me. I threw them in the office & they remained there. They were given to me in an envelope & remained in the envelope.

240 coupons were given to me in November 43, by Boris Hoffman. I made up a nominal roll of officers & their number & issued the coupons to per man, to make up the mess of one month. When I left Bari on 15 Jan. 44 a nominal roll was left there to be taken to the A.M.F. stores. Bari, Foreword & Nov., Dec., Jan. was Pte. Taylor. The new coupons left are & were issued to officers against signature. I did not carry away any of the 240 coupons.

Cross-examined

I was not being asked about nominal rolls. It was not ready.

Re-examined.

I was a Sergeant when the soldier handed me the coupons which he told me he had found. I later understood the regulations, but did not observe any of them, viz. 2 for mess

HMS

for month ended 17 September 43. I never saw the coupons in my pack a thought. I never went through my pack. I was a Cpl. Ostbingen House was the place where I received the coupons.

PIP 63(B) complied with.

Statement for the Defence

K-52372. Pte. Taylor, E. HQ. First Canadian Army, sworn states:-

2 Nov. - Dec 43 I was working in the Bar of 'G' Mess. Accused was Mess Caterer. During this period I helped to issue some coupons to Officers & ORs. There was a nominal roll signed by recipients. Bar was most convenient place for distribution. They were in a single sheet. The sheet which I helped to distribute was all issues. The nominal roll was complete. I saw the roll in Jan. 44.

No cross-examination

By the Court

The nominal roll there was between 50 - 60 names. I do not know how many coupons are in a single sheet. Each Officer

HHW

Received 2 copies carbon notes of Ex. N. 1 3/6

RP 83(B) complied with.

Defendant's Officer addresses Court.

Two elements in charge (1) Conversion of public property

(2) Conversion in pursuance

Submit case fails on both elements.

Ex. N. Corporal purport to be issued by Secretary of War. No evidence that was issued otherwise than Services. They might have been issued to private persons or corporation.

On impropriety of conversion, accused's explanation which should be accepted.

Submit

Prosecutor addresses Court. Charge established

Onus of Proof.

Character of Alleged charge.

J.A. sums up. Review of Evidence.

Court closes to consider findings.

Court opens. President announces that findings of Court on 1st Charge being subject to confirmation will not be announced but will be promulgated later.

Proceedings continued on Record Form E.

Address by Defending Officer
in mitigation of Sentence

Accused desires to refund £3.6.2 immediately,
& asks for assistance of Court to indicate
how this can best be done. He has been
acquitted on Charge I & 3, the two serious charges.
No one has been hurt.
on which he has been found guilty
Neither S.40 charge / is really serious.
Neglect only.
Asks for leniency.
up to today
Already been 8 days & close arrest &
& charge has been on his mind for a
long time, & investigation into his affairs has
been perhaps & searching & very worrying to
him.

Record Form E4 & E5 complied with

Rcpt. No. (2) | A/c No. or Cash Sale (3) | Cash Received (5) £ s d | Form 3599 (Rome) Set No. B 49 | Discount (7)

(1)

RECEIVED from

Official Receipt.

NAAFI, ARMY & AIR FORCE INSTITUTES,
Headquarters: Rustey Towers, Claygate, Esher, Surrey.

Signed
for NAAFI

Form 197—11/41

N.A.A.F.I. Regn No. 15620 G

Navy, Army & Air Force Institutes

E 61757

Space for impression of Institute address stamp

WEST HUMBLE STREET
WEST HUMBLE,
DORKING.

INVOICE for supplies on

TO

Quantity	ARTICLE	Price
8 lbs shoe laces		3/- 1 4
600 cigarettes		1/6 2 5
3 lbs matches		1/3 4 6
	TOTAL	3 8 4

E 61757

RECEIVED GOODS AS PER INVOICE

Signature

Dated

Ex D
H/W.

24318

No 5 B 63475

4 Feb 1944

Barclays Bank Limited

LEATHERHEAD.

TWO PENCE

Pay NAAFI or Order

the sum of Four pounds one shilling and eight pence

£ 5-1-8

Raymond Ellis

C THIS CHEQUE REQUIRES ENDORSEMENT.

Form 497—11/41

Navy, Army & Air Force Institutes

1 334432

Space for impression of institute address stamp

INVOICE for supplies on ____ 19__

TO

Quantity	ARTICLE	Price	

Ex. E
H/W

Date (1)	Regd. No. (2)	A/c No. or Cash Sale (3)	Cash Received (5) £ s d	Form 3580 (Home) Receipt No. A105403
				Discount (6)

RECEIVED from (4)

Official Receipt.

NAVY, ARMY & AIR FORCE INSTITUTES.
Headquarters: Huxley Towers, Claygate, Esher, Surrey.

Signed
for NAAFI

Form 497

A.F.I. Reg. No. 15620

Navy, Army & Air Force Institutes

Space for impression of institute address stamp

I 340440

INVOICE for supplies on February 13th 1946

TO

Quantity	ARTICLE	Price			
500	Cigarettes	3/6	1	17	6
1000	Cheroots	3/-	1	3	3
	matches	1/6		1	3
	sweets	2/4		1	4
		1/6		1	6
				1	4
			5	2	3
				3	
			4	19	3
				9	1
		TOTAL	4	9	4

RECEIVED GOODS AS PER INVOICE

Signature

Dated

I 340440

L.F.A. Co. 1/46

Form 497—11/41

Navy, Army & Air Force Institutes

Space for impression of institute address stamp

WEST MOMBLE STREET
WEST MOMBLE,
DORKING.

I 340441

INVOICE for supplies on February 12th 1944

TO Adjt Sgts HQ 18th Edn Group

Quantity	ARTICLE	Price		
1	Writing Paper	2/6	10	1½
		TOTAL	10	1½

RECEIVED GOODS AS PER INVOICE I 340441

Signature [illegible] Dated 19/2

L.N.A.F.I. 1/41

Ex. F.
H/W repeat repeat acct. B6413 d 14 Feb 44
pte

Date (1)	Regtl. No. (2)	Air No. or Cash Sale (3)	Cash Received (5) £	s	d	Form 3089 (Home) Receipt No. A103029
						Discount (7)
RECEIVED from (4)						

NAVY, ARMY & AIR FORCE INSTITUTES.
Headquarters: Rustey Towers, Clayesie, Esher, Surrey.

Signed
for NAAFI

Navy, Army & Air Force Institutes

E 74506

Name of unit or address stamp

INVOICE for supplies on 19

TO H.Q. 1st Edn. Army

Quantity	ARTICLE	Price						
400	Cigarettes	1/6	1	1	10			
8	Choc Bars	7d		1	4			
4	Soap	3d			12			
2	Razor Blades	7d			14			

Navy, Army & Air Force Institutes

E 74507

(Address or stamp)

INVOICE for supplies on

TO

Quantity	ARTICLE	Price			
4 doz	Paper	2/8	10	8	14
		TOTAL	10	8	14

RECEIVED GOODS AS PER INVOICE

Signature

E 74507

Dated

EXHIBIT C

Ex 9
H/W

Form 497—7/41

Navy, Army & Air Force Institutes

E 61757

Space for impression of institute address stamp

WEST HUMBLE.
DORKING.

Oct 26th 1942

INVOICE for supplies on

TO Cadre 1st Bn Cdn Army

Quantity	ARTICLE	Price	
		3	1 4
8 lbs	shoe Brush	4/6	2 5
100	cigarettes	1/0	5 6
3 lbs	matches		

TOTAL 3 13 6

Institute Account
Book Folio

RECEIVED GOODS AS PER INVOICE

Signature

Dated

EXHIBIT No. 12/7/44

(For Identification)

4

Ex. 4 HHF

223

and at one time a member of
our New York staff

X Prepare memo

Washington

ITEM	ON HAND	SOLD	VALUE	31st Jan. ON HAND	SOLD	VALUE	Contains ON HAND	SOLD	VALUE	1st ON HAND	SOLD	VALUE	28th ON HAND	SOLD	VALUE	Exc. C
Whisky				-	-	-					Purchased					
Gin				-	-	-										
Sherry				-	-	-	Cases 15	@ 2/	1-10		24		23	1	1.8	✓
Light Ale				80 ✓	37	2.9.4	15 Kegs	@ 2/	1-10.	80			63.	17	1.2.8	✓
Cordial				130 ✓	-	-	Crates 7	@ 1/	7	130			130	-	-	✓
Ginger Beer				10 ✓	2	3.0	1 Keg on 29	@ 3d	7.3	10			10	-	-	✓
Ginger Ale				22 ✓	1	4	4 Cases	@ 2/	1.8.0	22			22	-	-	✓
Pepsi-Cola					20	6.8	Cases 5	@ 4/	1.0.0		48		31	17	5.8	✓
Orangeade					18	16.6	Bottles 10 Kegs	@ 1/	10/		48		48	-	-	✓
Grapefruit				-	-	-	Syphons 24	@ 2/	2.8/				-	-	-	✓
Chocolate Bars					23	5.9	Packs 4	@ 3/	12.		96		28	18	4.6	✓
Cigarettes				60 ✓	30	2.3	60 unmarkable				480		370	30	2.4	✓
Shaving Sticks				-	-	-	Crates 3	@ 4/	12/							
Metal Polish				-	-	-	Bottles 6 doz	@ 2/6	12/							
KiWi Polish				-	-	-										
Nugget Polish									10-16.3							
Matches (3d)				174 ✓	18	4.6.				7	48	55	45	10	2.6	✓
Matches (1½d)				-	-	-										
Sweets (bags)				-	6 ✓	16 ✓							-	-	-	
Biscuits				-	-	-							-	-	-	
Gum				-	-	-							-	-	-	
Bath Salts				-	-	-							-	-	-	
Cycles				75 ✓	-	-							23	2	4.	✓
						5.4.9 ✓									2.2.3	

ITEM	2 ON HAND	2 SOLD	2 VALUE	3 ON HAND	3 SOLD	3 VALUE	4 ON HAND	4 SOLD	4 VALUE	5 ON HAND	5 SOLD	5 VALUE	6 ON HAND	6 SOLD	6 VALUE	
Whisky																
Gin																
~~Sherry~~ LIGHT ALE ½ PTS.	22.	1	8	22.	-	-				22	-	-	10	12	8.	
Light Ale PTS.	52.	11	14.8	24	28	1-17-4	144	168	162	6	9	138	24	1-12-0		
Cordial	130	-	-	130	-	-			130	130	-	-	130	-	-	
~~Ginger Beer~~ STOUT.	10	-	-	10	-	-			10	10	-	-	10	-	-	
Ginger Ale	20	2.	8	15	5	1-8			6	9	3	-	6	2-		
Pepsi-Cola	3	28	9.4	-	3	1-										
Orangeade LAGER.	48	-	-	48	-	-	48	44	4	2	-	39.	5	4-7		
Grapefruit	-	-	-	-	-	-										
Chocolate Bars	51	37	6-9	19	32	8-	96	115	97	16	4	94	5	1-3		
Cigarettes	310	60	4-6	180	130	9-9	500	630	600	20	6	990	160	18-		
Shaving Sticks	-	-	-	-	-	-										
Metal Polish	-	-	-	-	-	-										
KiWi Polish	-	-	-	-	-	-										
Nugget Polish	-	-	-	-	-	-										
Matches (3d)	34	11	2-9	30	4	1-	92	102	98	4	1	87	11	2-9		
Matches (1½d)	-	-	-	-	-	-										
Sweets (bags)	-	-	-	-	-	-	12	12	12	-	-	11	1	2-8		
Biscuits	-	-	-	-	-	-										
~~Gum~~ Peppermints	-	-	-	-	-	-	144	144	121	23	3-10	108	13	3-2		
Bath Salts	-	-	-	-	-	-										
CYDER.	23	-	-	21	1½	3-6			21	-	-	-	20¾	¾	1-6	
			1-19-9			3-1-3						1-9-6			3-8-1	

ITEM	ON HAND	SOLD	VALUE	8 Feb 44 ON HAND	SOLD	VALUE	8 Feb 44 ON HAND	SOLD	VALUE	9 Feb 44 ON HAND	SOLD	VALUE	6 Feb 44 ON HAND	SOLD	VALUE
Whisky										1	–	–	1	–	–
Gin				1	–	–	97	2	11.9						
Sherry LIGHT ALE & PILS	1	1	9	103 106	10	1.4.0 1.5.0	101 105	28	1.6.8 1.4.0	87½	9½	12 8	84	3½	4.8
Light Ale	121	17	1.2.3	108	8	1/4	108	8	1.4	106	2	4	104	2	.4
Cordial	163	14	2.4	–	–	–	–	–	–	–	–	–	–	–	–
Ginger Beer	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Ginger Ale	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Pepsi-Cola	–	–	–	3	3/9		32	3	2.9	29	3	2.9	28	1	.11d.
Orangeade LARGE	35	4	3.7	32						–	–	–	–	–	–
Grapefruit	–	–	–	–	–	–	–	–	–	30	4	1.0	13	17	4.3
Chocolate Bars	68	24	6.1	34	34	8/6	34	34	8.6	330	20	1.6	290	40	3.0
Cigarettes	360	40	6.	350	10	9	350	10	9	–	–	–	–	–	–
Shaving Sticks	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Metal Polish	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
KiWi Polish	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Nugget Polish	–	–	–	–	–	–	–	–	–	70	4	1.0	66	4	1/–
Matches (3d)	81	6	1.6	74	7	1/9	74	7	1.9	–	–	–	–	–	–
Matches (1½d)	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Sweets (bags)	91	3	1-	2½	24	14-	2½	24	16.0	–	2½	5.4	–	–	–
Biscuits				55	34	6/8									
Gum PEANUTS	29	19	3.2	38.1	34	5/6	50	39	6/6	38	12	2.0	18	20	3/4
Bath Salts STOUT	9½	–	–	9½	–	–	9½	–	–	9½	–	–	9¼	–	–
CYDER	20½	¼	.6	30	¼	6	29	¼	6	19	1	2.0	18¾	¼	6
												£1.8.7			18/-

Ref

Cf Sat 23 Jan 44
7.19.10½

ITEM	Date 11 FEB 44			Date 12 FEB 44			Date 12 FEB 44			Date 13 Feb 44			Date 14 Feb 44			Date 15 FEB 44		
	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	PURCHASES Hand	Sold	Val
Whiskey				PURCHASES												19 FEB.		
Gin																9		
Rum																		
Sherry																1		
Port																1		
Lager ½ pts	25	3	2.9				25	-	-	24	1	.11	1	23	1.11			
Light Ale pts *	62½	16	1.1.4				53	10½	14.0	50	3	4.0	½	49½		60		
Light Ale ½ pts	-	1	.6				-	-	-	-	-	-			3.6.0			
Brown Ale pts *	5½	-	-				1½	4	5.4	1	½	8	-	1	.1.4	36		
Stout pts	9½	-	-				9½	-	-	9½	-	-	8	1½	2.3			
Cyder qts	18¼	½	1.0				17¼	4	2.0	17¼	-	-	14¾	2½	5.0			
Cordial	100	4	.8				80	20	3.4	78	2	4	78	-	-	156		
Pepsi-Cola				48			47	1	.4	35	12	4.0	21	14	4.8	156		
Cigarettes	230	60	4.6	500			720	1	.9	680	40	3.0	500	180	13.6			
Chocolate Bars	6	7	1.9	93			95	4	1.0	80	15	3.9	59	21	5.3			
Sweets (bags)				616			20½	44½	2.8	114½	9	6.0	104	10	6.8			
Peanuts	3	15	2.6				-	3	.3	-	-	-	-	-	-			
Matches (3d)	61	5	1.2				60	1	.3	58	2	6	54	4	1.0			
Matches (1½d)				96			96	-	-	93	3	4½	90	3	4½			
		£1.16.3						1.9.11			£1.3.6½			6.7.1½				

ITEM	Date 15 Feb 44			Date 16 Feb 44			Date 17 Feb 44			Date 18 Feb 44			Date Purchases			Date 19 Feb 44		
	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val
Whiskey	19			18	1	1.10.2										9	3	4.10.6
Gin	9															9	—	—
Rum SOAP										15	9	2.7.6				13	2	7
Sherry	1															1	—	—
Port	1															1	—	—
Lager ½ pts CIGS	—	1	.11							—	—	—	12	½ pt	5.6	—	12	11.0
Light Ale pts	43	17½	1.3.4	30	13	1.2.4	12½	17½	1.3.4	—	12½	16.8	36	20½	24	4	32	1.12.0
Light Ale ½ pts																		
Brown Ale pts QUARTS	34	2	2.8	29	5	6.8	19½	9½	12.8	—	19½	1.6.0	16			14¾	1½	4.8
Stout pts ½ PTS	6½	1½	2.2	4½	2	3.0	4	½	.9	—	4	6.0	36	½ pt	2.6	36	—	—
Cyder qts Stock counted but not Cases Rum.	11¾	3¼	2.0	10½	1½	2.6	6¼	4¾	8.6	1¾	4½	3.6				—	1¾	3.6
Cordial	226	8	1.4	224	2	.4	220	2	.4	220	—	—				212	8	1.4
Pepsi-Cola	13	8	2.8	8	5	1.7.8	—	8	2.8	42	6	2.0				25	17	5.8
Cigarettes	490	10	.9	260	230	1.3.3	120	120	2.9	150	20	1.6				30	120	9.0
Chocolate Bars	47	12	2.0	—	47	11.9	—	—	—	56	37	9.3				—	56	14.0
Sweets (bags)	—	1	.8	—	—	—	—	—	—	7	—	—					7	6.0
Peanuts	—	—	—	—	—	—	—	—	—	—	—	—				—	—	—
Matches (3d)	51	3	.9	44	7	1.9	41	3	.9	35	6	1.6				23	12	3.0
Matches (1½d)	90	—	—	87	3	.4.6	84	3	4½	84	—	—				82	2	.3
		£20.4 PR			PR 4.11.6 12.9			2.15.5½ 2.18.4½				3.17.0 PR					9.1.6 PR	

ITEM	Date			Date 21 Feb 44 / 22 Feb 44			Date			Date			Date PURCHASES			Date 2 Mar		
	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val	On Hand	Sold	Val
Whiskey	9	—	—	7	2	3.6				3	4	6.8				—	3	5.10
Gin	9	—	—	9	—	—				9	—	—				9	—	—
Rum Scapa	13	—	—	12	1	3½				11	1	3½				10	1	3½
Sherry	1	—	—	1	—	—				1	—	—				1	—	—
Port	1	—	—	1	—	—				1	—	—				—	—	—
Lager ½ pts Alpen Bräu	—	—	—	21	27	1.16				—	21	1.8.0				—	—	—
Light Ale pts qts. Frembus	—			—	4	10.8				—	—	—	48			—	48	3.4.0
Light Ale ½ pts	—	4	.16	—	—	—				—	—	—	48 Double Lin.			—	48	3.0.0
Brown Ale pts quarts	11	3½	10.6	—	11	1.9.6				—	—	—				—	—	—
Stout pts	25	1	.11	25 29	7 6	5 5				—	28	1.5.3	48 ½ PINTS			40	8	.7.4
Cyder qts	—	—	—	—	—	—				—	—	—				—	—	—
Cordial	20	6	1.6	182	24	2.0				114	68	11.4				104	10	.10
Pepsi-Cola	17	3	2.5	—	17	5.8				—	—	—				—	—	—
Cigarettes	—	30	23	—	—	—				—	—	—				—	—	—
Chocolate Bars	—	—	—	—	—	—				—	—	—				—	—	—
Sweets (bags)		5½	3.4	2	3	2.0				—	2	1.4				—	—	—
Peanuts	—	—	—	—	—	—				—	—	—				—	—	—
Matches (3d)	20	3	.9	3	17	4.3				—	3	.9				—	—	—
Matches (1½d)	50	2	.3	78	2	.3				46	32	4.0				38	8	1.0

1.5.2 Rec 7.17.1½ 5.13.5½

9.12½ Rec

11.3.11½ gls

EXHIBIT "6"

ORDER

12987

KNOWLAND BROS.

From Stores 12 Main St Dec 15 1924

To Sody Thompson

Please supply:—Arkansas City

1 W Bramidon Ave

3 Bottles Bourbon

3 " Burbon Gin

6/12

Cash Paid

Ex. J.

Telephone:
WHITEHALL 1738.

Telegraphic Address:
"KNOWBRO, PICCY, LONDON"

BOT OF KNOWLAND BROS.
(A. J. KNOWLAND)

WINE & SPIRIT MERCHANTS & CATERERS.

HEAD OFFICE:
LOTUS CHAMBERS, 4/7, NORRIS STREET,
HAYMARKET, S.W. 1.

M Sgt. V. R. Thompson
P.M.C.
Advanced Headquarters,
1st Canadian Army.

15th February 1944

6 botts. Gin	at 25/9	£7	16 0

Received with thanks.
for Knowland Bros
A Broadbent

MEMORANDUM.

From **W & A GILBEY LTD.**, OVAL ROAD, REGENT'S PARK, N.W.1

RAIL Agents Motor DATE 18/Jan LOAD No.

Order No.	NAME	ADDRESS	No. of Pkges.	Weight Cwts.	Qtrs.	Lbs.	Size	Rate	£	s.	d.
TNL 1223	Sgt. Thompson HQ 1st Canadian Army Canadian Army England		1	0	1	25					

Ex 'K' H/H.

1

Telephone NUMBER BOOK 1098/9
Agent F. C. COWDEROY.

A 6991

WATNEY COMBE REID & CO., LIMITED,

GIGGS HILL, THAMES DITTON.

M 19

Please receive

ARTICLE	Bottles	½ bottles	¼ bottles	Nips	gallons	at	VALUE £ s. d.

£

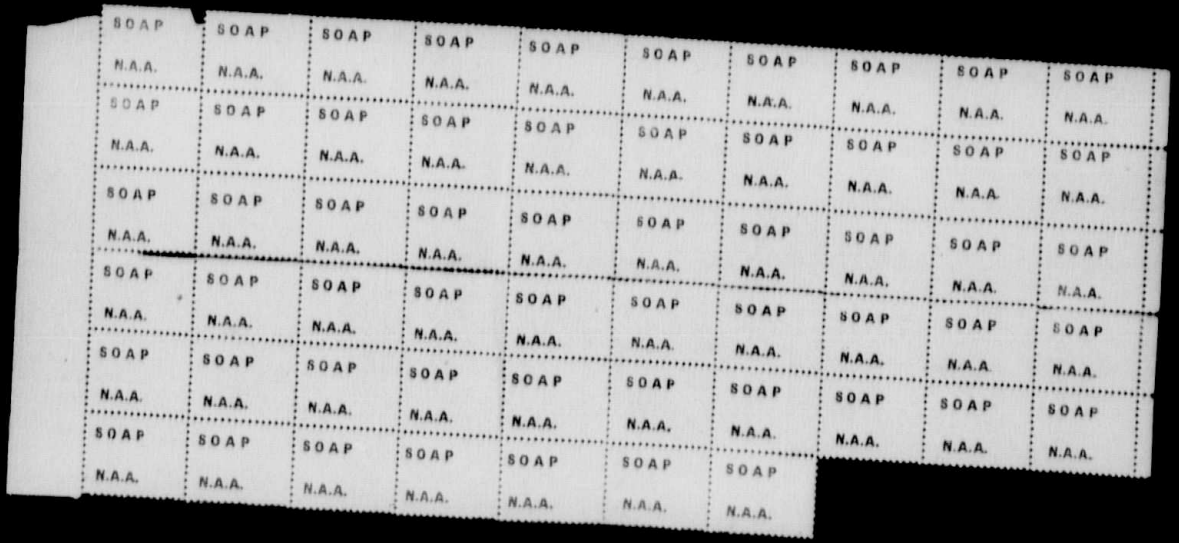
EMPTIES RETURNED	VALUE £ s. d.	DEBITS	VALUE £ s. d.

£

EXHIBIT "O"

1

Ex M
H W.


SOAP
N.A.A.


SOAP
N.A.A.
SOAP
N.A.A.
SOAP
N.A.A.
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SOAP
N.A.A.

No.—SSC. I.

MINISTRY OF FOOD

SERIAL No. SC/B 209878

SOAP RATIONING — N.A.A.

SOAP N.A.A.	SOAP N.A.A.	SOAP N.A.A.	SOAP N.A.A.	SOAP N.A.A.

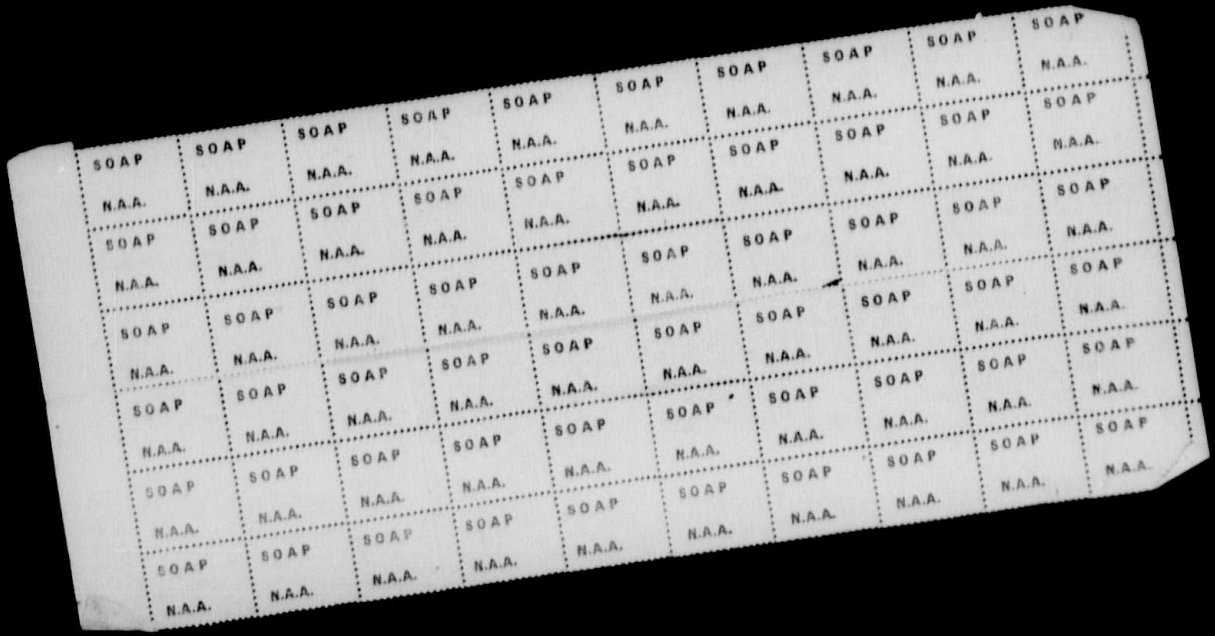

SOAP
N.A.A.

EXHIBIT "F"

V.A.A.F.I. Soap Coupons

(153.)

Ex N
N.S.H.

EXHIBIT "I"

B. 4520 Sgt. Thompson, T.R. 25 Feb 44

H.Q. 1st Edn Army.

Ex O
41/W.

I have ben cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence.

WBK opp Com

I am the Caterer for the Sgts Mess at 1st Edn Army H.Q., and have ben so employed since about 17 January 44. Prior to this I was Sgt i/c of 'G' Mess, 1st Edn Army H.Q., I held this position from 24 Sept 43, until 16 January 44.

On 7 February 44, I commenced 14 days leave I drew a Railway Warrant from 1st Edn Army H.Q., to Newcastle on Tyne, County of Northumberland. I did not go to Newcastle, but went to London where I stayed throughout my leave. Whilst in London I stayed with some friends, namely Mr & Mrs Mac Williams, at 2 Hanover Court, Shepherds Bush. I did not pay for my board and lodgings.

On 14 February 44, I purchased 12 bottles of Gilbey's Gin from W. & A. Gilbey Ltd. Oval Road, Regents Park, N.W.1. The cost of this gin was £ 13.17.0. I paid for this out of my own pocket. I was able to obtain this gin through the manager of the Grosvenor Hotel, who is a friend of mine. I sold the gin to American Soldiers in Public Houses in the Hammersmith District. I charged them £ 2.10.0 per bottle.

On 15 February 44, I purchased 6 bottles of Gin from Knowland Bros. Wine & Spirit Merchants, of Lotus Chambers, Monks Street, Haymarket. I paid £ 7.16.0 for this gin. I obtained this gin from the manager. I told him Capt Knowland, had stayed at 'G' Mess, where I was Sgt i/c, and I asked him if I could purchase some Spirits from them for the Sgts Mess. After considerable debating he sold me 6 Bottles of Gin. This gin I also sold to American Soldiers in Public Houses in the Hammersmith District for £ 1.10.0 per bottle.

The 153 R.A.F.I. Soap Coupons found in my hut at 1st Edn Army, H.Q. I had given to me roughly eighteen months ago, by a Edn Soldier (ex-Debenhams) to me, at 3 C.A.C.R.U. Brookwood. They are definitely not coupons issued to me by the R.M., 1st Edn Army H.Q., for distribution to Officers and men at 'G' Mess. Whilst I was at 'G' Mess I drew one allotment of Soap Coupons, and I issued these to Officers and men of the

Mess during December against signatures. I have never drawn soap coupons from N.A.A.F.I.

I.

The whiskey flask found in my kit I had given to me by a Sgt to Mc Math, about June 1942, at 3 S.A.A.R.U. Sgt Mc Math told me it was from his girl 'Betty'. Inscribed on this flask is a name I presumed was 'Betty', I have never looked close enough at the flask to know otherwise. Sgt Mc Math is now discharged from the Edn Army and last receiving word from him he was then employed at Silverwood's Dairy, Toronto, Canada.

The sandalwood mail and also the mail

The mail found in my kit was given to me to deliver and due to some fault of my own it got mislaid and was not under discovered until found by Sgt Lieutenant of the S.I.S.

The ten silver keys attached to a key ring, found in my kit are the property of a Captain in the A.T.S. These keys were left in my possession on or about the 10 Jan 44, by a A.T.S. driver from 1st Edn Army H.Q., he also gave me a handbag, the keys were in the handbag. I don't know who the driver was, he told me the handbag was found in her car and that he had been sent up to 'G' Mess with it. I know the handbag and its contents belonged to the Capt in the A.T.S., as she had telephoned 'G' Mess enquiring about it. I obtained the address of this Captain from Capt Delaney of 'G' Mess and intended to post the keys to her - she said she would call for the handbag. The keys were lost whilst in my possession and the handbag was still at 'G' Mess when I left on 16 January 1944.

A silver cigarette case found in my possession bearing Regt No 1-77803, I bought from L/Cpl Monow, Batman to Col Beamount, 1st Edn Army H.Q. for 10/-. This would be about November, 1943.

Insofar as the theft of moneys from 'G' Mess on 27 Feb 44 and the money missing from the Sgts Mess 1st Edn Army H.Q. I know nothing about either of these occurrences. There is nothing more that I wish to say. I have read this statement and it is true.

Statement taken by Lieutenant Sgt # 1 S.I.S.

E+P
H/W

Statement as to Character and Particulars of Service of Accused.

ARMY FORM B.296 (WAR).

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B4520	Tpr	Vernon Richard Thompson,	HQ. First Cdn. Army

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.W.L.	3 times.
For	Breaking out of Barracks	1 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 16 Nov 42

Date of last entry in Field Conduct Sheet 5 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [redacted]

4. The accused has been awaiting trial on the present charges for [redacted] one day in military custody, *i.e.*, Nil days in open arrest, one days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 32

6. The date of his attestation is 9 Jan 40

7. The service which the accused is allowed to reckon is 4 years 4 months

†State the military decorations (if any) held by accused.

8. The accused is in possession of† C.V.S.M. & Cl asp

9. [redacted]

Date of Promotion.

[redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8670/668. 100,000 4/42 A. & E.W.Ltd. Gp.698
(32459) W1.29888/1873 60,000 9/42 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M	13 Mar 43 Field	Drunkeness	Reduced to the permanent grade of Trooper, w.e. 10 Mar 43.	N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18 day of May, 1944

(F.E. Aziz) Lt
Asst Camp Commandant
HQ First Cdn Army

No B/49[illegible] Name [illegible] of Company [illegible] Unit A.C.

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 9-1-1940 | Sheet No 1 | Badges | Signature OC Company, etc | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

"Len Fuquey" Character

Capt C.A.F.T. C[illegible]

Place	Date of offence	Rank	Cases of drunken. 1955	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	42			A.A.15(1). WOAS AWL at Dettingen Brks from 2359 hrs 15 Nov.and remained absent until 0845 hrs 16 Nov.42 (8 hrs 46 min)	SSM Murray	Reprimand	16 Nov.42	Col.J.W. Little	forfeits 1 days pay
Field	27Feb 43	Sgt		Drunkeness. Sec 19 A.A.	Lt. Bird			E.J. Stewart Lt	FR&I
Field	27Dec 43	A/Sgt		WOAS AWL Total time absent 48 hrs	RSM MacArthur	Reduced to permanent grade of Trooper wef 10 Mar 43	13 Mar 43	F.G.C.M.	Forfeits 2 days pay under FR&I 149(1) (c)
					K52372 Pte Taylor, E.	Reprimand	31 Dec 43	R.D. King Lt-Col	Forf 2 days pay under FR&I 149(1)(a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Apr 44	Tpr		WOAS, Breaking out of barracks whilst under open arrest A.A. Sec 10 (4)	Cpl Cameron,OJ Cpl Hill,LJ	14 days F.P.	5 Apr 44	Lt-Col R.D. King	Forfeits 14 days pay
"	"	"		WOAS, in that he absented himself without leave from 1500 hrs 1 Apr 44 until 0815 hrs 5 Apr 44 (Absent 3 days 17 hrs, 15 mins) A.A. Sec 15 (1)	"	"	"	"	

Certified a true copy from the Regimental Books in my custody.

(F.E. Aziz) Lt.
Asst Camp Commandant
HQ First Cdn Army

SUMMARY OF EVIDENCE

in the case of

B.4520 Trooper Vernon Richard Thompson, Headquarters First Canadian Army, is charged with -

FIRST CHARGE
Section 41
Army Act

When on active service, committing a civil offence, that is to say, uttering a forged document, contrary to section 6 (1) of the Forgery Act 1913, in that he in the Field, on 8 Feb 44, uttered a certain forged document purporting to be a Navy, Army and Air Force Institute receipted invoice, No. E61757, for supplies to Advance First Canadian Army HQ on a day in Feb 44, knowing the same to be forged and with intent to defraud.

SECOND CHARGE
(Alternative)
Section 40
Army Act

When on active service, conduct to the prejudice of good order and military discipline, in that he in the Field, on or about 8 Feb 44, when, as Mess Steward of Advance HQ Sergeants' Mess of HQ First Canadian Army, it was his duty on proceeding on privilege leave to ensure the safe custody of the petty cash of the said Mess and to account for the sum of £5. to the Sec-Treas. of the said Mess, so negligently performed his duties as to be unable to account for £3-6-2 part of the said sum, thereby causing a loss of the said £3-6-2.

THIRD CHARGE
Section 40
Army Act

When on active service, conduct to the prejudice of good order and military discipline, in that he in London on various days between 14 Feb 44 and 24 Feb 44 improperly and without authority represented to Messrs W & R Gilbey Ltd and Messrs Knowland Bros, both wholesale wine and spirit merchants, that he, the accused, was acting on behalf of the Officers' Mess, HQ First Cdn Army and wanted to purchase liquor for the said Mess, and having thereafter purchased from the said firms 18 bottles of gin ostensibly for the use of the said Mess, sold the said bottles to military personnel in public houses at a profit to himself.

FOURTH CHARGE
Section 40
Army Act

When on active service, conduct to the prejudice of good order and military discipline, in that he in the Field on 24 Feb 44 was improperly in possession of 153 soap coupons, public property.

By direction of the Commanding Officer the evidence was taken on oath.

First Witness

B63598 A/QMS Raphael, R.M., Headquarters First Cdn Army, having been duly sworn states:

From 1 Feb 44 until 13 Mar 44 I was Secretary-Treasurer of Advance HQ Sgt's Mess, HQ First Cdn Army. At the time of taking over my duties the caterer of the mess was Sgt Thompson, whom I identify as the accused. During the period of his appointment as Mess Steward (16 Jan 44 to 8 Feb 44), he had in his possession £5-0-0 change fund and £5-0-0 petty cash. One of his duties was to make purchases of chocolates, cigarettes, etc. from N.A.A.F.I. On one or two occasions he paid for these purchases from his petty cash. The receipted bill received from N.A.A.F.I., he would turn over to me as part of his petty cash.

On the morning of 8 Feb 44 I checked over the inventory, petty cash, and cash in hand. Everything appeared to be in order. Sgt Thompson, who was going on leave that afternoon, gave me the petty cash consisting of a receipt for two shillings covering purchase of Sunday papers, £1-11-10 in actual cash, and a bill numbered E-61757 and a receipt numbered B-49631 from N.A.A.F.I. in the amount of £3-6-2, both of which I now produce as exhibit "A".

If the above bill and receipt had not been used for petty cash on 8 Feb 44, the Sgt's Mess funds would have been deficient in the amount of £3-6-2.

Sgt Thompson was not allowed to resume his duties as Mess Steward on his return from leave.

On 6 Mar 44, with B72508 Sgt. McNeeley, S.S. of the Accounts Department, I was engaged on the financial statements of the Sgt's Mess for the month of Feb. This necessitated checking of individual bills with entries in cash book. On examination of the NAAFI bill and receipt for £3-6-2, handed in as petty cash by Sgt Thompson to me on 8 Feb 44, I found that the date of the receipt was different from that of the bill. It appeared that the date of the bill had been rubbed out and substituted with another. The date of the bill and receipt should be the same as both are issued at the time of purchase of the goods. The date on the bill in particular is 26 Oct 43. The number of the bill was E61757 and the number of the receipt was B49631.

I now produce the stock book for the month of Feb and the bills, receipts, and checks covering the purchase of chocolates, cigarettes and matches for the month of Feb, marked exhibit "B". After checking over these documents I find that all purchases of chocolates, cigarettes, and matches during the month of Feb are accounted for by bills and receipts and by checks, and that therefore the items shown on the bill numbered E61757 were not received in Feb.

The sum of £3-6-2 that the Sgt's Mess were deficient on 8 Feb 44 has never been refunded by Sgt Thompson.

There are a number of officer's messes at HQ First Canadian Army and no authority could be given to Sgt Thompson to purchase liquor on behalf of any general officer's mess. I personally never gave him any such authority.

/s/ Raphael

B63598 A/QMS Raphael, R.M.

The accused declines to cross-examine this witness.

Second Witness B72508 Sgt. McNeeley, S.S., Rear Party, HQ First Cdn Army, having been duly sworn states:-

I am a Sgt in the Accounts Department at Rear HQ. Part of my work is to assist the various messes in First Cdn Army HQ to make up their financial statements.

On 6 Mar 44 I assisted the Treasurer of the Sgt's Mess in making out his financial statement. The Treasurer of the Sgt's Mess was at that time S/Sgt Raphael. On checking the accounts S/Sgt Raphael produced a NAAFI bill showing purchase of goods to the amount of £3-6-2. This bill was handed over to S/Sgt Raphael by Sgt. Thompson, who was formerly the mess caterer for the Sgt's Mess. I examined the bill and found that the date of the NAAFI receipt did not agree with the date of the bill. I took the number of the bill and receipt(E61757 and B49631 respectively) and checked with NAAFI. NAAFI produced the duplicate of the bill numbered E61757 which I now produce as exhibit "C". This shows the date of purchase as 26 Oct 43, and signed by Sgt Smith, who was mess caterer at the time. The original copy shows date as Feb 44, and signature of "Thompson". This matter was reported to Major Donald.

Questions by the Accused

Q. Was S/Sgt Raphael the Treasurer of the Sgts Mess at that time?
A. S/Sgt Raphael was the Treasurer of the Mess for the month of February and it was February statements that we were dealing with.

Q. Were you present at the time the Bill was handed over to S/Sgt Raphael?

A. No, I was not.

B72508 Sgt. McNeely, S.S.

Third Witness — Mr. George William Kerridge, Cashier - Sub Bar, N.A.A.F.I. 15620G - West Humble, Nr. Dorking.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, as Exhibit "D". Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured.

Lt. W.N. Barclay

The accused does not demand the attendance of this witness for cross-examination.

Fourth Witness — Mr. P.W. Dewdney, District Manager, 15620G, N.A.A.F.I., West Humble near Dorking.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, as exhibit "E". Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured.

Lt W.N. Barclay

The accused does not demand the attendance of this witness for cross-examination.

Fifth Witness — U1913 Sgt. Sutherst, R.S., No. 1 Special Investigation Section, First Canadian Army, having been duly sworn states: ~~On 1~~

On 10 February, 44 in company with Sgt. Sherwood of this office and in the presence of QMS Shindler, then A/RSM of Camp, I searched the kit belonging to the accused at his quarters and took possession of 153 Ministry of Food soap coupons, serial No. 209878, which I now produce as exhibit "F". On 24 February, 44, I saw the accused at the S.I.S. HQ and in consequence of what I said to him, I cautioned him. I told him that I had taken possession of 153 soap coupons and he said they were given to him by an unknown soldier about 18 months ago at No. 3 CACRU. At the same time(24 Feb 44), I searched Sgt Thompson and in his possession found a receipt from Messrs. Knowlan Bros., Wine and Spirit merchants, London, showing purchase of six bottles of Gin by Sgt. Thompson on behalf of the PMC., Advanced HQ, First Canadian Army, which I now produce as exhibit "G".

I also found a memorandum from W. and A. Gilbey Ltd., Oval Road, Regent's Park, N.W. 1, relating to a purchase by Sgt. Thompson, HQ. First Canadian Army. This document is signed "Thompson". I now produce this document as exhibit "H". I asked Sgt. Thompson to account for these two documents found in his possession and he said that he had bought 18 bottles of gin at a total cost of £22-0-0. Six bottles were purchased on 14 February, 44 at Knowland Bros. and the rest the following day at W. and A. Gilbey. He stated that the gin was taken to the address of some people by the name of McWilliams, 2 Hanover Court, Shepherds Bush, where he had stayed during his leave and where the gin was consumed. He stated that the McWilliams had contributed £14-0-0 toward the cost of the gin.

As a result of inquiries, I saw Sgt. Thompson the following day, 25 February, 44, at SIS HQ. I told him that inquiries had been made at 2 Hanover Court, Shepherds Bush, the address of the McWilliams. As a result of what I told him and after being duly cautioned, he said that the gin was not taken to the McWilliams' home, but that he sold it to American soldiers in public houses in the Hammersmith district for £1-10-0 per bottle. I asked Sgt. Thompson if he wished to make a written statement concerning property found in his kit and also respecting the gin and as to his movements while on leave. He expressed willingness and made a statement under caution which I now produce as exhibit "I".

On 1 April, 44, I saw Sgt. Thompson at SIS Headquarters and I showed him a N.A.A.F.I. invoice numbered E61757 and the receipt numbered B49631. The invoice consisted of two copies, an original and a duplicate. The duplicate was dated "Oct. 26, 43", whilst the original was dated Feb. (the day appears to be either the 8 or 9) 44. The duplicate was signed "Smith, Sgt", whilst the original was signed "Thompson". The invoices related to the purchase of goods to the value of £3.13.6. The original invoice appeared to have been altered insofar as the date and the signature of the person receiving the goods. I told Sgt. Thompson that I had reason to believe that he had altered the original receipt and had fraudulently obtained £3-6-2 from the Sgts' Mess. I cautioned him and he said that whatever I have to say I'll say at a Court Martial. I asked him if the signature on the original invoice was that of his own and in his handwriting, and he said "yes".

U1913 Sgt. Sutherst, R.E.

The accused declines to cross examine this witness.

Sixth Witness — Mr. C.E. Procktor, Receptionist Clerk at Messrs. W. and A. Gilbey, Ltd., Wholesale and Export Wine and Spirit Merchants and Distilliers, Gilbey House, Oval Road, Regent's Park, London, N.W. 1.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, as exhibit "J". A piece of paper dated 14-2-44 and bearing the name "Sgt V.R. Thompson" and saying that he was a personal friend of Mr. H. Wilson, at one time a member of Gilbey's New Toronto staff, is included in the evidence secured from this witness by B/6047 S/Sgt Chester, SIS, CMHQ, and marked Exhibit "K" having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured.

Lt W.N. Barclay

The accussed does not demand the attendance of this witness for cross-examination.

Seventh Witness

Mr J. Trimmer, Sales Manager of W. & A. Gilbey's Ltd, Gilbey House, Oval Road, London, N.W.I.

A written statement of this witness's evidence purporting to be signed by him has been read to the accussed and is included in this Summary of Evidence as Exhibit "L" an invoice dated 14 Feb 44 for two bottles of Crystal Gin costing £13-19-6 for Sgt V.R. Thompson, the President, Mess Committee, HQ First Cdn Army is included in the evidence secured from this witness by B76047 S/Sgt Chester, SIS, CMHQ and marked Exhibit "M". Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured. And again

W.N. Barclay
Lt W.N. Barclay

The accussed does not demand the attendance of this witness for cross-examination.

Eighth Witness

Mr A.J. Knowland, Prop of Knowland Bros., Wholesale Wine & Spirit Merchants, 4-7, Norris Street, Haymarket, London S.W.1.

A written statement of this witness's evidence purporting to be signed by him has been read to the accussed and is included in this Summary of Evidence as Exhibit "N". Having regard to the expense involved the attendance of this witness cannot in my opinion be readily procured.

W.N. Barclay
Lt W.N. Barclay

The accussed does not demand the attendance of this witness for cross-examination.

Ninth Witness

A31411 BQMS Heffernan, M.J. HQ First Cdn Army, having been duly sorn states

I am the BQMS of HQ First Cdn Army, and am responsible for the issue of soap coupons to all personnel of HQ First Cdn Army. The procedure for issue of these soap coupons is to have the NCO i/c of each mess draw them from me in bulk on his signature. He in turn issues two coupons to each officer and other rank in his mess to cover a period of one month, and later submits to me the covering nominal roll with individual signatures.

On 9 Nov 43, I issued 240 soap coupons to Sgt Thompson, Mess Caterer of "G" Mess, for the period 1 Oct 43 to 30 Nov 43. He gave me a receipt bearing his signature for same. I now produce this receipt as Exhibit "O". After a period of time had elapsed I contacted Sgt Thompson by telephone on two different occasions requesting the nominal roll with signatures to cover the issue of above soap coupons. He informed me that he would submit this nominal roll as soon as possible. Up to the present time no nominal roll has been submitted.

Soap coupons are public property issued by the RCASC to formations and units on the basis of two coupons per man

per month.

Question by the accused

Q. Have you a record of the serial number of the sheet that comprised 200 of the 240 soap coupons issued to Sgt Thompson on 9 Nov 43.

A. No, I have not.

M.J. Heffernan
A31411 BQMS Heffernan, M.J.

Tenth Witness

K22129 QMS Shindler, V.T. First Cdn Army Service Increment Group HQ, having been duly sworn states:-

On the morning of 10 Feb 44 two members of the SIS Branch asked me while A/RSM of First Cdn Army HQ to accompany them to the quarters of Sgt Thompson to search his open kit. They found and counted some soap coupons in my presence.

V.T. Shindler
K22129 QMS Shindler, V.T.

The accused declines to cross-examine this witness.

The accused having been warned as follows, "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence." declines to make any statement.

Certifed that Rules of Procedure ☒ 4(e)(d)(e) & (g) have been complied with.

I certify that the foregoing Summary of Evidence consisting of six pages was taken down by me in the presence and hearing of the accused on the eleventh, thirteenth, and fifteenth days of May 44.

Signature of Officer taking Summary.

W.N. Bailey Lieut

15 May 44
Field

E^

"D"

Mr. George William Kenney

Cashier - Sub Bar,

N.A.A.F.I. 15620 G. West Humble, Nr Dorking.

On 27 March 44, Sgt. Mc Neely, 1st Edn Army, 16 Q. came to N.A.A.F.I. and produced one of our Bills No. E 61757. The Sgt. requested the duplicate of this Bill. This Bill was dated 7th. 44, whilst the receipt attached to it was dated 26/10/43. On checking my invoice book (duplicate) I found that the Bill E 61757 tendered by Sgt. Mc Neely referred to a purchase made on 26 Oct. 43. The duplicate bill showed purchase of chocolate bars, cigarettes and matches to the value of £ 3-13-6, less discount. It was made out to Adv. 1st Edn Army, 16 Q., and signed by a Sgt. Smith. The original Bill that Sgt. Mc Neely had in his possession showed some purchase, but was signed with the name of Thompson. There is no doubt but that the original Bill No. E 61757 has been altered, both date and signature. I have read over this statement and it is true. I should add that Sgt. Mc Neely took possession of the duplicate bill and gave me a signature for it.

G.W. Kenney

Witness:

R. Sutherst Sgt.

No. 1 S.I.S.

11 April 44

EXHIBIT 'E'

4 April 44

Mr. P.W. Dewdney,
District Manager, 156 208.
N.A.A.F.I. West Humble, Supply Depot.
Mr. Dorking

On 4 April 44, I was shown two documents by Sgt Sutcut, No 1 Special Investigator Section, Hqrs Edn Army. These documents bear the No. E 61757 and are an official Bill for goods supplied from the R.C.C. Canteen Supply Section of the above Depot. I am definitely convinced that the two copies appertain to the same transaction. One being the original, the other the duplicate copy. I have examined these two copies and find that on the original top copy the date has been altered and also signature of recipient. The duplicate copy is normally retained at the Depot, but was passed to a Sgt. McNally on 27/3/44, at his request. It is not possible that the No. E 61757 shown on the Bill could be allocated to another Bill. Therefore there is no doubt but that the date and signature of the top copy of this Bill has been altered.

Dewdney DI/Pr.
Ockley.

Witness:
Sgt.
No. 1 S.I.S.

EXHIBIT "J"

12 Apr 44

Mr. C. E. PROCTOR, Receptionist Clerk at Messrs. W & A. GILBEY, Ltd. Wholesale & Export Wine & Spirit Merchants and Distillers, GILBEY HOUSE, OVAL RD. Regents Park., London, N.W.1.

states:

On the 14th of February, 1944 a Canadian Sergeant approached me at my desk and said that he was the Mess Caterer for the Officers' Mess at H.Q. 1st Cdn. Army and wanted to purchase liquor for the Mess. He said that he was a personal friend of a Mr. H. WILSON of the West Toronto Stuff & Other firm and wrote his name, Sgt. V.R. THOMPSON "H.Q" 1st Cdn. Army, and the fact that he was a friend of Mr. WILSON, on a piece of paper. I referred him to Mr. J. TRIMMER, Sales Mgr. through Mr. Mayland, the Export Manager. Later he came back to the desk and paid me in cash £13.14.6 for 12 bottles of GIN CRYSTAL for which I receipted our official invoice.

I recognize the piece of paper I have been shown which includes amongst other writings, the handwriting of Sgt. Thompson referred to above.

This statement is true

SIGNATURE C E Proctor

Witness Mclelland Sgt
S.I.S. CMHQ.

EXHIBIT "L" 12 Apr 44.

Mr. J. TRIMMER Sales Manager, J. W. & A. Gilbey Ltd, Gilbey House, Oval D'Road, London N.W.1

States:

On 14 Feb 44, in consequence of information and a slip of paper which I rec'd from Mr. Proctor, Receptionist Clerk of this firm I gave authority to the department concerned to supply one-dozen bottles of Gilbey's Gin at trade price of 22/- shillings and 6 pence per bottle, the total price being £13.19.6 which included a 15 shilling deposit for a wooden container case. The slip of paper which was kept on file and has been handed to S/Sgt Chester is the one I received from Mr. Proctor and states that Sgt V.R. Thompson, "HQ" 1 Visit Can Army is a personal friend of Mr. H. Wilson of New Toronto, Ont. I have checked and found that there is a Mr. H. Wilson on the staff of our New Toronto establishment. Sgt. Thompson would not have been able to obtain liquor at this firm if I had not been certain that he was making a legitimate purchase for the Officers' Mess, as we do not supply private individuals.

I identify the copy of invoice (produced) as a carbon copy of the original given to Sgt. Thompson at the time of purchase.

This statement is true.

SIGNATURE

James Trimmer.

Witness B. 76047 Sgt
W. Chester, S.I.S CMHQ

EXHIBIT "N"

12 April 44

M/R A. J. KNOWLAND, Props. of Knowland Bros., Wholesale Wine & Spirit Merchants at 4-7 Norris St., Haymarket, London, S.W.1. states as follows:

On the 15th of February, 1944, a Canadian soldier whom I now know to be Sgt. V. R. THOMPSON, of "H.Q." 1st Can. Army, approached me at this address, and saying that he had been sent by one of my sons, who is a Captain, and who he said was attached to his unit, asked if this firm could supply him with several cases of liquor for the Officers' Mess where my son was attached. At first I flatly refused to supply any liquor at all, but eventually I gave way to his insistence and gave an order for him to be given 6 bottles of gin, three of "Curtis" and three of "Booth" gin, for which he was charged the controlled price of 25/3 (twenty five shillings and three pence) and which sum he paid in cash totalling £7.11.6.

I would not have allowed Sgt. Thompson to have any liquor if he had not convinced me that my son had sent him and that it was destined for the Officers Mess of his unit, for which Sgt. Thompson claimed to be Mess Caterer.

During my interview with Sgt. Thompson, he did not appear to know the first name of my son but I did not question that point, as I have four sons who are Captains, and one a Lieut. in the Forces and frequently obtain liquor from this firm for the Messes where they are attached.

This statement is true

SIGNATURE A. J. Knowland

Witness B-76047, A/Sgt
Winchester, S.I.S., C.M.H.Q.

4R-71

Pete Thompson et. al.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-82923 Pte William A. THOMPSON 2 CIC - 1 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To forfeit all ordinary pays per a period of ninety (90) days

6 Feb 45
Date awarded.

(Sgd) ..... (Sgd) ..... President. (RP 45, 50.)
Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not confirmed to (state substitution here and further directions).~~
(1. AA 57A. Delete if not used.)

Date 8 Feb 45 (Sgd) ..... Comd
Commanding 13 Cdn Inf Bde

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. B82923 PTE. WILLIAM A. THOMPSON

Date. 10 Feb 1945

Signature of Offr. J O Irwin Lt A/

Promulgated in Pt II DO 34, d/12 Feb 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 (Case in lieu of AF A31/40 P 36 87/1608 (1) (A))

FIELD GENERAL COURT-MARTIAL

4/38B

13 FEB 1945 RECEIVED

Convened by Order of Brigadier K G Blackader Comd 13 CIB dated 2 Feb 45.
DSO, MC, ED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/ronk or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-82923	Pte	William A.	THOMPSON	CIC - 1 CITR

REVIEWED 20 Feb 45 Capt for Deputy Judge Advocate General REFERRING OFFICER, JAG BRANCH CMHQ England

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 6 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95 for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans: ....~~

~~The Interpreter is sworn.~~(1) Do you object to Capt Capt. SgT. Shanks, NE as shorthand writer? Ans: No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No. SIR.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.N. REDMAN VD	HQ CRU
Member	CAPT	W.H. BOURGEOIS	1 CITR
Member	LT	B.Y. MCLEOD	3 CITR
~~Judge-Advocate~~			
Prosecutor	LT	R.B. ALLAN	1 CITR
Defending Offr	CAPT	R.G. STAGG	1 CITR

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea(s) accused waived 7 days notice that Pte B.S.A. Tallman was

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans.....[5]

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....[1]

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans..... Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(*1. AA 54(3) (b). RP 45, 120(A). 2. AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans. NO - SIR

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans. NIL ~~Right of Offr's Note - Alt~~[2]

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~[2]

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B82923 Private William A. Thompson, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

First charge Section 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, absented himself without leave from 1000 hours on the 3rd day of November 1944 until apprehended by the Canadian Provost Corps at 0135 hours on the 19th day of January 1945.

TOTAL ABSENCE: 76 days 15 hours 35 minutes.

G.B. Ware Colonel,
(G.B. Ware) Commander,
1 Cdn Inf Trg Regt.

In the Field.
30th day of January 1945.

To be tried by Field General Court Martial.

K.G. Blackader Brig
Comd
15 Cdn Inf Trg Bde

In the Field
6 Feb 45

FIELD [illegible]-MARTIAL

(Whether the accused to be tried is under his ... of any other force if authorized in law, in immediate co... AA 49, 50, RP 104-107, 114. As to the duties and privileges... RP 87(B).
There should be a separate Convening Order for each person to be tri... see RP 62, and as to separate trial on charges in the same charge sheet see RP ...
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank ...

(Where the box of AFAM 30/AA/50 (2nd)) convened by any offr of Cdn Army Overseas or ... and restrictions imposed by appropriate authority ... cation see HANL Chap V paras 20 and 23, ... 109. As to separate charge sheets ... and jointly see RP 16, 109, ... 43, (m). KR Can 308, 328, 330.)

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.

S-62626 Pte William A. Thompson CTC - 1 ...

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial";
(date) 2 Feb 46

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Your attn is to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Take Appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col D L RICHARDS, VD HQ CRU
(Rank.) (Must be named. RP 106.) (Unit.)

MEMBERS.

Lt Col ... to be detailed by Commanding Officer ... 1 CIRU
(Rank.) (Named or detailed. RP 106.) (Unit.)

Captain ... to be detailed by Commanding Officer ... 2 CIRU
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Lieutenant ... to be detailed by Commanding Officer ... 1 CIRU
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

Captain [illegible] (Must be named, if any. RP 106.) Barrister
(Rank.) (Rank.)

On Active Service in the Fd

in England
(Country)

Date 6 Feb 46

[signature] (Signed personally. RP 105 fn 2.)
A G Blackader
Lt Col for the GOC
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS
(See overleaf for oaths and notes for use on trial.)

FIELD GENERAL COURT-MARTIAL

CFA36 (In lieu of AFA3)
40/PAM/1097 (25953)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-88920		Pte	William A.	THOMPSON CTC - 1 CIPH	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 3 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L RODMAN, VD	HQ CMH

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CIPH
Lieutenant	to be detailed by Commanding Officer	2 CIPH

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CIPH

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 3 Feb 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding (K G Blackader) 10 Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 857

I certify that I have this morning examined

No. B 82923 Pte Thompson W.A.

of. 1 C.I.R. and in my opinion he

is fit to undergo Trial by Court Martial.

~~unfit~~

Station 1 C.I.R.

Date 6.12.45

A. Wilson Capt.
Medical Officer

Pte Thompson

The accused, Pte Thompson, has pleaded guilty to the charge. He very well realizes that it was a mistake that he will always regret. In ~~Your~~ decision, the only thing he asks is that you will be lenient.

Pte. Thompson joined the Cdn Army in Apr.1940 and came overseas in may 1941. He has been in the army nearly 5 years and overseas almost 4 years. But I would like to draw to your attention two important facts.

First- his MFM 6 shows a clean sheet. ~~This~~ is proof, that in 5 years army service, Thompson has been a good soldier. He greatly regrets this one error and I feel sure that even ~~he~~ were he to be aquitted, the lesson already learned and the moral price it has cost him already, is a lesson never to be forgotten.

Second-Again, ~~I can't~~ any man who has a wife and a 5½ year old son in Canada, and who cares for both of them as thompson does, would certainly have reason to be worried when conditions exist at his home such as he stated in his evidence in the summary ~~of~~. With Thompsons case he has made no reference to any third party but at the same time, he could not help but wonder ~~on~~ when his wife does nto write to him. Personally, I think this was about enough of a load for one man to carry but after being with the RCASC for about 4½ years, he was transferred to ~~the~~ ~~[illegible]~~ ~~[illegible]~~. All was new and strange for him, especially so as he had always been employed as a clerk. I think ~~[illegible]~~ must admit that the accused certainly had temporary reason for becoming morose and in army language, mentally "browned off".

Finally- It is not only himself that Thompson is concerned with in the decision of this court. He has always had a clean record and his Mother and Father, at least, are proud of him for it. If for no other reason than to save his parents humiliation, Thompson asks for leniency in your decision.

A SENTENCE AFFECTING HIS PAY WOULD BE APPRECIATED RATHER THAN DETENTION IN THIS CASE.

E-3

COPY

S.I.S. C.M.H.Q. PROVOST

LONDON 19 Jan. 45

B-82923, Pte Thompson, W.A.
No.3 C.I.T.Bn, - C.R.U.

Absentee with Domestic Troubles

SIS/A-1 -796.

1. The m/n soldier states that he went Absent Without leave from No.1 C.I.R.U. on 2 Nov.44 and remained absnet until apprehended by members of Cdn.Provost Corps at the Central Y.M.C.A. Strand W.C.2, at about 0135 hrs. on 19 Jan 45. At the time of his arrest, Thompson was wearring Cdn battledress.

2. He was conducted to No.6 Coy. Cdn.Provost Corps Headquarters where he was interviewed by the writer later the same day and made the following statement regarding his absence, under caution:-

"I am a married man and my wife and son age 5½ years are resident in Highland Creek, Ont. I joined the Cdn Army on 2 Apr 40 and came averseas as a reinforcement in Army Service Corps on 13 May 41. I was stationed ~~in~~ at Bordon, Hants for about 7 months, then the unit moved to Farnborough and I was with them there for the following 5 mons. I then came to CMHQ and was attached to DQMG Br.as a Clerk and was later attached to supply and transport in the same building.

About Aug 43, I went away on a course of basic training at 1 CGRU and was there for about three weeks when I was returned to 1 CASCRU at Farnborough and was again employed in the Records Office for a further seven months when I came back to CMHQ, attached to Movement Control where I remained till I want away on Port Staff attachment until 23 Feb 44. I was then returned to 1 CASCRU. I remained with the Holding Unit doing orderly room work until 1 Nov.44, when I was sent to 1 CIRU.

All my service has been clerical work until I was transferred to the Infantry which was altogether new to me. I found it difficult and could not get along very well at it. I was also troubled with having received no reply to my letter to my wife, and absented myself on 2 Nov.44. I realize that I have done a very foolish thing but I would like to point out that since my arrival in England- when I first came here I had regular mail and a few parcels from my wife but they fell off considerably early in 1943 and I have had no word from her except a few lines at the latter part of last year and nothing prior to that for over 9 months.

I have had letters from my Mother and Father who are obviously trying to spare my feelings, but they do indicate that I am not getting a square deal from my wife. I have taken this matter up with the padre at 13 C.I.B. but have not received any satisfaction as yet.

I am not trying to excuse my absence by this statement but I would like to make it clear that it is my first serious offence since I have been in the army and at the time that I went absent I was extremely worried and found it very difficult soldiering in the infantry as everything and everybody was completely strange to me.

When I went absent I had some money with me and stayed with various friends in London. It was not difficult to maintain a livelihood as I do not drink to any extent and I have not been in any trouble during my absence.

I do hope that this will serve to have some person make enquiries as regards my wife and child in Canada as I am still very concerned as to how they are keeping. My wife's last address was c/o Highland Creek P.O. Ontario. P.T.O.

Continuation of statement of Pte Thompson

I would also like to point out that I am a 'square peg in a round hole' in the infantry, whereas I know Service Corps thoroughly. I do not ask to be allowed to go Overseas with Army Service Corps, and if this can be made possible I promise to carry out my duties to the best of my ability, and I know I can be a good soldier. I have done a lot of entertainment work and have read that there is a shortage of persons to do this work at the front, and I would like to be enabled to do this if there is any opening whatever."

I have read this statement and it is true.

(Signed) Wm. A Thompson.

Statement taken down, read over and signature witnessed by Sgt. F.C.Brown, S.I.B.-C.M.H.Q. on 19 Jan 45.

3. The foregoing is self explanatory and apart from the fact that Thompson seemed very sincere in his desire to soldier again with the R.C.A.S.C. the writer has nothing to add.

(Signed) F.Brown Sgt.
C-2028, F.C.Brown, S.I.B.
Cdn.Provost Corps-CMHQ.

SUMMARY OF EVIDENCE

In the case of B82923 Pte Thompson, W.A., Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

A/Capt E.W.E. Plant, having been duly sworn, states:
I am A/Capt E.W.E. Plant, onthe strength of 1 Canadian Infantry Training Regiment. I produce certificate of apprehension in accordance with P.C.2797 of 10 Apr 42, purporting to be signed by Lt J.A. Thomson, Adminstrative Officer, DPM's Branch, CMHQ. I also produce a certified true extract from 1 CITR Part II Daily Order No.27 dated 4 Dec 44 purporting to be signed by Major R.J. Mothersill. These documents relate to the accused and are marked Exhibits "A" and "B" respectively and initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

(E.W.E. Plant) Capt

SECOND WITNESS FOR THE PROSECUTION

H59133 L/Cpl Magill, A.E., on the strength of No.6 (Area) Canadian Provost Company.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Exhibit "C".

"Sir, At London at about 0136 hrs 19 Jan 45 I was on patrol duty at the Strand YMCA and in company with L/Cpl Arsenault, L.J., when I saw the a/m soldier. I approached him and requested to see his pass and pay-book. He could not produce a pass and admitted that he was A.W.L. I then placed him under arrest and escorted him to No.6 (Area) Provost Coy, Cdn Provost Corps Detention Office, where he was handed over to the NCO IC Cells, to be detained awaiting an escort back to his unit.

Signed, A.E. Magill, L/Cpl "

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

(J.E. Phelps) Lt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

THIRD WITNESS FOR THE PROSECUTION

F59738 L/Cpl Arsenault, L.J., on the strength of No.6 (Area) Canadian Provost Company.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Exhibit "D".

"Sir, I have read over and corroborate the above statement.

Signed, L.J. Arsenault, L/Cpl "

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

(J.E. Phelps) Lt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

SUMMARY OF EVIDENCE

In the case of B82923 Pte Thompson, W.A., Canadian Infantry Corps, onthe strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

The accused having been cautioned in accordance with R.P. 4(e) elects to make a statement.

I am B82923 Pte Thompson, Wm.A., Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas. My reason of absence from my unit on Nov 3 was on account of worries which I have had back home, referring to my wife and child, from whom I hear very, very seldom. At times it takes nine or ten months before I receive a letter from her and I have received no parcels whatsoever in the last year or so. I have had letters from my mother and father at home asking me to do something about this - as to why my wife has not written to me for such a long period of time. They are very worried about it back there as they know I have done the best of my ability in the CdnArmy Overseas, keeping a clear conduct sheet, doing my job faithfully and then my worries started, as my mind seemed to bother me sometimes. I have written right along to my wife and have asked an explanation of why she is not writing me. As I said, I was quite worried about my kiddie and wanted to know how he was progressing, but have heard nothing. It is not a habit of mine to absent myself without leave and at the same time I am not using this as an excuse. I have now been practically four years over here in this country and this is the first time I have made such a foolish mistake as this, not thinking at the time of what harm I was going to do myself and also worrying my people, who have been very grand to me. I am openly admitting that I have done a foolish thing in absenting myself without leave and at the same time I feel very sorry for doing so, as it is the first time I have ever let my unit down. I wish to say that from now on I intend to carry on the same as I have done. In different kinds of work which I have done in the Canadian Army I have put my heart and soul into it. I have, at times, in different orderly rooms, Records Office and also in CMHQ, London, worked long hours in the evenings so as to keep work up to date. I intend to soldier as I have always done, and see this through with the rest of the men. I would like to say this without asking a favour, and I wish to prove myself and promise to do all in my power. I am still worried about things back home but I see now that I must keep going ahead and stillkeep the proper spirit, and see the proper authorities in the Army to help me out. I have had the Padre of 13 CIB working on my case but had heard nothing in reply when I had left up there. I had seen the Padre on two or three occasions and at the time he promised me that he would have word for me in a day or two. I made two or three checks on this but nothing had arrived. I would like to say now, that I feel that doing the right thing, which I thought I was doing some time ago, would pay me in the end. The SIS, London, have taken down my statement and told me that they would send it here. My only reason for staying away so long was due to worry and I fully realize my mistake.

Wm A Thompson
B82923 Pte Thompson, W.A.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

J.E. Phelps Lt.
(J.E. Phelps) Officer detailed to take the Summary of Evidence.

In the Field.
26th day of January 1945.

EXA

CERTIFICATE IN ACCORDANCE WITH A.C.I. 2797 of 10 Apr 43

I certify that No. B 82923 Rank Pte Name Thompson, W.A.

Unit NO. 1 C.I.T.R (CRU) was arrested at London Place

0135 hrs (Hour) on 19 Jan 45. (date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxxx Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
19 Jan 45.

J.A. Thomson Lieut.
J.A.Thomson
Admin.Officer-D.P.M's Branch.
C.M.H.Q.

Exhibit A

21. STRENGTH DECREASE (Cont'd)

(b) SOS as a des wef 30 Nov 44 having been dec illegally absent by a Ct Inq from 1000 hrs 3 Nov 44. (Deficiencies in Kit £4-19-4½).

B.82923 Pte. THOMPSON W.A.

Signed, B.J. Mothersill, Major,
for Lt-col J.D. Forin,
A/Comd 1 C.I.T.R.

Certified true extract from the original now in my possession.

(J.H. Galloway) Record Officer
1 Cdn Inf Trg Regt. 25 Jan 45

Ex. B

Ex "C" Jnl

Statement of EVIDENCE in the case of :-

B 82923 Pte. Thompson, W.A.
NO.1 C.I.T. Bn. (CRU).

Sir,

At London at about 0135 hrs, 19 Jan 45. I was on patrol duty at the Strand Y.M.C.A. and in company with L/Cpl. Arsenault, L.J. when I saw the a/m soldier.

I approached him and requested to see his pass and pay-book. He could not produce a pass, and admitted that he was A.W.L.

I then placed him under arrest and escorted him to NO.6(Area) Provost Coy, Cdn. Provost Corps Detention Office, where he was handed over to the N.C.O. i/c of Cells to be detained awaiting an escort back to his Unit.

London
19 Jan 45.

A.E. Magill L/Cpl.
H 59133 Magill, A.E.
NO.6(Area) Pro Coy.

Sir,

I have read over and corroborate the above statement.

London
19 Jan 45.

L.J. Arsenault L/Cpl.
REMARKS H 59738 Arsenault, L.J.
NO.6(Area) Pro Coy.

CHARGE

Army Form B 252
(See King's Regulations)

NO.1. C.I.T.Bn.(CRU). Regiment

Battery / Squadron / Troop or Company

CHARGE against No. B 82923 Rank Pte

Name Thompson, W.A.

Place London Date of Offence 19 Jan 45.

OFFENCE W.O.A.S. was A.W.L.

J. A. THOMPSON, LIEUT.
ADMIN. OFFICER DIVISION
C.M.H.Q.

Names of Witnesses :—

L/Cpl. Magill, A.E. Cdn. Provost Corps.

L/Cpl. Arsenault, L.J. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company }

Punishment Awarded }

By whom Awarded }

Adjutant.

3 3 44 G.H.Q.F.F. 200M

M.F.B. 385

22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 82923		Thompson, W.A.	

1. The following is a fair and true summary of the entries in the ~~Service and General Conduct sheets or Company Conduct sheets~~ Regimental ~~and Squadron, Battery~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AA 15 Sec. (1) (Sic) times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

Previous convictions of the ~~accused by a court-martial or a civil court, of summary awards under~~ Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 ~~are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 20 days in ~~civil~~ Air Force custody, and 17 days in military custody, making a total of 17 days in custody, of which 20 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Apr 40.

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 303 days.

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

Cdn Vol Ser Medal & Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

EX B

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number B82923 Rank Pte Unit

Name THOMPSON, Wm.A. of 1 CITR Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

N.H. Certified from H.T.M.2
63.6.45
28 Jan 45 Secretariat

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of January 1945. (J.H.Galloway) Capt. Record Officer 1 CITR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Regimental No. B-82923 Rank Sheet No.

Name THOMPSON W.A

MFM 1 & 2a
40/F & S/115 (4290)

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority	
					Dd. Number	Dated
AA Rec 15(V) Awarded 7 of 7 11 days pay	Pte	21 APR 44	1 CASCRU	UK	99	28 APR 44
				EX C.A. UK		

Certified true copy M.F.M. 6

6 Jun 45

DEPT. ADJUTANT
(FOR) OFFICER IC RECORDS
CANADIAN MILITARY HEADQUARTERS

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CITR, In the Field, preliminary to my trial by Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Signed at 1 CITR
In the Field
this 3. day
of Jan 1945

Wm A. Thompson.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lt. Purcell if he is available.

LIST OF EXHIBITS IN THE CASE
OF
B82923 Pte William, A. Thompson, Canadian Infantry Corps.

EXHIBIT "A" - Certificate of apprehension in accordance with P.C.2787 of 10 Apr 42.

EXHIBIT "B" - Certified true extract from 1 CITR Part II Order No.27 dated 4 Dec 44.

EXHIBIT "C" - Written statements of L/Cpls Magill and Arsenault, 6 Pro Coy.

LIST OF WITNESSES IN THE CASE
OF

FIRST WITNESS FOR THE PROSECUTION	A/Capt E.W.B. Plant	1 CITR
SECOND WITNESS FOR THE PROSECUTION	H59133 L/Cpl Magill, A.E.	6 Pro Coy CPC.
THIRD WITNESS FOR THE PROSECUTION	F59738 L/Cpl Arsenault, L.J.	6 Pro Coy CPC.

4F. 45

Pte. Thompson W. H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B28395 Pte Thompson W.H., RCASC HQ 6 Cdn Inf Bde

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"EKM"

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of five (5) years.

(Sgd) "Errol K. McDougall" Judge-Advocate, if any. Capt" — 12 Oct 44 Date awarded. — (Sgd) "A.C. Kavanagh" President. (RP 45, 50.) Maj"

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 12 Oct 44 (Sgd) "Guy Gauvreau Lt-Col" Commanding 6 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) "GGS"

(1. AA 57A. Delete if not used.)

Date 20 Oct 44 (Sgd) "G.G. Simonds" The General Officer of the Cdn Militia. Commanding First Cdn Army. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B28395 Pte Thompson W.H. RCASC - HQ 6 Cdn Inf Bde	2 Nov 44	??????????Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 1 Dec 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 4F-45

FIELD GENERAL COURT-MARTIAL

CPA96 (To Beg of AFA3) 4/38B

Convened by Order of Lt-Col G. Gauvreau Comd 6 CIB dated 11 Oct 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B28395	Pte	William Henry	THOMPSON	RCASC HQ 6 Cdn Inf Bde

PROCEEDINGS REVIEWED 2 Dec 44 "JCAC" "W.C. Inch, Capt"

REVIEWING OFFICER JAG BRANCH CMHQ

Certified true copy of original proceedings herein. [signature] A.D.C. to G.O.C.

Proceedings received. Date 17 Nov 44 DJA 21 Army Gp Cdn Sec GHQ 2 Echelon

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 12 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. B136

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) "EKM" The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and "EKM" each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the C.O.(2)~~ "EKM"

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to A3282 Pte Van-Nieuwenkove as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans The shorthand writer is sworn.(1)~~ "EKM"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	A.C. Kavanagh M.C.	Cams of C
Member	Capt	J.J.J.A. Langlois	Fus M.R.
Member	Lt	L. Tanguay	Fus M.R.
Judge-Advocate	Capt	E.K. McDougall	HQ 2 Cdn Inf Div
Prosecutor	Lt	M.D. Morton	N Shore R HQ 6 Cdn Inf Bde
Defending Offr	Capt	S.B. Laing	RCA HQ 6 Cdn Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 25, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused B28395 Pte Thompson W.H., RCASC HQ 6 C.I.B. before arraignment make(s) (no) (~~a~~) plea "EKM" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) "EKM" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- "EKM" ceedings are continued on Record Form B, C, D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *paro* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir .(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on "EKM" charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir .(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1) Attached. "EKM"
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) *fn* 1.)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the "EKM" charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 80(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Do you intend to call witnesses on your behalf ?
Ans Do neither .
Ans No sir . Are they witnesses as to character only ? Ans .
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 80(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(1. *AFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes & also my Def Officer .(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182. *RP* 46-50, 69, 118, 119(*A*). *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-28395 Pte William Henry Thompson, RCASC HQ 6 Cdn Inf Bde, a soldier of the Canadian Army Overseas is charged with:

First Charge
Section 41
Army Act

When on Active Service committing a Civil Offence, that is to say, robbery with violence contrary to Section 23 (1)(b) of the Larceny Act 1916.

In that he

In the Field on 22 Sep 44 at about 2200 hrs in the city of Antwerp, Belgium, did rob Mr Leopold Andres, Pourbes Street in the city of Antwerp of a wallet containing 3000 Belgian francs, and at the time of the robbery did use personal violence to the said Mr Leopold Andres.

Second Charge
Section 15(1)
Army Act

When on Active Service, absenting himself without leave -

In that he

In the Field on 23 Apr 44 absented himself without leave from 0900 hrs until apprehended at 1000 hrs 30 Jun 44.

Absent 67 days, 1 hr.

Charges approved under
KR (Can) 340.
"E.K. McDougall Capt"
ADJA 2 Cdn Inf Div

"R.L. Rutherford Major"
(R.L. Rutherford) Major
BM 6 Cdn Inf Bde

To be tried by Field General Court Martial.

10 Oct 44

"Guy Gauvreau) lt-Col"
(J.G. Gauvreau) lt-Col
A/Comd 6 Cdn Inf Bde

11 Oct 44

"A.C. Kavanagh Maj"

"A.C. Kavanagh Maj"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B28395	Pte		William Henry	THOMPSON	RCASC HQ 6 Cdn Inf Bde

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 11 Oct 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) "GG"
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. "GG"
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	A.C. Kavanagh MC			Cam of C

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Capt	J.J.J.A. Langlois			Fus M.R.
Lt	L. Tanguay			Fus M.R.

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Capt	H.A. Adams			S. Sask R.

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)		(Unit.)
Capt	E.K. McDougall			HQ 2 Cdn Inf Bde

On Active Service in the Fd

in Belgium (Country.)

"Guy Gauvreau Lt. Col" (Signed personally. RP 105 fn 2.) (Rank.)

Dat 11 Oct 44 Commanding 6 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

HQ 6 CDN INF BDE

MEDICAL CERTIFICATE (KR (Can) 557)

I certify that I have this morning examined No. B28395 Rank .. Pte
Name ... Thompson W.H. ..... of HQ 6 Cdn Inf Bde., and, in
my opinion, he is fit to undergo trial b y Court Martial.

"H. Kingstone".....Capt
.....
Medical Officer

In the Field
12 Oct 1944

0845 hrs.

"ACK"

First Pros. Wit. Mr. Leopold Andries, Pourkes St., Antwerp, Belgium, sworn, deposes:

I am Leopold Andries of Antwerp. On 22 Sep 44 I was in the Cafe Anselmio. At 2130 hours two Cdn soldiers walked into the Cafe. I was ready to leave and was standing at the bar at the time. One of the 2 walked up to the bar and asked for a drink for himself and the bar maid. The other one went to the table and sat down without having a drink. Then I asked the maid to give the soldier at the table something to drink. We all had a drink together and then I paid for the drinks and changed a 1000 franc bill. After that I left. After I left the 2 soldiers followed me into the street. After walking a bit I felt one of the soldiers feel in his vest coat pocked -- they were walking beside him. Then I asked them what they wanted and the answer was money. I said I didn't have any. One soldier answered we know you have some as we saw it. I said we'd go to another cafe and I'd give him some money there. All this was said by the same one of the soldiers. A little further down the same one tried again to get into his inside coat pocket. I put my hand over my wallet. A little further down I was strick twice -- once on the chin and once behind the ear. I sank to my knees and went into a daze. After I came to the soldiers ran away and my wallet was gone. The man walking on my left was the one who had done all the talking, who had tried to take my wallet and was the one who struck me. He had been in the cafe. He was the one who was standing at the bar in the cafe talking to the girl. After being hit I went back to the cafe and the lady of the Cafe washed my face. Then I went to the police station, they called for a doctor and the doctor sewed up my wounds. Then a policeman took me home. The next morning I went to Maj Colby, the town major.
On the following Sunday 24 Sep I went to the camp with the provost and there I recognized one of the two soldiers. It Was the one who had been on my left side, the one that had struck me. I picked him out from about 20 soldiers. Then the Sgt took him along with 2 other men back to the Cafe and saw the barmaid and the lady who was owns the place recognize the soldier. I identify the accused here today as the man on my left who struck me. (Witness points out the acc. to the court).
Was about 10 p.m. when he struck me and took my wallet. In my wallet I had 2 bills of 1000 francs, and some other notes, totalling about 3000 francs. One of the soldiers was taller than the other. It was the taller one that struck me. It Was also the taller one who had attempted to take my wallet from my pocket. I had changed one 1000 franc note in front of the acc. at the bar. I was standing next to him at the bar and had a good look at him. The two soldiers followed me out of the Cafe. I didn't see any other soldier come out of the Cafe.

Cross Ex I went to the Cafe about 8 o'clock (2000). The soldiers came in I would say around 2130. I had been drinking in the Cafe. I don't do this very often. I had had two or three beers and also some cognac. Other soldiers came and went during the evening. I think they were all English. Acc. bought a beer for himself and the barmaid. I bought them a drink as the one at the table did'nt have a drink. I asked the one at the table if He'd have a drink. Don't remember If I asked one at the bar to have drink. I went to the table and had my drink with the soldier at the table. I talked to the soldier at the bar also. I left at 2200 hrs.to go home. The Cafe was not closing. At the time there were only two soldiers in the cafe. It was a very dark night. Two soldiers came up. One on each side of me. I thought they were coming along with me at first. The cafe was lit like any other Cafe.

The tall one on my left did all the talking. The taller one was on

left the Cafe. As I thought the pub was closing I said "Lets go" to Thompson. We saw Andries and Thompson said "Lets see if he knows the way to Hoboken". He went up to him and caught him by the arm and asked the way to Hoboken. Then Thompson said "Give me 200 francs as I know you have the money". It was Andries from the cafe. Then there was kind of a scuffle and Thompson said "Come on lets go. Lets get away in a hurry. I have the old man's purse". Further on down the street Thompson gave me 4 or 5 hundred francs. We went into a pub and had a beer. Then we came out and headed towards Hoboken. At the bridge we stopped and had a leak and Thompson I think threw the purse into the river. We then went into another cafe and spent the rest of the night there till we went back to barracks about 2400 hours.
It looked like Andries and I think it was but it was dark. He was the only civilian I had talked to. We walked beside him for a while. I was on the right hand side. Thompson was on Andries left. I didn't see T. make any attempt to take his wallet from his pocket. The scuffle was so quick I can't remember much of it. While walking there had been some conversation between Acc and Andries. Heard Acc. say he knew he had the money. I saw Acc with a purse and money afterwards. Thompson said "Come on, I have the old man's purse". Was dark but you could recognize objects.

Cross Ex. I don't think I'm short. Left camp that night about 1800 hrs. Arrived at Cafe Anselmo about 2100. I had been drinking but I knew what I was doing. Didn't feel like a beer at the Anselmo. Was feeling a little sick. Don't like beer much. Prefer whiskey. Cafe quite bright. Was pretty sure it was Andries. I'm sure the purse was thrown away. I talked to Andries in the cafe. He talked a little English. Don't think he talked to Thompson there. I suggested we leave. I didn't open the door. Three other Cdns left right behind Andries, then we left. We walked besides Andries. Was some sort of a scuffle.

Re Ex. Remember leaving with Acc and following who I think was Andries. Thompson said "I have the old man's purse."

Court I'm no friend of the Acc. I knew him to see. We both had money. The Acc didn't mention any intentions of robbery to me. On leaving Anselmos don't know how much Acc had. Don't know how much was in the wallet. I didn't see the old mans wallet in the pub we were in before we got to the bridge. The next day Acc asked me for a couple of hundred francs. Didn't see any 1000 franc notes in Thompsons hands.

RP 85(b) complied with.

Defence NIL

Prosecutor makes closing address (Att'd)

Defending Officer makes Closing Address (Add'd)
J-A sums up (att'd)

First Pros. Wit. Mr. Leopold Andries, Pourkes St., Antwerp, Belgium, sworn, deposes:

I am Leopold Andries of Antwerp. On 22 Sep 44 I was in the Cafe Anselmio. At 2130 hours two Cdn soldiers walked into the Cafe. I was ready to leave and was standing at the bar at the time. One of the 2 walked up to the bar and asked for a drink for himself and the bar maid. The other one went to the table and sat down without having a drink. Then I asked the maid to give the soldier at the table something to drink. We all had a drink together and then I paid for the drinks and cahnged a 1000 franc bill. After that I left. After I left the 2 soldiers followed me into the street. After walking a bit I felt one of the soldiers feel in his vest coat pocked -- they were walking beside him. Then I asked them what they wanted and the answer was money. I said I didn't have any. One soldier answered we know you have some as we saw it. I said we'd go to another cafe and I'd give him some money there. All this was said by the same one of the soldiers. A little further down the same one tried again to get into his inside coat pocket. I put my hand over my wallet. A little further down I was strick twice -- once on the chin and once behind the ear. I sank to my knees and went into a daze. After I came to the soldiers ran away and my wallet was gone. The man walking on my left was the one who had done all the talking, who had tried to take my wallet and was the one who struck me. He had been in the cafe. He was the one who was standing at the bar in the cafe talking to the girl. After being hit I went back to the cafe and the lady of the Cafe washed my face. Then I went to the police station, they called for a doctor and the doctor sewed up my wounds. Then a policeman took me home. The next morning I went to Maj Colby, the town major.
On the following Sunday 24 Sep I went to the camp with the provost and there I recognized one of the two soldiers. It Was the one who had been on my left side, the one that had struck me. I picked him out from about 20 soldiers. Then the Sgt took him along with 2 other men back to the Cafe and saw the barmaid and the lady who ~~was~~ owns the place recognize the soldier. I identify the accused here today as the man on my left who struck me. (Witness points out the acc. to the court).
Was about 10 p.m. when he struck me and took my wallet. In my wallet I had 2 bills of 1000 francs, and some other notes, totalling about 3000 francs. One of the soldiers was taller than the other. It Was the taller one that struck me. It Was also the taller one who had attempted to take my wallet from my pocket. I had changed one 1000 franc note in front of the acc. at the bar. I was standing next to him at the bar and had a good look at him. The two soldiers followed me out of the Cafe. I didn't see any other soldier come out of the Cafe.

Cross Ex I went to the Cafe about 8 o'clock (2000). The soldiers came in I would say around 2130. I had been drinking in the Cafe. I don't do this very often. I had had two or three beers and also some cognac. Other soldiers came and went during the evening. I think they were all English. Acc. bought a beer for himself and the barmaid. I bought them a drink as the one at the table did'nt have a drink. I asked the one at the table if He'd have a drink. Don't remember If I asked one at the bar to have drink. I went to the table and had my drink with the soldier at the table. I talked to the soldier at the bar also. I left at 2200 hrs.to go home. The Cafe was not closing. At the time there were only two soldiers in the cafe. It Was a very dark night. Two soldiers came up. One on each side of me. I thought they were coming along with me at first. The cafe was lit like any other Cafe.

The tall one on my left did all the talking. The taller one was on

my left. Even tho' dark I could see this . I speak a little bit of English. At the time this happened I usually carried about 3000 francs. I saw the soldiers side by side when they entered the cafe.

No re Ex

Court My wallet with all my papers also was taken with the three thousand francs.

RP 83(b) complied with.

2nd Pros Wit. Miss L. Westerlinch, Cafe Anselmo, Antwerp, duly sworn deposes:

On 22 Sep about 2000 Mr. Andres came to the Cafe Anselmo. Later two Canadians came in. One had a beer and the other sat down at a table. The one at the bar offered me a beer. Mr Andres went and sat by the one at the table. I had a drink with the one at the bar. About 2200 Mr Andres went out. The Cdn sitting down was the shorter of the two. The two Cdns then left. A few minutes later Mr Andries came back and he was bleeding. He went to the police after being cleaned up.

A couple of days later the M.Ps. came in and asked her if she recognized any of three men. I recognized one of them. It Was the tall one who had been in the Cafe that night. The one who had bought me the beer. He had been at the counter, when Mr Andries had paid for the drinks. They were close together. Andries paid forthe drinks with a 1000 franc note. I talked to the tall soldier. He was perfectly normal.

When Andries left there were soldiers in the Cafe. The Cdns went out just before him. When Andries actually left there were just 2 Cdns left, the taller one and the shorter one. They left right after Mr Andries - the short one opened the door for Mr Andries.

4.

I recognize the Acc. as being in the Cafe Anselmo that night. He was the tall soldier.

Cross Ex. Mr Andries is a pretty regular customer. Not a daily Customer. He doesnt drink very much. I remember the 1000 fr note as my aunt, the Mme. had to go and change it. I took Andries drink to the table. About end of Sept we had lots of Cdns in our Cafe.

No Re Ex

Court -- Nil

RP 83(b) complied with.

3rd Pros. Wit B136643 Pte Havelin M. 6 C.I.B. Coy RCASC, duly sworn deposes:-

On night of 22 Sep 44 I was supposed to go out with Sgt Russel. He couldn't go so Pte Thompson said he'd go downtown with me. We had a couple of beers & cognac in a pub and after that we took a train to Antwerp. No pub in Antwerp. We met a sailor and he sent us to the Alaska Cafe. We left there and started back to Camp. En route we dropped in to another Cafe. Thompson went to the counter. I felt sick and refused a beer from Thompson. Mr Andries then asked if I'd have a drink and I did have a drink with him. After the drinks Andries said good night and

left the Cafe. As I thought the pub was closing I said "Lets go" to Thompson. We saw Andries and Thompson said "Lets see if he knows the way to Hoboken". He went up to him and caught him by the arm and asked the way to Hoboken. Then Thompson said "Give me 200 francs as I know you have the money". It was Andries from the cafe. Then there was kind of a scuffle and Thompson said "Come on lets go. Lets get away in a hurry. I have the old man's purse". Further on down the street Thompson gave me 4 or 5 hundred francs. We went into a pub and had a beer. Then we came out and headed towards Hoboken. At the bridge we stopped and had a leak and Thompson I think threw the purse into the river. We then went into another cafe and spent the rest of the night there till we went back to barracks about 2400 hours.
It looked like Andries and I think it was but it was dark. He was the only civilian I had talked to. We walked beside him for a while. I was on the right hand side. Thompson was on Andries left. I didn't see T. make any attempt to take his wallet from his pocket. The scuffle was so quick I can't remember much of it. While walking there had been some conversation between Acc and Andries. Heard Acc. say he knew he had the money. I saw Acc with a purse and money afterwards. Thompson said "Come on, I have the old man's purse". Was dark but you could recognize objects.

Cross Ex. I don't think I'm short. Left camp that night about 1600 hrs. Arrived at Cafe Anselmo about 2100. I had been drinking but I knew what I was doing. Didn't feel like a beer at the Anselmo. Was feeling a little sick. Don't like beer much. Prefer whiskey. Cafe quite bright. Was pretty sure it was Andries. I'm sure the purse was thrown away. I talked to Andries in the cafe. He talked a little English. Don't think he talked to Thompson there. I suggested we leave. I didn't open the door. Three other Cdns left right behind Andries, then we left. We walked besides Andries. Was some sort of a scuffle.

Re Ex. Remember leaving with Acc and following who I think was Andries. Thompson said "I have the old man's purse."

Court I'm no friend of the Acc. I knew him to see. We both had money. The Acc didn't mention any intentions of robbery to me. On leaving Anselmos don't know how much Acc had. Don't know how much was in the wallet. I didn't see the old mans wallet in the pub we were in before we got to the bridge. The next day Acc asked me for a couple of hundred francs. Didn't see any 1000 franc notes in Thompsons hands.

RP 83(b) complied with.

Defence NIL

Prosecutor makes closing address (Att'd)

Defending Officer makes Closing Address (Add'd)
J-A sums up (att'd)

Opening Address by Prosecutor 12 Oct 44

Gentlemen:

This morning you have before you one B28395 Pte Thompson W.H. who has been charged with Robbery with Violence under Sec 41 and A.".L. under 15(1)

The first charge will be proved by showing that (1) Mr Leopold Andries was robbed by Pte Thompson (2) That he used violence to commit the robbery.

The second will be supported by documentary evidence in the form of Extracts of Part II Orders HQ 6 Cdn Inf Bde.

"W.D. Morton Lt"

Prosecuting Officer

Closing Address

The evidence of Mr Andres establishes that he picked out Thompson as the person who was standing at bar talking to Mlle. Westerlinch and as the tall soldier who was on his left who tried twice to take his wallet and finally hit him in order to take the wallet, which contained 3000 francs. Mr Andres identified Thompson from a parade of about 20 soldiers. Mlle. Westerlinch's evidence colloborates the identification of Thompson as the person who bought her the drink and who was with Havelin when they came in and went out the Cafe Anselmo, and that Thompson was the man referred to as the tall Cdn.

Pte Havelin colleborates all the circumstances of events in the Cafe Anselmo. He states he was with Thompson all night during the tour of pubs. He admits having received 400 or 500 francs from Thompson, which he states was in the purse which Thompson took from Mr Andres. This all adds to and completes the picture of robbery with violence. The definition as set out in MML 122, has been fulfilled. There was robbery of 300 francs and wallet from Mr Andres. Violence was used, with the intention to take wallet and money from Mr Andres.

Gentle I submit the case against Pte Thompson is proved. The circumstances and facts substantiate the charge.

"M.D. Morton Lt"

ADDRESS OF DEFENDING OFFICER

CHARGE OF ROBBERY WITH VIOLENCE

1. Case of prosecution rests on two points.
   (a) Identification of two soldiers, one tall and one short as being in the Cafe with witness Andries on the night of 22 Sep 44.

   (b) Statement of Pte Havelin that accused did give him money - presumed to have been taken from Andries.

2. It is admitted that a case has been proven showing accused as being in the cafe at the time when Andries was there but it has not been proven beyond a reasonable doubt that he was associated on the street with violence and robbery to Andries.

3. It appears that Andries has convinced himself that the two Cdn soldiers who were in the Cafe one at the bar and one having a drink with him and who followed him out, had been the assaulters. In refutation, the following points are put forward.

   (a) It was bright in the cafe and quite dark outside - vision for a short time would be unreliable.
   (b) Andries purports to recognize the accused as the man on his left who was talking - largely by his voice but there is no evidence that he heard accused talking or spoke to him - his contacts in the cafe were all with Havelin.
   (c) His evidence concerning one short and one tall soldier seem a bit confused. He states that only the two Cdn soldiers were in the Cafe when he left which other witnesses do not confirm. He states that the other soldiers in the cafe were English while other witnesses say there were three other Cdns who left just before Andries. It is submitted that the witness did not in the cafe take sufficient note of the soldier at the bar to enable him to positively and certainly identify him in the dark after a night of drinking. He was probably frightened silly when approached by two thugs in the dark and fastened on the two soldiers in the cafe as the ones who attacked him.

4. The prosecution contends that the evidence of Havelin confirms the tale of Andries and adds evidence that it was Thompson and not himself who did the robbery. It is submitted that Havelin was in no condition to know what was going on. He had been drinking steadily from 1800 - 2130 hrs and even refused a beer because he was not able to absorb it. His recital of details is confused and uncertain. He did not see Thompson take the wallet or strike Andries nor did he sound convincing in his story about the accused throwing away a wallet he didn't see.

5. Havelin drank with Andries; he it was who suggested the two go and is said to have opened the door for the old man. It is suggested that his story could easily have been concocted to explain a sudden increase in means or to reduce the charge which he would have to face on being implicated in the affair.

6. There is no evidence that there was any shortage ofmoney in either case and we have only the word of Havelin that he received money from the accused.

"S.B. Laing Capt"

J.A. Sums up

As the members of the Court are undoubtedly aware this is a very serious charge which the accused is now facing. I shall endeavour to advise you as to the law involved and I know that you will consider the evidence well before reaching any decision.

The charge is laid under AA 41 and alleges that the Acc committed a civil offence, that is to say, Robbery with violence. The burden of proof rests always upon the Prosecution and it is the task of the Prosecutor to discharge this onus. The Acc. need not prove his innocence, the Pros must prove his guilt beyond a reasonable doubt.

The charge consists of this statement of the offence and the particulars. You must therefore now decide whether or not the particulars have been proved and if you decide they have been, then do these proven facts constitute the offence charged.

Archbold (597) describes Robbery as follows: Robbery consists in the felonious and forcible taking from the person of another or in his presence against his will, of any money or goods of any value, by violence or putting him in fear. From this the prosecution must prove an actual taking, that is, it must appear that the robber actually got possession of the property alleged to have been stolen. A carrying away, or asportation must also be proved. In addition, the property must be proved to have been taken from the person of Mr Andries or in his presence. All these must be proved by the Prosecution.

You have heard the evidence of Pte Havelins who has already been charged and whose case has been disposed of. He was therefore a witness without fear of self-incrimination. However he comes very close to being an accomplice and for that reason I suggest that you treat his evidence with caution and look for corroboration of his story in some material way.

2.

There is apparently little dispute concerning the actual evidence. The defence is arguing that there has not been sufficient identification of Thompson as the man who struck and robbed Mr Andries. This will be an important decision. You must decide whether it has been proved beyond a reasonable doubt that Thompson was the assailant and the robber. If you feel it might have been someone else then Thompson is entitled to an acquittal. If you feel sure Thompson was the person, then there need not be an acquittal on this ground. Look well at the evidence of of Havelin and Andries on this point.

I would be lacking in my duty if I did not charge you that this is a most serious offence that is charged. In short, the offence alleged is an offence against a civilian in a foreign country just emerged from a conqueror's rule. If a Canadian soldier acts as this charge alleges then I say again that it is a most serious offence indeed.

The onus rests always upon the prosecution. Under British justice every Acc. is innocent till the contrary is proved beyond a reasonable doubt. Reasonable doubt is a real and substantial doubt and not merely the idle reflection that nothing in this life is absolutely certain. It is such a doubt as would make a reasonable man in the conduct of his own affairs and in a matter of importance to him, pull up, hesitate and seriously consider whether the thing he thinks of doing is right and sure. If such a doubt exists in the mind of any member of this Court then he is bound by law to interpret that doubt in favour of this accused soldier.

STATEMENT IN MITIGATION

Acc. rests his case on the first charge. As for the AWL it is an entirely different charge. Acc. enlisted in May 1940 and shortly before end of '40 came overseas. Worked as a tradesman. Not a parade ground soldier but good tradesman. In Apr 44 he was at Worthing. Record shows lapses but they are due to desire for drink. In Apr 44 he heard of wife's misconduct and went off on a spree. Had the "to hell with it idea". After his spree he found his unit had departed and he didn't know where to. Decided to keep on being AWL as he felt he was in for it anyway. No charge brought against him till became ??? here. Was distressed and this explains first charge also.

Anxious to serve at the front.

Ask for leniency.

J.A. Sums up

As the members of the Court are undoubtedly aware this is a very serious charge which the accused is now facing. I shall endeavour to advise you as to the law involved and I know that you will consider the evidence well before reaching any decision.

The charge is laid under AA 41 and alleges that the Acc committed a civil offence, that is to say, Robbery with violence. The burden of proof rests always upon the Prosecution and it is the task of the Prosecutor to discharge this onus. The Acc. need not prove his innocence, the Pros must prove his guilt beyond a reasonable doubt.

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There is apparently little dispute concerning the actual evidence. The defence is arguing that there has not been sufficient identification of Thompson as the man who struck and robbed Mr Andries. This will be an important decision. You must decide whether it has been proved beyond a reasonable doubt that Thompson was the assailant and the robber. If you feel it might have been someone else then Thompson is entitled to an acquittal. If you feel sure Thompson was the person, then there need not be an acquittal on this ground. Look well at the evidence of of Havelin and Andries on this point.

I would be lacking in my duty if I did not charge you that this is a most serious offence that is charged. In short, the offence alleged is an offence against a civilian in a foreign country just emerged from a conqueror's rule. If a Canadian soldier acts as this charge alleges then I say again that it is a most serious offence indeed.

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Any questions?

(No questions from Pros., Def Offr or Court)

STATEMENT IN MITIGATION

Acc. rests his case on the first charge. As for the AWL it is an entirely different charge. Acc. enlisted in May 1940 and shortly before end of '40 came overseas. Worked as a tradesman. Not a parade ground soldier but good tradesman. In Apr 44 he was at Worthing. Record shows lapses but they are due to desire for drink. In Apr 44 he heard of wife's misconduct and went off on a spree. Had the "to hell with it idea". After his spree he found his unit had departed and he didn't know where to. Decided to keep on being AWL as he felt he was in for it anyway. No charge brought against him till became ??? here. Was distressed and this explains first charge also.

Anxious to serve at the front.

Ask for leniency.

Summary of Evidence in the case of B28395 Pte William Henry Thompson, RCASC.

The accused has been informed of his rights.

The CO does not direct that the evidence be taken on oath nor does the accused demand that the evidence be taken on oath.

First Witness for the Prosecution — Capt J.E. Mavins, Camp Comd HQ 6 Cdn Inf Bde having been duly sworn states:

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21 Army Group No 19 dated 7 Jun 44 certified to be true. It purports to establish that B28395 Pte Thompson W.H. was illegally absent from 0900 hrs 23 Apr 44 and still absent 15 May 44. Exhibit A.

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21 Army Group No 26 dated 28 Jul 44 certified to be true. It purports to establish that B28395 Pte Thompson W.H. was apprehended from desertion wef 1000 hrs 30 Jun 44. Exhibit B.

"J.E. Mavins"
(J.E. Maving) Capt
Camp Comd HQ 6 Cdn Inf Bde

The accused declines to cross examine the witness

Second Witness for the Prosecution — M17082 Sgt Ford R.P. 2 Cdn Pro Coy, 2 Cdn Inf Div.

A written statement of the witnesses evidence purporting to be a certified true copy has been read over to the accused, and is included in the Summary as Exhibit C.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of the witness for cross examination.

"M.D. Morton Lt"
(M.D. Morton) Lt
Officer detailed to take the Summary of Evidence

Third Witness for the Prosecution — Mr Leopold Andres, of Pourbus Street, No 3, Antwerp.

A written statement of this witnesses evidence purportint to be a certified true copy has been read to the accused and is included in the Summary attached as Exhibit D.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination .

"M.D. Morton Lt"
(M.D. Morton) Lt
Officer detailed to take the Summary of Evidence

"A.C. Kavanagh Maj"

Fourth Witness for the Prosecution

Madame A. Westerlinch, owner of Cafe Anselmo, Antwerp.

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the Summary attached as Exhibit E.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M.D. Morton Lt"
(M.D. Morton)
Officer detailed to take the Summary of Evidence.

Fifth Witness for the Prosecution

Mlle Lisette Westerlinch of the Cafe Anslemo, Antwerp.

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the Summary as Exhibit F.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M.D. Morton Lt"
(M.D. Morton) Lt
Officer detailed to take the Summary of Evidence

Sixth Witness for the Prosecution

B136643 Pte M. Havelin, 6 Bde Coy RCASC

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the Summary attached as Exhibit G.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M.D. Morton Lt"
(M.D. Morton) Lt
Officer detailed to take the Summary of Evidence

The accused having been duly cautioned in accordance with RP 4 (E) says: I have nothing to say. I know nothing about it.

Certified that RP 4(C) (D) (E) (G) has been complied with.

"M.D. Morton Lt"
Officer detailed to take the Summary of Evidence.

In the Field
9 Oct 44

L I S T O F W I T N E S S E S

In the case of B28395 Pte William Henry Thompson, RCASC
HQ 6 Cdn Inf Bde.

A soldier of the Canadian Army Overseas.

PROSECUTION

Capt J.E. Mavins, Camp Comd HQ 6 Cdn Inf Bde
M-17082 Sgt Ford R.P. 2 Cdn Pro Coy, 2 Cdn Inf Div.
Mr Leopold Andres, Pourbus Street No 3 Antwerp.
Madame A. Westerlinch, Antwerp.
Mlle Lisette Westerlinch, Antwerp.
B-136643 Pte M. Havelin, 6 Bde Coy RCASC.

DEFENCE

Nil

LIST OF EXHIBITS

Exhibit A	-	Extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21 Army Group, No 19 dated 7 Jun 44. Certified true copy.
Exhibit B	-	Extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21 Army Group No 26 dated 28 Jul 44. Certified true copy.
Exhibit C	-	Written statement of M17082 Sgt Ford R.P.
Exhibit D	-	Written statement of Mr Leopold Andres.
Exhibit E	-	Written statement of Madame A. Westerlinch,
Exhibit F	-	Written statement of Mlle Lisette Westerlinch,
Exhibit G	-	Written statement of B-136643 Pte Havelin, M.

STATEMENT BY ACCUSED

I B-28395 Pte William Henry Thompson certify that I have been given free of charge copy of documents, proceedings etc., relating to my trial by Field General Court Martial. I request the services of an Officer to defend me at my trial by Field General Court Martial.

"W.H. Thompson"
B-28395 Pte Thompson W.H.

Exhibit "I"

PART II ORDER EXTRACT FORM

99/20/H.Q. 6 CIB/I (A.5d)

D & P
2nd Echelon

7 Oct 1944

EXTRACTS FROM: Unit Headquarters 6 Cdn Inf Bde

Part II Order No 26 dated 28 Jul 44

STRENGTH INCREASE

TOS on app from des wef 1000 hrs 30 Jun 44
B28395 Pte THOMPSON W H

"Certified to be a true extract from the regimental books and documents in my custody"

"Ross Irwin"
(O.R. Irwin) Lieutenant
for Officer IC Records "D"
Cdn Sec GHQ 2nd Ech 21 A Gp

Exhibit "A"

PART II ORDER EXTRACT FORM

D & P
2nd Echelon

H.Q. 6 CIB/I (A 5d)

5 Sep 1944

EXTRACTS FROM: Unit....Headquarters 6 Cdn Inf Bde

ABSENT WITHOUT LEAVE Part II Order No. 19 dated 7 Jun 44.

(a) AWL from 0900 hrs 23 Apr 44 Still absent 0900 hrs 1 May 44 (8th day)

B28395 Pte THOMPSON WH RCASC

(b) AWL from 0900 hrs 23 Apr 44 Still absent 0900 hrs 15 May 44 (22nd day)

B28395 Pte THOMPSON W.H. RCASC

"Certified to be a true extract from the regimental books and documents in my custody".

"Ross Irwin"
(O.R. IRWIN) Lieutenant
Officer ic Records "D"
CDN SEC GHQ 2 ECHELON 21 A Gp

CANADIAN PROVOST CORPS

No. 2 Company | 2 Cdn Inf Div | FILE: 3-0-0

Field | 26 Sep 44 | 2 Cdn Corps

Re: Alleged Robbery with Violence of Mr. L ANDRIES, Antwerp

B28395 Pte THOMPSON W H, RCASC, 6 CIB HQ
B136643 Pte HAVELIN, M. 6 CIB Coy RCASC, 2 Cdn Inf Div

File Refs:

Ref the a/m I have to report that on 23 Sep 44 I was detailed by Lt Anderson, Offr i/c Antwerp Detachment 2 Cdn Provost Coy, to investigate a complaint from one L. Andries that he had been assaulted and robbed by two soldiers of the Cdn Army.

Exhibit "C"

2. From information received I formed the opinion that the soldiers responsible for the robbery were RCASC personnel of 2 Cdn Inf Div and accordingly concentrated my investigation on RCASC Units within the Division. OC 2 Cdn Inf Div Tps Coy RCASC Major Ledford informed me that two men who answered the description of the robbers had been seen on two occasions in a Hoboken Cafe when they were in possession of and spending a considerable amount of money. Mr. L. Andries had alleged that 3000 Belgian francs and certain papers had been stolen from him.

3. After further enquiries I arranged an identification parade of personnel of 6 Cdn Inf Bde Coy Echelon and on this parade Pte THOMPSON was identified by Mr. L. Andries as one of the two robbers. A further positive identification of THOMPSON was made by Mdme and Mlle WESTERLINCK of the Cafe ANSELMO in Antwerp.

4. It was then ascertained that Pte HAVELIN had accompanied Pte Thompson at the time of the alleged robbery and a search of the Unit revealed him to be AWL. On 25 Sep 44 after having received information that HAVELIN had returned to his Unit and was in custody, I proceeded to the Unit and questioned the accused and obtained from a voluntary statement which is appended hereto together with copies of statements from all witnesses. Pte THOMPSON refused to make any statement.

5. During the course of the assault and robbery Mr Andries received injuries to his face which necessitated 5 stitches to close the wounds. In addition to the loss of money he also suffered the loss of all his Identity documents.

6. Charges of Robbery with Violence have been preferred against the a/m soldiers and forwarded this date to the Units concerned together with copies of all available evidence.

"R.P. Ford"
M17082 Sjt Ford R.P.
2 Cdn Provost Coy, 2 Cdn Inf Div

Exhibit "D"

ANTWERP, 24th Sep 44

STATEMENT OF EVIDENCE

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it Isign my name thereto.

Signed (L. Andries)

"I am Mr Leopold Andries of Pourtous St., No. 3 ANTWERP. On the night of 22 Sep 44 I was in the Cafe ANSELMO at approx 2130 hrs, two Cdn came in, one, the tall one went up to the bar and ordered two beers, one for himself and one for the Mlle behind the bar, the short fellow had none. I then asked if they would have a drink with me, and they said yes, so I bought two drinks for them. Shortly after that I went out to go home. The two fellows came out directly behind me and as I was approx 50 metres up the Ave. they came up on either side of me and tried to take my wallet, I then asked what they wanted, and they said have money, I said I have no money. The tall one then said we know you struck me. They then struck me several times and I was knocked nearly unconscious. When I came to, I saw them run away and I found my wallet gone which contained 3000 francs and all my papers. I then returned to the Cafe ANSELMO where the Madame washed me and I started home again. I was met by two members of the White Brigade and taken to the Belgium Police, I was told to report to the Town Major which I did the next day.

On the 24th Sep 44, Sjt Ford of the Cdn Provost Corps met me at 1500 hrs and took me out to 6 Bde Coy, RCASC., and I was almost certain that I recognized one of the men who had attacked me. I was not certain but I was sure that I had saw the man Pte Thompson W H before. We then went back to the Cafe ANSELMO and the Madame and the Mlle identified Pte Thompson as the man who I had bought the drink for.

I have given this statement of my own free will and it was written for me by Sjt Ford.

(Signed) L. Andries

CERTIFIED TRUE COPY

?????? Capt
for O.C. 2 Provost Coy
2 Cdn Inf Div

Exhibit E

STATEMENT OF EVIDENCE

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name thereto.

(Signed) A. Westerlinch

"I am Madame A. Westerlinch owner of the Cafe ANSELMO. On Friday, 22 Sep 44, two Cdns came in my Cafe at approx 2130 hrs, Mr. L. Andries was already in the Cafe. The tall fellow bought two beers, one for the Mlle. and one for himself, the short fellow had no beer. After a few minutes Mr. Andriesasked the Cdns if they would have a drink with him, they said yes, he changed a 1000 franc note and bought two drinks. Shortly after he left the Cafe, after Mr. Andries went out, the short fellow said to the tall one, "Come on we will go", they then followed him. In approx 10 minutes, Mr. Andries came back, and he was badly cut and bleeding from the face. I washed him up and he left for the doctor. On the 24 Sep 44 Sgt Ford of the Cdn Provost Corps came and he brought with him Pte Thompson and three other Cdns, I positively identified Pte Thompson as the tall fellow who Mr. Andries bought the drink for.

I have given the above statement to Sgt Ford of the Cdn Provost Corps and it was written by him.

(signed) A. Westerlinch

STATEMENT OF EVIDENCE

ANTWERP 24th Sep 44

EXHIBIT F

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name thereto.

(signed) L. Westerlinch

"I am Mlle Lisette Westerlinch of the Cafe ANSELMO, Antwerp. On Friday 22th Sep 44, Mr. Andries came in our Cafe at approx 2000 hrs. At about 2140 hrs two Cdns came in the bar and ordered two beers. The tall one ordered one for me and onefor himself, the small fellow had none. Mr Andries then asked thesmall Cdn if he would have a drink, and he said "Yes", so he bought two drinks, one for himself and one for the small Cdn, to pay for the drinks, he changed a 1000 franc note. Shortly after this Mr Andries went out. The short Cdn said, "Come on boy, we must go". and they followed Mr Andries out. In about 10 minutes, Mr. Andries came back, he was badly cut on the face and bleeding. My aunt then washed Mr. Andries face and he left for the doctor. On 24th Sep 44, Sjt Ford of the Cdn Provost Corps came to the Cafe and with him were four Cdns. I positively identified Pte Thompson as the man who was in the Cafe and I had the beer with.

(signed) L. Westerlinch

CERTIFIED TRUE COPY.

? ??????? Lt
for O.C. 2 Provost Coy
2 Cdn Inf Div

STATEMENT OF EVIDENCE

Field, 25 Sep 44

EXHIBIT C

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution and to show that I understnad it I sign my name thereto.

(signed) M. Havelin

"I am B136643 Pte M. Havelin, 6 Bde Coy RCASC, On the night of 22 Sep 44, Pte Thompson and myself went out drinking. We went to ANTWERP about 1930 hrs, we went to several Cafes and finally about 2130 hrs we came to the Cafe ANSELMO. There were several Cdns and several civillans in the bar. Thompson went to the bar and ordered two beers, one for himself and one for the girl behind the bar. I did not want any as I was a bit drunk and I felt that if I drank beer I would be sick. I sat down at a table about 10 or 12 feet from the bar, in a few minutes, Mr. Andries came over and asked if I would have a drink, I said, "Yes", so he went up to the bar and bought two cognacs. I did not notice what size of bill he paid for the drink with. Shortly after this he shook hands with me and left, as the bar was closing I said to Thompson, "Come on let's go". We went out with several other Cdns directly behind Mr Andries. After we got outside, Thompson said, "Lets follow that guy and we will ask the way home". When we caught up to him, Thompson grabbed him by the arm and said something about which way to Hoboken. He then said, "give me 200 francs as I know you have the money", suddenly there was a bit of a scuffle and Thompson broke away and ran after knocking the old man down. I did not know what had happened until Thompson called me and said "Come on, let's get out of here in a hurry". He wanted me to run and I said, "to hell with running, I can't run", he then said, " come on let's hurry, I got the guy's purse". After we had walked on a bit further, he handed me some money, 400 or 500 francs. We went into a Cafe before we crossed the bridge, and had a drink. After we came out and about when we were on the bridge, we stopped for a piss and it was then when Thompson threw away the wallet. We then went on to Hoboken and after spending some time in several Cafes we came home.

I have given the above statement to Sjt Ford of my own free will.

(Signed) M. Havelin

CERTIFIED TRUE COPY

....?????.It.Capt..
O.C. 2 Provost Coy
2 Cdn Inf Div

Original produced on trial
of B136643 Pte Havelin M.
6 C.I.B. Coy RCASC
2 Cdn Inf Div

MFM 6
(AFB 122)
40/PAS/130 (3438)

No B28395 Name William Henry THOMPSON | Sqn, Battery, or Company | Corps | Date of enlistment 31-5-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				A.A. Sec 15(1) When on active service absenting himself without leave from 1-8-40 to 12-8-40 (Time absent 11 days)		Ten days pay and 28 days detention	13-8-40		As amended by Part II Order 222 of 27-11-40
				A.A. Sec 15(1) When on Active Service absenting himself without leave from 1700 hrs 21 Feb 41 to 1 Mar 41.		9 days pay and 12 days detention	3-3-41		Forf 9 days pay FRI 149 (1) 1 CCHU DO 46 d/3 Mar 41
	Field			A.A. Sec 15(1) When on Active Service absenting himself without leave from 3 May 42 to 4 May 42.		12 days pay	9 May 42	HQ 1 Cdn Div d/9 May 42.	12 days pay FRI 149(1) and (2) DO 22

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				A.A. Sec 40		Forf 21 days pay	11-7-42		21 days pay FR&I 149(2)
Field				A.A. Sec 15(1) WOAS absenting himself without leave from 0830 hrs 25 Sep 42 until app at 2115 hrs 16 Oct 42		FGCM awarded 6 mos det forf 225 days pay			225 days pay and stoppages of £2.2.0 DO 51 d/27 Nov 42 1 CORU DO 223 d/8 Feb 43
Field				A.A. Sec 15(1) WOAS absenting himself without leave		Forf 1 days pay			28 days F.P. 42 days pay
Field				AA Sec 15(1) WOAS absenting hi self without leave from 0700 hrs 14 Oct 43 to 0100 hrs 28 Oct 43.		Forf 42 days pay and stoppage of £4.0.5			and stoppage £4.0.5

Certified True extract from all avialable sources.

"MD Morton Lt"
S/L 6 Cdn Inf Bde

Substitute for AFB 296
or MFB 355

"ACK"

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No B28395 Rank Pte Name THOMPSON W.H. Unit HQ 6 Cdn Inf Bde

Age 30 Married or Single M No of Dependents 3

Date of Attestation 30 May 40

Number of days in close arrest awaiting trial...with unit 11 days

Civil ------ Military ----- Hospital --- Total 16

Date of appointments, promotions etc (if any)

NIL

In the Field

11 Oct 44

"J.E. Mavins"
(J.E. Mavins) Capt
Officer i/c Records

HQ 6 Cdn Inf Bde
Unit

Note: Certified true copy of MFM 6 must accompany this form.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-28395 Pte Thompson W.H. RCASC HQ 6 Cdn Inf Bde.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Guilty	Guilty.	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He~~ ~~is~~ ~~present~~ ~~under~~ ~~sentence~~ ~~of~~ ~~Dismissal~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer Penal Servitude for the term of five (5) years.

(Sgd) E K McDougall, Judge-Advocate, if any. Capt. — 12 Oct 44. Date awarded. — (Sgd) A C Bevanagh Major. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findi g and sentence for co firmation.

Date 12 Oct 44. (Sgd) J Gauvreau Lt-Col Commanding 6 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the ~~sentence~~ ~~be~~ ~~executed~~ ~~forthwith~~ ~~or~~ ~~at~~ ~~the~~ ~~following~~ ~~time~~ ~~and~~ ~~place~~ ~~xxxx~~

(1. AA 57A. Delete if not used.)

Date 20 Oct 44. (Sgd) "G O Simonds" The General Officer Commanding FIRST CDN Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-28395 Pte Thompson W.H. RCASC HQ 6 Cdn Inf Bde.	2 Nov 44.	W D Morton Lieut.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4/F45

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFA21) 4/388

Convened by Order of Lt-Col Gauvreau Comd 6C I B dated 11 Oct 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-28395	Pte	William Henry	THOMPSON	RCASC HQ 6 Cdn Inf Bde.

Certified True Copy.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 12 Oct 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto (1). The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0645 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily.~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Asscc~~ Pte VanHeuwenhave as interpreter? Ans No.

The Interpreter is sworn.(1) ~~Do you object to~~ as shorthand writer? Ans ~~No.~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Majo	A C KAVANAGH MC	Mans of C
Member	Capt	JJJA Langlois	F.s MR
Member	Lieut	L Tanguay	Pus M R.
Judge-Advocate	Capt	E.K. McDougall	HQ 2Cdn Inf Div
Prosecutor	Lieut	W D Morton	R S Regt HQ 6 Cdn Inf Bde
Defending Offr	Capt	S B Laing	RCA HQC Cdn Inf Bde.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-28395 Pte Thompson W.H. RCASC HQ 6 Cdn Inf Bde before arraignment make(s) (no) (a) ~~plea~~ ~~in~~ ~~bar~~ ~~of~~ ~~trial~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~xxxxxxx~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B C & D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 89, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty ~~to Not Guilty~~ on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans Nil Sir.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~his~~ opening address.(1) Attached Elsewhere
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the Elsewhere charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do neither. Do you intend to call witnesses on your behalf? Ans No Sir. Are they witnesses as to character only? Ans —
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans No Sir.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No thank my duty Officer.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused B-28395 Pte William Henry Thompson, RCASC HQ 6 Cdn Inf Bde, a soldier of the Canadian Army Overseas is charge with:

first charge
Sec 41
Army Act

When on Active Service committing a civil offence, that is to say, robbery with violence contrary to section 23 (1) (b) of the Larceny Act 1916.

in that he

In the Field on 22 Sep 44 at about 2200 hrs in the city of Antwerp, Belgium did rob Mr Leopold Andres, Pourbes Street in the city of Antwerp of a wallet containing 3000 francs (Belgian) and at the time of the robbery did use personal violence to the said Mr Leopold Andres.

Second Charge
Section 15(1)
Army Act

When on Active Service, absenting himself without leave

in that he

In the Field on 23 Apr 44 absented himself without leave from 0900 hrs until apprehended at 1000 hrs 3 Jun 44.

Absent 67 days, 1 hr.

R L Rutherford Major
(R L Rutherford) Major
DAA & QMG 6 Cdn Inf Bde

To be tried by Field General Court Martial.

11 Oct 44.

Charges approved under KR(Can) 540.

J Gauvreau) Lt-Col
A/comd 6 Cdn Inf Bde.

E K McDougall Capt
ADJA 2 Cdn Inf Div
10 Oct 44.

A C Kavanagh Major.

(Whether the accused to be tri... of any other force if authorized in law, AA 49, 50, RP 104-107, 114. As to the RP 87(5).
There should be a separate Convening Order... see RP 62, and as to separate trial on charges in the same...
As to reasons for showing (a) permanent or confirmed rank...

...RT-MARTIAL

ACCUSED. ...n be convened by any offr of Cdn Army Overseas, or ...2(C) and restrictions imposed by appropriate authy, application see MML Chap V paras 20 and 23.
...(C), 109. As to separate charge sheets ...ged jointly see RP 16, 109; ...163, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names, Surname, Rank and Unit.

B-28895 Pte William Henry THOMPSON RCASC HQ 6 Cdn Inf Bde.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Oct 44. endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not expedient to do so~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs (one the Court (b) a Bde Offr or President (or the ...~~ attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) A C KAVANAGH MC (Must be named. RP 106.) Cams of C. (Unit.)

MEMBERS.

Capt (Rank.) J J J A LANGLOIS (Named or detailed. RP 106.) Fus M R (Unit.)

Capt (Rank.) L TANGUAY (Named or detailed. RP 106.) Fus M R (Unit.)

WAITING MEMBER.

Capt (Rank.) H A ADAMS (Named or detailed, if any. RP 106.) S SASK R. (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.) E K McDONALD (Must be named, if any. RP 106.) HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd (Rank.)

in Belgium (Country.)

J O Auvreau Lt-Col (Signed personally. RP 105 fn 2.)

Date 11 Oct 44. Commanding 6 Cdn Inf Bde. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (CFAMS (Ltr) (Encl of AFAS) 40/P & S/1667 (1493))

RC & Cavanagh

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-28595	Pte		William Henry	THOMPSON	RCASC HQ 6 Cdn Inf Bde.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Oct 44. endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for the purpose of obtaining the~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Tk Offr as President, for the~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A C KAVANAGH MC		Cdns of C.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J J J A LANGLOIS		Fus M R
Capt	L TANGUAY		F's M R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	H A ADAMS		S SAsk R.

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	E K McDOUGALL		HQ 2 Cdn Inf Div

On Active Service in the Fd

in Belgium (Country.)

J G Beauvreau Lt-Col (Signed personally. RP 105 fn 2.) (Rank.)

Date 11 Oct 44. Commanding 6 Cdn Inf Bde. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

HQ 6 Cdn Inf Bde

Medical Certificate (KR(Can) 557)

I certify that I have this morning examined B-28395 Pte Thompson W.H. of HQ 6 Cdn Inf Bde and in my opion he is fi t to undergo trail by Court Martial.

In the Field

12 Oct 1944.
0845 hrs.

H Kingstone Capt.
Medical Officer.

Cck

First Witness Mr Leopold Andres Bourkes St Antwerp Belgium duly sworn states; deposes:-

"I am Leopold Andres of Antwerp. On 22 Sep 44 I was in the Cafe Anselmo. At 2130 hrs two Cdn Sodleirs walked into the cafe. I was ready to leave and was standing a the bar ~~xxxxxxxxxxxxxxxxxxxxxx~~ at the time. One of the 2 walked tothe bar and asked for a drink for himself andthe bar maid. The other wne went to the table and sat down without having a drink. Then asked barmaid to give the soldier at the table something to drink. We all had a drink together and then I paid for the drinks and changed a 1000 franc bill. After that I left. After I left the 2 soldiers followed me into the street. After walking a bit I felt one of the soldiers feel in his vest coat pocket. They were walking beside him. Then I asked them what they wanted and the answer was money. I said I didn't have any. One soldier answered we know you have some as we saw it. I said we'd go to another cafe and I'd give him some money there. All this was said by the same one of the soldiers. A little further down the same one tried again to get into his inside coat pocket. I put my hand over my wallet. A little further down I was struck twice once on the chin and once behind the ear. I sank to my knees and went into a daze. After I came to the soldiers ran away and my wallet was gone. The man walking on my left was the one who had done all the talking, who had tried to take my wallet and also the one who struck me. He had been in the cafe. He was the one who was standing at the bar in the cafe talking to the girl.

After being hit I went back to the Cafe and the lady of the Cafe washed my face. Then I went to the police station, they called for a doctor and the doctor served up my wounds. Then a policeman took me home. The next morning I went to Maj Colby the town major, and the following Sunday 24 Sep I went to the Camp with the Provost and there I recognized one of the two soldiers. It was the one who had been on my left side. the one that had struck me. I picked him ot from about 20 soldiers. Then the Sgt took him along with 2 other men back to the Cafe and I saw the Barmaid and the lady who owns the place recognize the soldiers I identify the Accused here to-day as the person on my left who struck me. (Witness points out the acc to the court/.

It was about 10 p.m. when he struck me and took my wallet . In my wallet I had 2 billes of 1000 francs and some other notes totalling about 3000 francs one of the soldiers was taller then the other. It was the taller one that stuck me. It was also the taller one who had attempted to take my wallet from my pocket. I had changed one 1000 france note in front of the acc at the bar. I was standing next to him at the bar and got a ~~xxxxxxxxxx~~ good look at him. The two soldiers followed me out of the Cafe I didn't see any other soldier come out of the Cafe.

Cross Ex. I went to the Cafe about 8 o'clock (2000) hrs . The soldiers came in I would say around 2130 hrs I had been drinking in the Cafe. I don't do this very often. I had had two or three beers ani also some cognac. Other soldiers came and went during the evening. I think they were all English Acc bought a beer for himself and the bar maid. I bought them a drink as the one at the table didn't have a drink. I asked the one at the table if he'd have a drink. Don't remember if I asked one at the bar to have drink. Iwent to the table and had my drink with the soldier at the table. I talked to the soldier at the bar also. I left at 2200 hrs to go home. The cafe was not closing. At this time there were only two soldiers in the cafe. It was a very dark night. Two soldiers came up. one on each side of me. I thought they were coming along with me at first. The Cafe was lit like any other Cafe.

The tall one on my left did all the talking. The other one was on my left even the dark I could see this. I speak a little bit ofEnglish At the time this happened I usually carried about 3000 francs I saw the soldiers side by side when they entered the cafe.

No. re -Ex
Court My wallet with all my papers also was taken with the three thousand francs

R.P. 83(B) complied with.

2nd Pros Witn. Miss L Westerlinch, Cafe Anselmo Antwerp duly sworn deposes:-

"On 22Sep about 2000 hrs Mr. Andres came to the Cafe Anselmo. Later two Canadians came in. One had a beer and the other sat down at a table The one at the bar offered me a beer. Mr Andres went and sat by the one at the table. I had a drink with the one at the bar. About 2200 hrs Andres went out. The Cdn sitting down was the shorter of the two. The two Cdns then left. A few minutes later Mr Andres came back and he was bleeding. He went to the police after beenn cleaned up.

A couple of days later . The mps came in and asked her if she recognized any of the three men. I recognized one of them. It was the tall one who had been in the Cafe that night. The one who had bought me the beer. He had been at the counter when Mr Andres had paid for the drinks. They were close together. Andres paid for the drinks with a 1000 franc note. I talked to the tall soldier. He was perfectly normal.

When Andres left there was soldiers in the Cafe. Three Cdns went out just before him . When Andres actually left there were just 2 Cdn left the taller one and the shorter one. They left right after Mr Andres the short one opened the door for Mr Andres. I recognize the acc as being the Cafe Anselmo that night. He was the tall soldier.

Cr-coo -Ex. Mr Andres is a pretty regular customer. Not a daily customer. He don't drink very much I remember the 1000 fr note as my aunt, the Mme had to go and change it. I took Andres drink to the table. About end of Sep we had lots of Cdns in our Cafe.

No re-Ex.

Court.-- Nil.

R.P.L 83(b) complied with.

Third Pros Witness B-136643 Pte Havelin M 6 CI B Coy RCASC duly sworn deposes:-

On night of 22 Sep 44 I was supposed to go out with Sgt Russel. He couldn't go so Pte Thompson said he'd go downtown with me. We had a couple of beers and cognac in a pub and after that we took a tram to the Antwerp. In a pub in Antwerp we met a sailor and he sent us to the Alaska Cafe. We left there and started back to Camp. En route we dropped into another Cafe. Thompson went to the counter. I felt sick and refused a beer from Thompson. Mr Andres then asked if I'd have a drink with him and I did have a drink with him. After the drinks Andres said good night and left the cafe. As I thought the pub was closing I said "lets go" to Thompson. We saw Andres and Thompson said "Lets see if he knows the way to HOBOKEN "He went up to him and caught him by the arm and asked the way to HOBOKEN. Then Thompson said "give me 200 francs as I know you have the money" It was Andres from the Cafe. Then there was kind of a scuffle and Thompson says "Comd on lets go. Lets get away in a hurry. I have the old mans purse". Further on down the street Thompson gave me 4 or 5 hundred francs. We went into a pub and had a beer. Then we came out and headed towards HOBOKEN. At the bridge we stopped and had a leak and Thompson I think threw the purse into the river. We then went into another Cafe and spent the restof the night there till we went back to barracks about 2400 hours.

It looked like Andres and I think iw was but it was dark. He was only civilian I had talked to. We walked beside him for a while. I was on the right hand side. Thompson was on Andres left. I didn't see Thompson make any attempt to take his wallet from his pocket. The scuffle was so quick I can't remember much of it. While walking there had been some conversation between acc and Andres. Heard acc say he knew he had the money. I saw acc with a purse and money afterwards. Thompson said "Come on I have the old mans purse. It was dark but you could recognize objects.

Cross Ex. I don't think I'm short Left Camp that night about 1800 hrs arrived at Cafe Anselmo about 2100 hrs I had been drinking but I knew what I was doing. I didn't feel like a beer at the Anselmo. Was feeling a little sick. Don't like beer much. Prefer whisky. Cafe quite bright. Was pretty sure it was Andres. I'm sure the purse was thrown away. I

a

I talked to Andres in the Cafe. He talked to me in a little English. Don't think he talked to Thompson there. I suggested we leave. I did not open the door. 3 other Cdns left right behind Andres then we left. We walked beside Andres. Was some sort of a scuffle.

Re Ex. Remember leaving with Acc and following who I think was Andres Thompson sais "I have the old wans purse."

Court I'm no friend of the Acc I knew him to see. We both had money The acc didn't mention any intention of robbery to me. On leaving Cafe Anselmo don't know how much acc had. Dont know how much was in the wallet. I didn't see the old mans wallet in the pub we were in before we got to the bridge. The next day Acc asked me for a couple of hundred francs. I didn't see any 1000 franc notes in Thompsons hands.

R.P. 83(3) complies with.

Defence Nil

Prosecutor makes closing address (att)
Defending officer make Closing Address (attd)

J.A.S[illegible]s up (attd)

Opening Address by Prosecutor.

Gentlemen:
This Morning you have before you one B28395 Pte Thompson W.H. who has been charged with Robbery with violence under Sec 41. and AWL under AA 15(1).
The first charge willbe proved by showing that (1) Mr. Leppld Andres was robbed by Pte Thompson. (2) That he used violence to commit the Robbery.
The second will be supported by documentary evidence in the form of extracts of Part II Order HQ 6 Cdn Inf Bde.

W.D. Morton Lt
Prosecuting Officer.

Closing Address
The evidence of Mr Andres established that he picked out Thompson as the person who was standing at bar talking to Mlle Westerlinch and as the tall soldier who was on his left, who tried twice to take his wallet which contained 3000 francs. Mr Andres identified Thompson from a parade of about 20 soldiers.
Mlle Westerlichs evidence collaborates the identification of Thompson, as the person who bought her the drink, and the person who was with Havelin when she came in and went out. The Cafe Anselmmo, and that Thompson was the man referred to as the tall Cdn. Pte Havelin collaborates all the circumstances of events in the Cafe Anselmo. He states he was with Thompson all night during the town of pass. He admits having recived 400 or 500 frans from Thompson, which he states was in the purse which Thompson took from Mr. Andres. This all adds to and completes the picutre of robbery with violence. The defination as set out in KWL 122 has been fulfilled. There was robbery of 3000 francs and wallet from Mr. Andres. violence was used with the intention to take wallet and money from Mr. Andres.
Gentlemen I submit the case against Pte Thompson is proved. The circumstances and facts substantiate the charge.

W.D. Morton Lieut.

Address of Defending Officer

Charge of Robbery with Violence

1. Case of prosecution rests on two points.
(a) Identification fo two soldiers one tall and one short as being in t Cafe with witness Andres on the night of 22 S ep 44.
(b) Statement of Pte Havelin that accused did give him money presumed to hav e been taken from Andreies

2. It is admitted that a case had been proved showing accused as being inthe cafe at the time when Andries was there out it has not been proven beyond a reasonable doubt that he was associated on the street with violence and robbery to Andries.

3. It appears that Andreis has convinced himself that the two Cdn soldiers who were in the Cafe one at the bar and one having a drink with him and who followed him out, had been the assaulters. In refutation, the following points ar put forward.
(a) It was bright in the cafe and q ite dark outside vision for a short time wo ld be unreliable.
(b) Andries purports to recognize the accused as the man on his left who was talking largely by his voice but there is no evidence that he heard accused talking or spoke to him. Hiscontacts in the cafe were all with Havelin.
(c) His evidence concerning one short and one tall soldier seem a bit complicated. he states that only the two Cdn soldiers were in the Cafe when he left when other witnesses do not confirm. He says that the othe soldiers in the cafe were English while other witnesses say there were three other Cdns who left just before Andreis It is submitted that the witness did not in the Cafe take sufficient note of the soldier at the bar to enable tim to positively and certainly identify him in the dark after a night of drinking. He was probably frightened silly when approached by two things in the dark and fastened on the t o sold iers in the cafe as the ones who attacked him.
4. The prosecution contends that the evidence of Havelin confirms the tale of Andries and adds evidence that it was Thompson and not himself who did the robbery. It is submitted that Havelin was in no condition to know what was going on. He had beendrinking steadily from 1800 hrs. to 2130 hrs and even refused a beer because hewas not able to absorb it. His recital of deatils is confused and uncertain. He did not see Thompson take the wallet or strike Andries nor did he sound convincing in his story about the accused throwing away a wallet he didn't see.
5. Havelin drank with Andire he it was who siggested to two go and is said t have opened the door for the old man. It is suggestted that his story could easily have been concocted to explain a sudden increase in means or to reduce the charge which he would have to face on being complicated in the affair.
6. There is no evidence that there was any shortage of money in either case and we have only the word of Havelin that he received money from the accused.

L B Laing Capt.

J.A. Summs up

As themembers of the Court are undoubtedly aware this is a very ser o s ch rge which the Accused is now facing. I shall endeavour to a dv se you as to the law involved and I know that you will consider the evidence well before reaching any dicision. The charge is laid under AA 41 and alleges that the Acc committed a civil offence, that is to say, Robbery with violence. The burden of proof rests always upon the Prosecution and it is the task of the Prosecutor to discharge this onus. The Acc need not prove his innocence. The pros must prove his guilty beyond a reasonable doubt. The charge consistas of the statement of the offence and the particulars. You must therefore now decide whether or not the particulars have been proved, and if you decide they have been, then do these proved facts constitute the offence charged. Archbold (597) describes Robbers as follows:- Robbery consists in the felonious and forcible taking from the person of another, or in the presence against his will of any money or goods to any value by violence or putting him in fear. From this the Prosecution must prove an actual taking, that is , it must appear that the robber

actually gto possession of the property alleged to have been stolen. A carrying away, or as portation, must also be proved. In addition, the propert must be proved tohave bee taken from the person of Mr Andres or in his presence. All these must be proved by the Prosecution.

You have heard the evidence of Pte Havelin who has already been charged and whose case had been disposed of. Hewas therefore a witness without fear of self incrimination. However he comes very close to being an accpmplice and for that reason I suggest that you treat his evidence with caution and look for corroboration of his story in some material way. There is apprently little dispute concerning the actual evidence. The Defence is arguing that there has been sufficient identification of Thompson as the man who struck and robbed Mr Adnres. This will be an important decision. You must decide whether it has been proved beyond a reasonable doubt that Thompson was the assaultant and the robber. If you feel it might have been some one else then Thompson is entitles to be acquittal. If you feel sure Thompson was the person, then there need not be an acquittal on this ground look well at the evidence of Havelin and Andres on this point.

I would be lacking in my duty if I did not charg you that t is is a most serious offence that is charged. In s ort the offence alleged is an offence against a civilian in a foreign country. Just emerged from a conquerors rule. If a Canadian soldier acts as this charge alleges than I say again that it is a most serious offence in deed.

The onus rests alwasy upon the prosecution. Under British justice every acc is innocent till the contray isproved beyond a reasonable doubt. Reasonable dobt is real and substantial doubt is no merely the idle reflection that nothin in this lefe is absolutely certain. It is such a do bt as would make a reasonable man in the conduct of hisown affairs and in a matter of importance to him pull up hesitate and s seriously consider whether the think he thinks of doing is right and If such a dooubt exists in the mind of any member of this Court then he is bound by law to interpret that doubt in favour of this accused soldier.

Any Questions?
(No questions from Pros Def Off or Court)

Statement in mitigation.

Acc rests his case on the first charge. As for the AWL it is an entirely different charge. Acc enlisted in May 1940 and shortly before end of 40 came overseas Worked as a tradesman. Not a parade gound soldier but good trademan. In Apr 44 He was at Worthing Record shows apses but they are due to desire for drunk. In Apr 44 he heard of wife and her misconduct and went off on a spree. Had the "Hell with it idea". After his spree he found his unit had deported and he didn't know where to . Decided to keep on being AWL as he felt he was in for it anyway. No charge brought against him tillhe came back here. Was distressed and this explains first charge also.

Anxoous to serve at the front.

Ask for meniency.

Summary of Evidence in the Case of B-28395 Pte William Henry Thompson, RCASC

The accused has been informed of his rights.

The CO does not direct that the evidence be taken on oath nor does the accused demand that the evidence be taken on oath.

FIRST Witness for the Prosecution

Capt J.E. Mavins, Camp Comd HQ 6 Cdn Inf Bde having been duly sworn states:

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ2 Echelon 21 Army Group No. 19 dated 7 Jun44 certified to be true, it purports to establish that B-28395 Pte Thompson, W.H. was illegally absent from 0900 hrs 23 Apr 44 xxxxx and still absent 15 May 44. Exhibit "A".

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21 Army Group No. 36 dated 28 Jul 44 certified to be true. It purports to establish that B-28395 Pte Thompson W.H. was apprehended from desertion wef 1000 hrs 30 Jun 44. Exhibit "B".

"J E Mavins"
(J E Mavins) Capt
Camp Comd HQ 6 Cdn Inf Bde.

The accused declines to cross examine the witness.

Second Witness for the Prosecution.

M-17082 Sgt Ford, R.P. 2 Cdn Pro Coy, 2 Cdn Inf Div

A written statement of the witnesses evidence purporting to be a certified true copy xf has been read over to the accused, and is included in the Summary as Exhibit "C".

Having xxxx regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of the witness for cross examination.

"M D Morton Lieut."
(M D Morton) Lt.
Officer detailed to take the Summary of Evidence.

Third Witness for the Prosecution.

Mr- Leopold Andred, of Pourbus Street No.3 Antwerp,

A written statemtn of this witnesses evidence purporting tobe a certified true copy has been read to the accused and is included in the Summary attached as Exhibit "D".

Having regard to the exigencies of the Service, the attendance of this witness cannot be readily procured, in my opinion.

The accused does not demand the attendance of this witness for cross examination.

"M D Morton" Lt.
(M D Morton) Lieut.
Officer detailed to take the Summary of Evidence.

AC Kavanagh Maj

"AC Kavanagh"

Fourth Witness for the Prosecution. Madame A Westerlinch, owner of Cafe Anselmo, Antwerp.

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the Summary attached as Exhibit "E"

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M D Morton" Lt.
(M D Morton) Lt.
Officer detailed to take the
Summary of Evidence.

Fifth Witness for the Prosecution. Mlle Lisette Westerlinch of the Cafe Anselmo, Antwerp.

A written statemtn of this witnesses evidence purporting to be a certified tru copy has been read to the accused and in included in the Summary as Exhibit "F".

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M D MORTON" Lt.
(M D Morton) Lt.
Officer detailed to take the
Summary of Evidence.

Sixth Witness for the prosecution. B-135545 Pte M Havelin; 6 Bde Coy RCASC.

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the summary attached as Exhibit G.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"M D Morton" Lt.
(M D MortonLt.
Officer detailed to take the
Summary of Evidence.

The accused having been duly cautioned in accordance with RP 4 (e) says.

I have nothing to say. I know nothing about it.

Certified that RP 4(c)(d)(e)(g) have been complied with.

"M D Morton Lieut.
(M D Morton) lt.
Officer detailed to take the S
Summary of Evidence.

In the field.
9 Oct44.

LIST OF WITNESSES.

In the case of B-28395 Pte William Henry Thompson, RCASC HQ 6 Cdn Inf Bde.

A soldier of the Canadian Army Overseas.

PROSECUTION.

Capt J.E. Mavins, Ca p Comd HQ 6 Cdn Inf Bde.
M-17082 Sgt Ford R.P. 2 Cdn Pro Coy, 2 Cdn Inf Div.
Mr. Leopold Andres, Pourbus Street No. 3 Antwerp.
Madame A Westerlinch, Antwerp
Mlle Lisette Westerlinch, Antwerp
B-136643 Pte M Havelin, 6 Bde Coy RCASC.

Defence.

NIL.

LIST OF EXHIBITS.

Exhibit A	-	Extracts of HQ 6Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21Army Group, No. 19 Dated 7 Jun 44. Certified true cop .
ExhibitB	-	Extracts of HQ 6 CdnInf Bde Part II Orders issued by Cdn Sec GHQ.3 Ech 21 Army Group No. 26 Dated 28 Jul 44. Certified true copy.
Exhibit C	-	Written statement of M-17082 Sgt Ford R.P
Dhibit D	-	Written statement of Mr Leopold Andres
Exhibit E	-	Written statement of Madame A Westerlinch
Exhibit F	-	Written Statement of Mlle Lisette Westerlinch,
Exhibit G	-	Wrtiesn Statement of B-136643 Pte Havelin M.

6

STATEMENT BY ACCUSED.

I-B-28395 Pte William Henry Thompson c rtify that I have been given free of charge copy of documents, proceedings etc., relating to my trial by Field General Court Martial. I request the services of an Officer to defend me at my trial by Field General Court Martial.

Wm Thompson,
B-28395 Pte Thompson W.H.

PART II ORDER EXTRACT FORM E & I

99/20/1, G.S. 6 CIB/1(A.Sd)

TO: D & P
2nd Echelon

7 Oct 19 44.

EXTRACT FROM: Unit Headquarters 6 Can Inf Bde.

Part II Order No. 26 dated 28 Jul 44

Strength INCREASE

TOS on app from des wef 1000 hrs 30 JUN 44
B-2 395 Pte Thompson W.H.

"Certified to be a true extract from
the regimental books and documents
in my custody"

Ross Irwin.
(W.R. Irwin) Lieutenant
for Officer IC Records "D"
Cdn Sec GHQ 2 Ech21 Army Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
40/P & S/1276 (3209)
40/P &...

PART II ORDER EXTRACT FORM E & I

99/20/P.S.A. 6 CIB/1(A.Sd)

TO: D & P
2nd Echelon

7 Oct 19 44.

EXTRACT FROM: Unit Headquarters 6 Cdn Inf Bde.

Part II Order No. 26 dated 23 Jul 44

Strength INCREASE

TOS on app from des wef 1000 hrs 30 JUN 44
B-2 395 Pte Thompson W.H.

"Certified tobe a true extract from
the regimental books and documents
in my custody"

Hoss Erwin.
(W.H. Irwin) Lieutenant
for Officer IC Records "D"
Cdn Sec GHQ 2 Ech21 Army Gp

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
40/P & S/1276 (3209)

PART II ORDER EXTRACT FORM

E&A

TO:
D & P
2nd Echelon

99/20 H.Q. 6 Cdn Inf Bde/1 (A 5d)
5 Sep 19 44.

EXTRACT FROM: Unit Headquarters 6 Cdn Ifn Bde

Part II Order No. 19 dated 7JJune 44.

ABSENT WITHOUT LEAVE

(a) AWL from 0900 hrs 23 Apr 44 still absent 0900 hrs 1 May 44 (8th day)
B-28395 Pte THOMPSON RCASC
W.H.

(b) AWL from 0900 hrs 23 Apr 44 Still absent 0900 hrs 15 May 44 (22nd day)
B-28395 Pte THOMPSON RCASC
W.H.

"Certified to be a true copy of extract from the regimental b oks and documents in my custody"

"Ross Irwin "
(C.R. IRWIN) Lieutenant
Officer IC Records "D"
Cdn Sec GHQ 2 Ech 21 AGp

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

FCH—6
40-P & S/1276 (3209)

CANAMIAN PROVOST CORPS

File
3-0-0

No2Company 2 Cdn Ind Div 2 Cdn Corps.
Field. 26 Sep 44

Exhibit "C"

Re Alleged Robbery with Violence of Mr L ANDRES Antwerp
B-28595 Pte Thompson W.H. RCASC, 2 Cdn Inf Div

File
Refs

Ref the a/m I have to report that on 23Sep 44 I was detailed By Lieut Anderson,Offr i/c Antwerp Detachment 2 Cdn Provost Coy, to investigate a complaint from one L.Andres that he had been assaulted and robbed by two soldiers of the Cdn Army.

2. From infbrmation received I formed the opinion that the soldiers responsible for the robbery were RCASC personnel of 2 Cdn Inf Div and accordingly concentrated my investigation on RCASC Units within the Division. OC 2 Cdn Inf Div Tps Coy RCASC Major Telford informed me that two men who answered the description of the robbers had been seen on two occasions in a Hoboken Cafe when they were in possession of and spending a considerable amount of money. Mr. L Andries had alleged that 3000 Belgian francs and certain papers had been stolen from him.

3. After further enquiries I arranged an identification parade of personnel of 6 Cdn Inf Bde Co Echelon and on this parade Pte THOMPSON was identified by Mr. L Andries as one of the two robbers. A further positive identification of THOMPSON was made byMdme and Mlle WESTERINCK of the Cafe WMSELMO in Antwerp.

4. It was then ascertained that Pte HAVELIN had accompanied Pte THOMPSON at the time of the alleged robbery and a search of the unit revealed him to be AWL. On 25 Sep 44 after having received information that HAVELIN had returned to his Unit and was in custody, I proceeded to the Unit and questioned the accused and obatined from a voluntary statement which is appended hereto gogether with copies of statements from all witnesses. Pte Thompson refused to make any statement.

5. During the course of the assault and robber Mr Andries received injuries to his face which necessitated 5 stiches to close the wounds. In addition to the loss of money he also suffered the loss of all his Identity documents.

6. Charges of Robbery with Violence have been preferred against the a/m soldiers and forwarded this date to the Units concerned together with copies of all available evidence.

M#17082 Sjt ROMD R.F.
2 Cdn Provost Coy, 2 Cdn Inf Div.

ANTWERP 24th Sep 44 28 COPY

STATEMENT OF EVIDENCE.

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution and to show that I understand it I sign my name thereto.

Signed (L Andries)

"I am Mr. Leopold Andreis of Pourbus St., No. 3 ANTWERP. On the night of 22 Sep 44 I was in the Cafe ANSELMO at approx 2130 hrs, two Cdn Cmnd in, one, the tall one went up to the bar and ordered two beers, one for himself and one for the Mlle behind the bar, the short fellow had none. I then asked if they would have a drink with me, and they said yes, so I bought twodrinks for them. Shortly after that I went out to go home. The two fellows came out directly behind me and as I was approx 50 metres up the Ave. they came up on eith side of me and tried to take my wallet, I then asked what they wanted, and they said money, I said I have no money. The tall one then said we know you have money, we saw it. They then tried a second time befor they struck me. They then struck me several times and I was knocked unconscious. When I came to, I saw them run away and I found my wallet gone which contained 3000 francs and all my papers. I then returned to the Cafe ANSELMO where the Madame washed me and I started home again. I was met by two members of the White Brigade and taken to the Belgian Police, I was told to report to the Town Major, which I did the next day.

On the 24 Sep44 Sjt Ford of the Can Provost Corps met me at 1500 hrs and took me out to 6 Bde Coy RCASC, and I was almost certain that I recognized one of the men who attacked me. I was not certain but I was sure that I had saw the man Pte Thompson W.H. before. We then came back to the Cafe ANSELMO and the madame and the Mlle identified Pte Thompson as the men who I had bought the drink for.

I have given this statement of my own free will and it was written for me by Sjt Ford.

Signed L-Andries.

STATEMENT OF EVIDENCE E/F COPY

ANTWERP 24th Sep 44.

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name thereto.

(Signed) A Westerlinch.

"I am Madame A Westerlinch owner of the Cafe ANSELMO. On Friday, 22 Sep 44 two Cdns came in my Cafe at approx 2130 hrs Mr. L Andries was already in the Cafe. The tall fellow bought two beers one for the Mlle and one for himself, the short fellow had no beer. After a few minutes Mr. Andries asked the Cdns if they would have a drink with him, the said yes, he changed a 1000 frnac note and bought two drinks. Shortly after he left the Cafe, after Mr Andries went out, the short fellow said to tht tall one, "Come on we will go", they then followed him. In approx 10 minuted, Mr. Andries came back, and he was badly cut and bleeding from the face. I washed him up and he left for the doctor. On the 24 Sep 44, Sjt Ford of the Cdn Provost Corps came and he brought with him Pte Thompson and three other Cdns, I positively identified Pte Thompson as the tall fellow who Mr Andries bought the drink for.

I have given the above statement tosjt Ford of the Cdn Provost Corps and it is written by him.

(Signed A Westerlinch. ANTWERP, 24th Sep 44.

STATEMENT OF EVIDENCE.

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence

I have read the above caution, and to show that I understand it I sign my name thereto.

(Signed L ;Westerlinch.

"I am Mlle, Lisette Westerlinch of the Cafe ANSELMO, Antwerp. On Friday, 22 Sep 44, Mr. Andries came in our Cafe at approx 2000 hrs. At about 2140 hrs two Cdns came in the bar and ordered two beers. The tall one, ordered one for me and one for himself, the small fellow had none. Mr. Andries then aseked the small Cdn if he would have a drink and he said, "Yes", so he bought two drinks, one for himself and one for the small Cdn. To pay for the Drinks he changed a 1000 franc note. Shortly after this Mr.Andries went out. The short Cdn Said, "Come on boy, we must go", and they followed Mr. Andries out. In abo t 10 minutes, Mr. Andries came back, he was badly cut on the face and bleeding. M aunt the washed Mr. Andries face and he left for the doctor. On 24 Sep 44. Sjt Ford, of the Cdn Provost Corps came to the Cafe and with him were four Cdns. I positively identified Pte Thompson as the man who was in the Cafe and I had the beer with.

(Signed) L Westerlinch.

COPY E&I

Field 25 Sep 44.

STATEMENT OF EVIDENCE.

You are not obliged to say or state anything but anything you do say or state will be taken inwriting and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name therto.

(Signed) M Mavelin.

"I am B-136843 Pte M Mavelin, 6 Cdn Coy RCASC. On the night of 22 Sep 44. Pte Thompson and myself went out drinking. We went to ANTWERP about 1930 hrs, we went to several Cafes and finally about 2130 hrs we came to the Cafe ANSELMO,. There were several Cdns and several civilians in the the Cafe. Thompson went to the bar and ordered two beers, one for himself and one for the girlbihind the bar, In a few minutes, Mr. Andries came over and I felt that if I drank beer I would be sick. I sat down at a tabel about 10 or 12 feet from the bar, In a few minutes, Mr Andres came over and asked if would have a drink, I said "Yes", so he went up to the bar and bought two cognacs. I did not notice what size of bill he paid for the drink with. Shortly after this he shook hands with me and left, as the bar was closing I said to Thompson, "Come on let's go". We went out with several other Cdns Directly behind Mr Andries. After we get outside, Thompson said, "lets follow that guy and we will ask the way home". Then we caught up to him, Thompson grabbed him by the arm and said something about which way to Hoboken, He then said, "give me 200 francs as I know you have the money", suddenly there wa a bit of a scuffle and Thompson broke away and ran after knocking the old man down. I did not know what had happened until Thompson called me and said,."come onlet's get out of here in a hurry", He wanted me to run and I said "tohellwith running, I can't run", He then said "come on let's hurry, I got the guy's purse". After we had walked on a bit further, he handed me some money, 400 or 500 francs. We went into a Cafe before we crossed the bridge, and had a drink. After we came out andsbot when we were on the bridge, and we stopped for a piss and it was then when Thompson threw away the wallet. We then went on to Hoboken and after spending some time in several Cafes we came home.

I have given the above statement to Sjt Ford and my own free will.

(Signed) M Mavelin.

Substitute for AFB 296
or MFB 355

STATEMENT OF CHARACTER & PARTIUULARS OF SERVICE OF ACCUSED.

3-28395 Pte Thompson HQ 6 Cdn Inf Bde.

Age 30 Married No. of Dependents 3. Date of attestation 30 May 40

number of days in close arrest awaiting trial 11 days. Military
custody 16 days.

In the Field

11 Oct 44.

J E Mavins Capt.
Officer i/C Records.
HQ 6 Cdn Inf Bde.

Certified to be true copy of AFM 6 must accompany this form.

No. 3-28395 Name THOMPSON William Henry

Sqn, Battery, or Company

Corps

Date of enlistment 31-5-40 GC Badges

Service or Proficiency Pay

MFM 6 (AFB 122) 10/PAS/158 (3438)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AA Sec 15(1) When on active service absenting himself without leave from 1-8-40 to 12-8-40 TTA 11 days		Ten days pay and 28 days Detention.	13-8-40		As amended by Part II Order 222 of 27-11-40
Field.				AA Sec 15(1) When on active service absenting himself without leave from 1700 hrs 21 Feb 41 to 1 Mar 41		9 days pay and 12 days detention.	3-3-41		Forf 9 days pay (R&I 149(1)) 1CGHU DO 46 d/ 3 Mar 41
				AA Sec 15(1) WOAS absenting himself without leave from 3 May 42 to 4 May 42.		12 days pay	9 May 42		12days pay (R&I 149 (1) and (2) HQ 1 Cdn Div DO 22 9 May 42.

(TO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				AA Sec 40 AA Sec 15(1) WOAS absenting himself without leave from 0830 hrs 25 Sep42 until app 2115 hrs 16 Oct 42.		Forf 21 days pay FOCM awarded 6 months det forf 225 days pay	11/7/42		21 Days pay FR&I 1 9(2) 225 days pay and stoppages of £2-2-0 DO 51 d/27 Nov 42
Field				AA Sec 15(1) WOAS absenting himself without leave from 0700 hrs to 2359 hrs 31 Oct 42		Forf 1 days pay		1 CCMU	DO 223 d/8 Feb 43.
Field				AA Sec 15(1) WOAS absenting himself without leave from 0700 hrs to		Forf 42 days pay and stoppage of £4-0-5.	5-11-43		28 days F.P.42 da s pay and stoppages £4-0-5.
Field.				AA 15(1) WOAS absenting himself withe leave fro 0700 hrs 14 Oct 43 to 0100 hrs 28 Oct 43					
				Certified True Extract fro m all available sources.		W D Morton Lit.		S/L C Cdn Inf Bde.	

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: [illegible]

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	not guilty	guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Present under sentence for [illegible] beginning on (date) [illegible] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for [illegible] or five (5) years.

(Sgd) [illegible] Judge-Advocate, if any. Date awarded. (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 19 Oct 44. (Sgd) [illegible] Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed.

I direct that the accused be not committed to prison or detention barracks until further [illegible] (1)

(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Commanding Officer.

Date 20 Oct 44.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

2 Nov 44. [illegible] Lieut.

/3-20396 Pte Thompson W. A. ROASC HQ 6 Cdn Inf Bde.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of [illegible] Comd dated [illegible]

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.

[illegible] Pte Thompson W. A. RCASC HQ 6 Cdn Inf Bde

Certified True Copy

[signature] D.J.A.

PROCEEDINGS OF TRIAL.

Held in the Field (Country) [illegible] on (date(s)) [illegible]

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(a) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At [illegible] hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial instead of being dealt with summarily by the CO.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as interpreter? Ans [illegible]

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans [illegible]

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans [illegible].(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President [illegible]

Member [illegible]

Member [illegible]

Judge-Advocate [illegible]

Prosecutor [illegible]

Defending Offr [illegible]

Questions by President: Is the Prosecutor a lawyer? Ans [illegible]. Is the Defending Offr a lawyer? Ans [illegible].(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 33.)

A8. The accused [illegible] before arraignment make(s) (no) (1) plea(s).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.C.M.D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty to ~~Guilty~~ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ~~Part I of the Schedule is amended accordingly.~~ charge(s).
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1) Attached Elsn
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do neither. Do you intend to call witnesses on your behalf? Ans. Yes Sir. Are they witnesses as to character only? Ans.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes thank my esp Offr.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should not limit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused 3-R305 Pte Willis a Henry Thompson, RCASC
HQ 6 Cdn Inf Div, a soldier of the Canadian Army Overseas
is charge with:

First charge — Char on active service committing a civil offence,
Sec 41 — that is to say, robbery with violence contrary
Army Act — to section 23 (1) (a) of the Larceny Act 1916.

in that he

In the Field on 22 Sep 44 at about 2200 hrs in the city of Antwerp, Belgium did rob Mr Leopold Andree, Bourse Street in the city of Antwerp of a wallet containing 5000 France (Belgian) and at the time of the robbery did use personal violence to the said Mr Leopold Andree.

Second Charge — When on active Service, absenting himself without
Section 15(1) — leave
Army Act

in that he

In the Field on 23 Apr 44 absented himself without leave from 0900 hrs until a prehended at 1000 hrs 3 Jun 44.

Absent 67 days, 1 hr.

R T Rutherford Major
(R T Rutherford) Major
RM 6 Cdn Inf Div

To be tried by Field General Court Martial.

11 Oct 44.

J Gauvreau Lt-Col
Charges approved under YR(Can) 640. A/comd 6 Cdn Inf Div.

E W McDougall Capt
ACJA 2 Cdn Inf Div
10 Oct 44.

A C Kavanagh Major.

ACA avanagh

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-28395	Pte		Wilbur Henry	THOMPSON	RCASC HQ 2 Cdn Inf Div.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Oct 44. endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ X
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ X
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A C KAVANAGH MC	Dept of C.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J J J A LANGLOIS	P of W R
Capt	L FINDLAY	P of W R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R A ADAMS	2 Sask R.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E K McCONNAFF	HQ 2 Cdn Inf Div

On Active Service in the Fd

in Belgium (Country.) J G Gauvreau Lt-Col (Signed personally. RP 105 fn 2.) (Rank.)

Date 11 Oct 44. Commanding 2 Cdn Inf Div. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAOS 11n lieu of AFAS 40/F & S/1097 (4031)

(See overleaf for oaths and notes for use on trial.)

HQ 6 Gds Inf Bde

Medical Certificate (W.D.(Gen) 587)

I certify that I have this morning examined 3-28396 Pte Thompson W.H. of HQ 6 Gds Inf Bde and in my opion he is fit to undergo trail by Court Martial.

In the Field
12 Oct 1944.
0945 hrs.

P Kingstone Capt.
Medical Officer.

GCh

First witness Mr Leopold Andres Bourkes St Antwerp Belgium duly sworn states; Deponent:-

"I am Leopold Andres of Antwerp. On 23 Sep 44 I was in the Cafe Angelino. At 2100 hrs two soldiers walked into the cafe. I was ready to leave and was standing at the bar xxxxxxxxxxxxxxxxxxxx at the time. One of the 2 walked to the bar and asked for a drink for himself and the bar maid. The other one went to the table and sat down without having a drink. Then asked barmaid to give the soldier at the table something to drink. We all had a drink together and then I paid for the drinks and changed a 1000 franc bill. After that I left. After I left the 2 soldiers followed me into the street. After walking a bit I felt one of the soldiers feel in his vest coat pocket. They were walking beside him. Then I asked them what they wanted and the answer was money. I said I didn't have any. One soldier answered we know you have some as we saw it. I said we'd go to another cafe and I'd give him some money there. All this was said by the same one of the soldiers. A little further down the same one tried again to get in to his inside coat pocket. I put my hand over my wallet. A little further down I was struck twice once on the chin and once behind the ear. I sank to my knees and went into a daze. After I came to the soldiers ran away and my wallet was gone. The one walking on my left was the one who had done all the talking, who had tried to take my wallet and also the one who struck me. He had been in the cafe. He was the one who was standing at the bar in the cafe talking to the girl. After being hit I went back to the cafe and the lady of the cafe washed my face. Then I went to the police station, they called for a doctor and the doctor served up my wounds. Then a policeman took me home. The next morning I went to see Colby the town major, and the following Sunday 24 Sep I went to the Camp with the Provost and there I recognized one of the two soldiers. It was the one who had been on my left side, the one that had struck me. I picked him out from about 20 soldiers. Then the Sgt took him along with 2 other men back to the Cafe and I saw the barmaid and the lady who owns the place recognize the soldiers. I identify the Accused here to-day as the person on my left who struck me. (Witness points out the acc to the court/.

It was about 10 p.m. when he struck me and took my wallet. In my wallet I had 2 billos of 1000 francs and some other notes totalling about 3000 francs one of the soldiers was taller than the other. It was the taller one that stuck me. It was also the taller one who had attempted to take my wallet from my pocket. I had charged one 1000 francs note in front of the acc at the bar. I was standing next to him at the bar and got a xxxxxxxxxx good look at him. The two soldiers followed me out of the Cafe I didn't see any other soldier come out of the Cafe.

Cross Ex. I went to the Cafe about 8 o'clock (2000) hrs. The soldiers came in I would say around 2130 hrs. I had been drinking in the Cafe. I don't do this very often. I had had two or three beers and also some cognac. Other soldiers came and went during the evening. I think they were all English Acc bought a beer for himself and the bar maid. I bought them a drink as the one at the table didn't have a drink. I asked the one at the table if he'd have a drink. Don't remember if I asked one at the bar to have drink. I went to the table and had my drink with the soldier at the table. I talked to the soldier at the bar also. I left at 2200 hrs to go home. The cafe was not closing. At this time there were only two soldiers in the cafe. It was a very dark night. Two soldiers came up, one on each side of me. I thought they were coming along with me at first. The Cafe was lit like any other Cafe.

The tall one on my left did all the talking. The other one was on my left over the back I could see this. I speak a little bit of English At the time this happened I usually carried about 3000 francs I saw the soldiers side by side when they entered the cafe.

No. re-Ex
Court My wallet with all my papers also was taken with the three thousand francs

R.P. 83(3) complied with.

2nd Pros Witn. Miss L Westerlinck, Cafe Anseleno Antwerp duly sworn deposes:-

"On Sunday about 2000 hrs Mr. Andres came to the Cafe Anseleno. Later two Canadians came in. One had a beer and the other sat down at a table the one at the bar offered me a beer. Mr Andred went and sat by the one at the table. I had a drink with the one at the bar. About 2200 hrs Andres went out. The Can sitting down was the shorter of the two. The two Cans then left. A few minutes later Mr Andres came back and he was bleeding. He went to the police after been cleaned up.

A couple of days later , the MPs came & was asked her if she recognized any of the three men. I recognized one of them. It was the tall one who had been in the Cafe that night. The one who had bought me the beer. He had been at the counter when Mr Andres had paid for the drinks. They were close together. Andres paid for the drinks with a 1000 franc note. I handed to the tall soldier. He was perfectly normal.

When Andres left there was soldiers in the Cafe. Three Cans went out just before hi . When Andres actually left there were just 2 Cdn left the taller one and the shorter one. They left right after Mr Andres the short one opened the door for Mr Andres. I recognize the Cdn as being the Cafe Anseleno that night. He was the tall soldier.

Cross -Ex. Mr Andres is a pretty regular customer. He a daily customer. He don't drink very much. I remember the 1000 fr note as my aunt, the one has to go and change it. I took Andres drink to the table. A bout ten of cap we had lots of Cans in our Cafe.

No re-Ex.

Court.-- Nil.

R.P.S 53(c) complied with.

Third Pros Witness S-136043 Pte Melvin W G (I R Can) RCASC duly sworn deposes:-

On night of 2 Sep 44 I was supposed to go out with my Vessel. He couldn't so he asked Thompson and me to go downtown with him. We had a couple a beers and cognac in a pub and after that we took a tram to the Antwerp. In a pub in Antwerp we met a sailor who took us to the Alaska Cafe. We left there and started back to camp. En route we dropped into another Cafe. Thompson went to the counter. I felt sick and refused a beer from the man. Mr Andres then came in the cafe & drank with him and I did have a drink with him. After the drink Andres said good night and left the cafe. As I was in the pub was then I said "Lets get to Thompson. As I was Andres and Thompson said "Lets get to Thompson. As I was Andres and Thompson his arm caught him by the arm and swung him around. Then Thompson said "Give me 200 francs as I know you have the money" He was Andres from the Cafe. Andres was kind of a scuffle and Thompson says "Come on lets go. Lets get away. In a hurry. I have the old mans purse". Further on down the street Thompson gave me 4 or 5 hundred francs. We went into a pub and had a beer. Then we came out and headed towards BOURNEL. At the bridge we stopped and had a beer and Thompson I think threw the purse into the river. We then went into another Cafe and spent the rest of the night there till we went back to barracks about 0400 hours.

It was at Rue Andres and I think it was at it was dark. He was only drinking I had talked to . He was beside him for a while. I was on the right hand side. Thompson was on Andres left. I didn't see Thompson take an attempt to take his wallet from his pocket. The scuffle was s quick I can't remember much of it. While walking there had been some conversation between Acc and Andres. Can't Acc say he was he has, the Acc was with a purse and money afterwards. Thompson said "Come on I have the old mans purse. It was dark out po could recognize objects.

Cross Ex. I don't think I'm short left Ca p that night about 1800 hrs arrived at ale Anseleno about 1100 hrs I had been drinking but knew what I was doing. I didn't feel like a beer at the Anseleno. Was feeling a little sick. Don't like beer much. Prefer whisky. Cafe quite bright. Was pretty sure it was Andres. I'm sure the purse was thrown away. I

I walked to Andres in the Cafe. He talked to me in a little English. Don't think he talked to Thompson there. I suggested we leave. I did not open the door. 3 other Brits left right behind Andres when we left. We walked beside Andres. Was some sort of a scuffle.

We Ex. Gendarmer leaving with Acc and following, the I think was Andres. Thompson said "I have the old mans purse."

Do not ,I've no friend of the Acc I knew him to see. We both had money The acc didn't mention any intention of robbery to me. On leaving Cafe Cassino don't know how much acc had. Dont know how much was in the we let. I didn't see the old mans wallet in the pub we were in before we got to the bridge. The next day Acc asked me for a couple of hundred francs. I didn't see any 1000 franc notes in Thompsons hands.

R.P. 39(3) complied with.

Defence Nil

Prosecutor makes closing address (said)
Defending Officer makes closing address (said)

J.A.S.M. sums up (said)

Opening Address by Prosecutor.

Gentlemen:

This morning you have before you one 3[illegible]595 Pte Thompson W.H. who has been charged with Robbery with violence under Sec 41. and AWL under AA 15(1).

The first charge willbe proved by showing that (1) Mr. Leppld Andres was robbed by Pte Thompson. (2) That he used violence to commit the Robbery.

The second will be supported by documentary evidence in the form of extracts of Part II Order HQ 6 Cdn Inf Bde.

W.D. Norton Lt
Prosecuting Officer.

Closing Address

The evidence of Mr Andres established beyond a shadow of doubt that he picked out Thompson as the person he was standing next to talking to while Westerlinch and as the tall soldier who was on his left, who tried twice to take his wallet which contained 3000 francs. Mr Andres identified Thompson from a parade of about 20 soldiers.

The westerlinks evidence collaborates the identification of Thompson, as the person who bought her drinks, and the person who was with Havelin when he came in and went out. The Cafe Anselmo, and that Thompson was the man referred to as the tall Sgt. Pte Havelin collaborates all the circumstances of events in the Cafe Anselmo. He states he was with Thompson all night during the town of puns. He admits having recived 400 or 500 frans from Thompson, which he states was in the purse which Thompson took from Mr. Andres. This all adds to and completes the picture of robbery with violence. The examination as set out in Part II has been duly filled. There was robbery of 3000 francs and a let fr Mr. Andres. violence was used with the intention to take wa let and money from Mr. Andres.

Gentlemen I submit the case against Pte Thompson is proved. The circumstances and facts quantuntiate the charge.

W.D. Norton Lieut.

Address of Defending Officer

Charge of Robbery with Violence

1. Case of prosecution rests on two points.
(a) Identification of two soldiers one tall and one short as being in the Cafe with witness Andries on the night of 22 Sep 44.
(b) Statement of Pte Havelin that accused did give him money presumed to have been taken from Andries.

2. It is admitted that a case had been proved showing accused as being in the cafe at the time when Andries was there but it has not been proven beyond a reasonable doubt that he was associated on the street with violence and robbery to Andries.

3. It appears that Andries has convinced himself that the two Cdn soldiers who were in the Cafe one at the bar and one having a drink with him and who followed him out, had been the assaulters. In refutation, the following points are put forward.
(a) It was bright in the cafe and quite dark outside vision for a short time would be unreliable.
(b) Andries purports to recognize the accused as the man on his left who was talking largely by his voice but there is no evidence that he heard accused talking or spoke to him. Discontacts in the cafe were all with Havelin.
(c) His evidence concerning one short and one tall soldier seem a bit complicated. He states that only the two Cdn soldiers were in the Cafe when he left when other witnesses do not confirm. He says that the other soldiers in the cafe were English while other witnesses say there were three other Cdns who left just before Andreis. It is submitted that the witness did not in the Cafe take sufficient note of the soldier at the bar to enable him to positively and certainly identify him in the dark after a night of drinking. He was probably frightened silly when approached by two things in the dark and fastened on the two soldiers in the cafe as the ones who attacked him.
4. The prosecution contends that the evidence of Havelin confirms the tale of Andries and adds evidence that it was Thompson and not himself who did the robbery. It is submitted that Havelin was in no condition to know what was going on. He had been drinking steadily from 1800 hrs. to 2130 hrs and even refused a beer because he was not able to absorb it. His recital of deatils is confused and uncertain. He did not see Thompson take the wallet or strike Andries nor did he sound convincing in his story about the accused disposing away a wallet he didn't see.
5. Havelin drank with Andries he it was who suggested to leave and is said to have opened the door for the civ cap. It is suggested that his story could easily have been concocted to explain a sudden increase in means or to reduce the charge which he would have to face on being complicated in the affair.
6. There is no evidence that there was any shortage of money in either case and we have only the word of Havelin that he received money from the accused.

L S Laing Capt.

J.A. Sums up

As the members of the Court are undoubtedly aware this is a very serious charge which the Accused is now facing. I shall endeavour to advise you as to the law involved and I know that you will consider the evidence well before reaching any decision. The charge is laid under AA 41 and alleges that the Acc committed a civil offence, that is to say, Robbery with violence. The burden of proof rests always upon the Prosecution and it is the task of the Prosecutor to discharge this onus. The Acc need not prove his innocence. The pros must prove his guilty beyond a reasonable doubt.
The charge consists of the statement of the offence and the particulars. You must therefore now decide whether or not the particulars have been proved, and if you decide they have been, then do these proved facts constitute the offence charged.
Archbold (987) describes Robbery as follows:- Robbery consists in the felonious and forcible taking from the person of another, or in his presence against his will of any money or goods to any value by violence or putting him in fear. For in this the Prosecution must prove an actual taking, that is, it must appear that the robber

actually at possession of the property alleged to have been stolen. A carrying away, or as portation, must also be proved. In addition, the propert must be proved to have been taken from the person of or in his presence. All these must be proved by the prosecution. you have heard the evidence of [illegible] have already been that ged and whose case had been disposed of. He was therefore a witness without fear of self incrimination. However he comes very close to being an accomplice and for that reason I suggest that you treat his evidence with caution and look for corroboration of his story in some material way. There is apparently little dispute concerning the actual evidence. The Defence is arguing that there has been sufficient identification of Thompson as the man who struck and robbed Mr Andres. This will be an important decision. You must decide whether it has been proved beyond a reasonable doubt that Thompson was the assailant and the robber. If you feel it has been some one else than Thompson he is entitled to be acquitted. If you feel some Thompson was the person, then there need not be an acquittal on this ground. Look well at the evidence of Mr Levelin and Andres on this point.

I need be lacking in my duty, if I did not charge you that it is a most serious offence that is charged. I mean the offence alleged is an offence against a civilian in a foreign country. Just imagine what a consequence rule. [illegible] alleged then I may explain that it is most serious. Under British law every man is innocent till the contrary is proved beyond a reasonable doubt. Reasonable doubt is real and substantial doubt. It is not idle reflection that nothing in this life is absolutely certain. It is such a doubt as would make a reasonable man in the conduct of his own affairs and in a matter of importance to him pull up, hesitate and seriously consider whether he thinks he thinks of doing is right and if such a doubt exists in the mind of any member of this court then he is bound by law to interpret that doubt in favour of this accused soldier.

Any questions?

(No questions from Pros. Def or Court)

Statement in extenuation.

Acc wants his case on the first charge. As for the AWL it is an entirely different charge. Acc enlisted in May 1940 and shortly before an of 4c camp overseas posted as a tradesman. Not a regular but soldier but good tradesman. [illegible] front. In April he was at Worthing [illegible] apse. At that time he became fed up. Had [illegible] wife and her discontent and went off on a spree. Had [illegible] it idea". After his spree he found his unit had departed and he didn't know where to . Decided to keep off path. Any way he felt he was [illegible] it anyway. To charge brought against him till he came back here. was distressed and that explains first charge also.

Anxious to serve at the front.

Ask for leniency.

Summary of Evidence in the Case of C-28390 Pte
William Henry Thompson, C.A.S.C.

The accused has been informed of his rights.

The CO does not direct that the evidence be taken on oath nor does the accused demand that the evidence be taken on oath.

First Witness for the Prosecution

Capt J.E. Mavins, Ca p Comd HQ 6 Cdn Inf Bde having been duly sworn states:

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec HQ2 Echelon 21 Army Group No. 19 dated 7 Jun44 certified to be true. It purports to establish that C-28390 Pte Thompson, W.H. was illegally absent from 0900 hrs 30 Apr 44 xxxxx and still absent to May 44. Exhibit "A".

I present extracts of HQ 6 Cdn Inf Bde Part II Orders issued by Cdn Sec HQ 2nd Echelon 21 Army Group No. 26 dated 28 Jul 44 certified to be true. It purports to establish that C-28390 Pte Thompson W.H. was apprehended from desertion was 1000 hrs 30 Jun 44. Exhibit "B".

"J E Mavins"
(J E Mavins) Capt
Camp Comd HQ 6 Cdn Inf Bde.

The accused declines to cross examine the witness.

Second Witness for the Prosecution.

M-17082 Sgt Ward, R.S. 8 Cdn Pro Coy, 3 Cdn Inf Div

A written statement of the witnesses evidence purporting to be a certified true copy xf has been read over to the accused, and is included in the Summary as Exhibit "C".

Having xxxx regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of the witness for cross examination.

"R D Morton Lieut."
(R D Morton) Lt.
Officer detailed to take the Summary of Evidence.

Third Witness for the Prosecution.

Mr. Leopold Andred , of Fourbus Street No.3 Antwerp.

A written statemtr of this witnesses evidence purporting tobe a certified true copy has been read to the accused and is included in the Summary attached as Exhibit "D".

Having regard to the exigencies of the Service, the attendance of this witness cannot be readily procured, in my opinion.

The acc sed does not demand the attendance of this witness for cross examination.

"R D Morton" Lt.
(R D Morton) Lieut.
Officer detailed to take the Summary of Evidence.

AC Kavanagh Capt

" AC Kavanagh " .

Fourth Witness for the Prosecution.

Madame A Vasterlinck, owner of Cafe Anselmo, Antwerp.

A written statement of this witnesses evidence purporting to be a certified true copy has been read to the accused and is included in the Summary attached as Exhibit "P"

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"W D Morton" Lt.
(W D Morton) Lt.
Officer detailed to take the Summary of Evidence.

Fifth Witness for the Prosecution.

Mlle Lisette Vasterlinck of the Cafe Anselmo, Antwerp.

A written statemtn of this witnesses evidence purporting to be a certified tru copy has been read to the accused and is included in the Summary as exhibit "P".

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"W D MORTON" Lt.
(W D Morton) Lt.
Officer detailed to take the Summary of Evidence.

Sixth Witness for the prosecution.

3-13664 Pte [illegible] Havelin: 6 Bde Coy ROASC.

A written statement of this witnesses evidencepurporting to be a certified true copy has been read to the accused and is included in the summary attached as Exhibit P.

Having regard to the exigencies of the service, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

"W D Morton" Lt.
(W D Morton Lt.
Officer detailed to take the Summary of Evidence.

The accused having been duly cautioned in accordance with RP 4 (e) says.

I have nothing to say. I know nothing about it.

Certified that RP 4(c)(d)(e)(g) have been complied with.

"W D Morton Lieut.
(W D Morton) Lt.
Officer detailed to take the Summary of Evidence.

In the field.
9 Oct44.

LIST OF WITNESSES.

In the case of B-28395 Pte William Henry Thompson, RCASC HQ 6 Cdn Inf Bde.

A soldier of the Canadian Army Overseas.

PROSECUTION.

Capt J.E. Mavins, Ca p Cmnd HQ 6 Cdn Inf Bde.
M-17082 Sgt Ford R.P. 2 Cdn Pro Coy, 2 Cdn Inf Div.
Mr. Leopold Andres, Bourbon Street No. 5 Antwerp.
Madame A Westerlinch, Antwerp
Mlle Lisette Westerlinch, Antwerp
B-136643 Pte M Pavelin, 6 Bde Coy RCASC.

Defence.

NIL.

LIST OF EXHIBITS.

Exhibit A - Extracts of HQ 6Cdn Inf Bde Part II Orders issued by Cdn Sec GHQ 2nd Echelon 21Army Group, No. 15 Dated 7 Jun 44. Certified true cop .

Exhibit B - Extracts of HQ 6 CdnInf Bde Part II Orders issued by Cdn Sec GHQ.3 Ech 21 Army Group No. 26 Dated 23 Jul 44 Certified true copy.

Exhibit C - Written statement of M-17082 Sgt Ford R.P.

Exhibit D - Written statement of Mr Leopold Andres

Exhibit E - Written statement of Madame A Westerlinch

Exhibit F - Written Statement of Mlle Lisette Westerlinch.

Exhibit G - Written Statement of B-136643 Pte Pavelin M.

6

STATEMENT BY ACCUSED.

I-B-28395 Pte William Henry Thompson certify that I have been given free of charge copy of documents, proceedings etc, relating to my trial by Field General Court Martial. I request the services of an Officer to defend me at my trial by Field General Court Martial.

Wm Thompson,
B-28395 Pte Thompson W.

PART II ORDER EXTRACT FORM Ex I

TO: D & P
2nd Echelon

99/20/A.G.C.(R/Ins.Sec.)
2 Sep 44 19 44

EXTRACT FROM: Unit Headquarters 6 Cdn Inf Bde.

Part II Order No. 86 dated 29 Jul 44

Strength INCREASE

WOS on app from dos wef 1000 hrs 30 JUN 44
3-2 305 Pte Thompson T.F.

"Certified to be a true extract from the regimental books and documents in my custody"

Ross Erwin.
(W.R. Irwin) Lieutenant
for Officer IC Records "D"
Cdn Sec GHQ 2 Echel Army Gp

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

FCH—6
40/P & S/1276 (3209)

PART II ORDER EXTRACT FORM

E & A

TO: D & F
2nd Echelon

99/20/[illegible] C.M.I. (A Sd)

6 Sep 19 44.

EXTRACT FROM: Unit Headquarters C.M.I. (A Sd)

Part II Order No. 19 dated 7 June 44.

AWOL WITHOUT LEAVE

(a) AWL from 0900 hrs 25 Apr 44 still absent 0900 hrs 1 May 44 (6th day)
3-28395 Pte THOMPSON ROASC
W.E.

(b) AWL from 0900 hrs 25 Apr 44 still absent 0900 hrs 15 May 44 (22nd day)
3-28395 Pte THOMPSON ROASC
W.E.

"Certified to be a true copy of extract from the regimental books and documents in my custody."

"Hugh Irwin"
(H.H. IRWIN) Lieutenant
Officer IC records "D"
Hdqrs Dec GHQ 2 Ech 21 Aug 44

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

ECH—6
40/P & S/1276 (3209)

CANADIAN PROVOST CORPS

File
B-0-0

No.Company 2 Cdn Ind Div 2 Cdn Corps.
Field. 26 Sep 44

Exhibit "C"

Re Alleged Robbery with Violence of Mr L ANDRIES Antwerp
B-48.00 Pte Thompson W.R., RCASC, 2 Cdn Inf Div

File
Info

Ref the a/m I have to report that on 25Sep 44 I was detailed by Lieut Anderson, Offr i/c Antwerp Detachment 2 Cdn Provost Coy, to investigate a complaint from one L.Andries that he had been assaulted and robbed by two soldiers of the Cdn Army.

2. From information received I formed the opinion that the soldiers responsible for the robbery were RCASC personnel of 2 Cdn Inf Div and accordingly concentrated my investigation on RCASC Units within the Division. OC 2 Cdn Inf Div Tpt Coy RCASC Major Telford informed me that two men who answered the description of the robbers had been seen on two occasions in a Robeson Cafe when they were in possession of and spending a considerable amount of money. Mr. L Andries had alleged that 5000 Belgian francs and certain papers had been stolen from him.

3. After further enquiries I arranged an identification parade of personnel of 2 Cdn Inf Div Tpt Coy RCASC Echelon and Units parade the suspects were identified by Mr. L Andries as two of the two men here. No further positive identification of suspects was made by him and while [illegible] of the Cafe ARDENNE in Antwerp.

4. It was then ascertained that the SAVELIN had accompanied Pte THOMPSON on the date of the alleged robbery and a search of the unit revealed him to be A/T. On 26 Sep 44 after he had received information that SAVELIN had returned to his unit and was in rest Qtr, I proceeded to the billet and questioned the accused and obtained from a voluntary statement which he appended hereto together with copies of statements from witnesses. Pte Thompson refused to make any statement.

5. During the course of the assault and robbery Mr Andries received a blow to his face which necessitated stitches to close the wound. In addition to the loss of money he also suffered the loss of all his identity documents.

6. Charges of Robbery with Violence have been preferred against the a/m soldiers and forward herewith to the Units concerned together with copies of all available evidence.

[illegible]
2 Cdn Provost Coy, 2 Cdn Inf Div.

E.D.

EE. COPY

STATEMENT OF EVIDENCE.

ANTWERP 24th Sep 44.

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name thereto.

(Signed) A Westerlinck.

"I am Madame A Westerlinck owner of the Cafe ANSELME. On Friday, 22 Sep 44 two Cdns came in my Cafe at approx 2130 hrs Mr. L Andries was already in the Cafe. The tall fellow bought two beers one for the Wife and one for himself, the short fellow had no beer. After a few minutes Mr. Andries asked the Cdns if the would have a drink with him, the said yes, he changed a 1000 franc note and bought two drinks. Shortly after he left the Cafe, after Mr Andries went out, the short fellow said to that tall one, "Come on we will go", they then followed him. Approx 5 minutes, Mr. Andries came back, and he was badly cut and bleeding from the face. I washed him up and he left for the doctor. On the 24 Sep 44, Sgt Ford of the Cdn Provost Corps came and he brought wit him Pte Thompson and three other Cdns, I positively identified Pte Thompson as the fellow who Mr Andries bought the drink for.

I have given the above statement to Sgt Ford of the Cdn Provost Corps and it is written by him.

(Signed A Westerlinck.

ANTWERP, 24th Sep 44.

STATEMENT OF EVIDENCE.

You are not obliged to say or state anything but anything you do say or state will be taken down in writing and will be used as evidence.

I have read the above caution, and to show that I understand it I sign my name thereto.

(Signed L Westerlinck.

"I am Mlle. Lisette Westerlinck of the Cafe ANSELME, Antwerp. On Friday, 22 Sep 44, Mr. L Andries came in our Cafe at approx 2000 hrs. At about 2140 hrs two Cdns came in the bar and ordered two beers. The tall one, Andries then asked the small Cdn if he would have a drink and he said "Yes", so he bought two drinks, one for himself and one for the small Cdn. To pay for the drinks he changed a 1000 franc note. Shortly after this Mr.Andries went out. The short Cdn said, "Come on boy, we must go", and they followed Mr. Andries out. In about 10 minutes, Mr. Andries came back, he was badly cut on the face and bleeding. My aunt then washed Mr. Andries face and he left for the doctor. On 24 Sep 44, Sgt Ford of the Cdn Provost Corps came to the Cafe and with him were four Cdns. I positively identified Pte Thompson as the bar who was in the Cafe and had the beer wit .

(Signed) L Westerlinck.

COPY Encl 3.

Field 25 Sep 44.

STATEMENT OF EVIDENCE.

You are not obliged to say or state anything but anything you do say or state will be taken in writing and will possibly be used as evidence.

I have read the above caution, and to shew that I understand it I sign my name thereto.

(Signed) M Havelin.

I am B-136643 Pte M Havelin, B Cdn Coy RCASC. On the night of 22 Sep 44. The Thompson and myself were out drinking. We went to ANTWERP about 1930 hrs, we went to several Cafes and finally about 2130 hrs we came to the Cafe ANSELMO,. There were several Cdns and several civilians in the the Cafe. Thompson went to the bar and ordered two beers, one for himself and one for the girl behind the bar, In a few minutes, Mr. Andries came over and I felt that if I drank beer I would be sick. I sat down at a tabel about 10 or 12 feet from the bar. In a few minutes, Mr Andres came overs and asked if I would have a drink, I said "Yes", so he went up to the bar and bought two cognacs. I did not notice what size or all he paid for the drink with. Shortly after this he shook hands with me and left, as the bar was closing I said to Thompson, "Come on let's go". We went out with several other Cdns. Directly behind Mr Andries. After we got outside, Thompson said, "Lets follow that guy and we will ask the way home". Then we caught up to him, Thompson grabbed him by the arm and said something about which way to Monekem, He then said, "Giv me 200 I ran as I know you have the money", sudden there was a bit of a scuffle and Thompson broke away and ran after knocking the old man down. I did not know what had happened until Thompson called me and said,."come on let's get out of here in a hurry", He wanted me to run and I said "to hell with running, I can't run", he then said. "come on let's hurry, I got the guy's purse". After we had walked on a bit further, he handed me some money, 400 or 500 francs. We went into a Cafe before we crossed the bridge, and had a drink. After we came out and about when we were on the bridge, and we stopped for a piss and it was then when Thompson threw away the wallet. We then went on to Monoken and after spending some time in several Cafes we came home.

I have given the above statement to Sjt Ford of my own free will.

(Signed) M Havelin.

Substitute for AFS 296
or MFR 388Z

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED.

5-28380 Pte Thompson HQ 6 Cdn Inf Bde.

Age 30 Married No of Dependents 3. Date of at estation 30 May 40

Number of days in close arrest awaiting trial 11 Days. Military Custody 18 days.

Inthe Field

11 Oct 44.

J E Mavins Capt.
Officer i/C Records.

HQ 6 Cdn Inf Bde.

Certified to be true copy of AFM 6 must accompany this form.

MFM 6
(AFB 122)
40/P&S/156 (3438)

No 8-26395 Name William Henry THOMPSON | Sqn, Battery, or Company | Corps | Date of enlistment 31-8-40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				AA S-c 15(1) When on active service absenting himself witho t leave from 1-8-40 to 12-8-40 TTA 11 days		Ten days pay and 20 days Detention.	13-8-40		As amended by Part II Order 4028 of 27-11-40
Field.				AA Sec 15(1) When on active service absenting himself without leave from 1700 hrs 21 Feb 41 to 1 Mar 41		9 days pay and 12 days detention.	3-3-41		Forf 9 days pay (PR&I 148(1)) (CHN to 40 d) Forf 21 days pay (Col Inv.(1) Awd (4th Div 8/S&A 42.
				AA Sec 15(1) Was absenting himself without leave from 3 May 42 to 4 May 42.		12 days pay	4 May 42		

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				AA Sec 40		Forf 21 days pay	11/7/42		21 days pay forf 1 9(2)
Field				A 5c 15(1) WAS absenting himself without leave from 0830 hrs 25 Sep42 until app 2115 hrs 16 Oct 42.		FCC awarded 3 months set off 225 days pay			225 days pay forfeited in accordance with 21 d/7 Nov 42 2-2-0
Field				AA Sec 15(1) WAS absenting himself without leave from 07 00 hrs 16		Forf 1 days pay			1 day to 225 d/s Pay 43. 25 days P.A. 42
Field.				AA 15(1) WAS absenting himself with leave fro 0700 hrs 14 Oct 43 to 2100 hrs 20 Oct 43		Forf 42 days pay and stoppages of £4-0-0.	5-11-43		stoppages £4-0-0.
				Certified True Extract fro m all availa le sources.		W D Burton Lt.		Byte adn Inf Bde.	

O. H. M. S.

Pte THOMPSON, W. H.

M. F. B. 276
1000 M-12-40 (5003-03-70)
H.Q. 1772-30-67

96-5.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 5th day of November, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[I am unable to appoint~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

*~~(3. Three Officers having more than one years service.)~~

~~for the following reasons, namely —]~~.

Proceedings Reviewed
for Reviewing Officer
30 Nov 42

30

President.

Rank.	Name.	Regiment.
Major	R.E. Wilkins	3 Cdn Fd Coy

Members.

Rank.	Name.	Regiment.
~~Lieut.~~ ~~Capt.~~	~~G.W. Rooney A.C. Duncan~~	~~1 Fd. Coy. RCE. Const Div H.Q.A.S.C.~~
Capt.	E.A. Ballentyne	2 Cdn Fd Pk Coy
Waiting Lieut.	H.A. Cameron	1 Cdn Fd Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.G. Simonds) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.283985 Pte. THOMPSON, Wm Henry HQ 1 Cdn Div	1st charge A.A. 15(1)	Guilty	Guilty	
	2nd charge A.A. 18(4)	Not Guilty	Guilty except that he stole £2-2-0 instead of £2-4-0.	I confirm the finding and sentence. [illegible] 9 Nov 42
	3rd charge A.A. 25(1)	Guilty	Guilty	
	4th charge A.A. 46	Not Guilty	Not Guilty	
			6 months detention - and stoppages of pay until he has made good the sum of £2-2-0 the amount stolen.	
			[signature] Major Pres 7 Nov 42	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*): NO.

(Signed) [signature] (G.G. Simonds) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer (*c*)

(Signed) [signature] Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of Nov 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~
*(4. ~~The officers under instruction~~

were duly sworn.

* Omit if not applicable.

Signed this 7 day of Nov 1942

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 9th day of November 1942

[signature] Major
Confirming Officer.

Promulgated and extracts taken in the case of B 283985 Pte Thompson Wm Henry

(*a*) (Dated) 12 Nov 42 (Signed) [signature] Capt.
A/ Camp Commandant H.Q. 1 Cdn. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41775) Wt. 40115—293 100m 1/40 P. St. G. 640

"B"

CHARGE SHEET

The accused, No. B.28396 Pte. William Henry THOMPSON, R.C.C.C., H.Q. 1 Cdn Div, a soldier of the Canadian Army Overseas is charged with, while on active service :

ABSENTING HIMSELF WITHOUT LEAVE

1st charge A.A. 15(1) — in that he in the field absented himself without leave from 0845 hrs 25 Sep 42 until 2115 hours 16 Oct 42. (Absent 21 days 12 hrs 30 mins).

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

2nd charge A.A. 18(4) — in that he at Horsham, Sussex, on or about 14 Oct 42 stole a wallet and £5.4.0 the property of Sgt. J. Stewart, a person subject to military law.

IN A BOOK SIGNED BY HIM KNOWINGLY MAKING A FALSE STATEMENT

3rd charge A.A. 25(1) — in that he in the field on or about 14 Oct 42 entered the word "single" on pages 2 and 18 of his soldier's service and pay book (MBM.1) knowing that the said entries were false.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

4th charge A.A. 40 — in that he in the field on or about 14 Oct 42, wrongfully removed from his soldier's service and pay book (MBM.1) pages 3 to 6 incl and page 23.

G.I. Sayers Capt.

~~(A.D. Mary) Capt.~~
Camp Commandant
H.Q. 1 Cdn Div

30 Oct 42

To be tried by Field General Court Martial.

~~(Hubt W. Selbon)~~
~~Major General~~
~~GOC 1 Cdn Div~~

(G.G. Simonds)
Brigadier
Comd 1 Cdn Inf Bde

5 Nov 42

"A"

MEDICAL OFFICER'S REPORT

I certify that No. B 28375 Pte D H Thompson

of H.Q. 1 Cdn Div. is in a Sound state of health, & free from infectious disease

and fit to undergo Trial by Court Martial.

D.G. Young (Capt)
Medical Officer

Station In the field

Date ~~6/Nov/42~~
7/Nov/42. (D.G.Y)

M F B. 246

Trial of B2395 Pte Williams
Henry Thompson H.P. 1 Cdn Div
held in the Field 7 NOV 42

President: Major R.E. Wilkins 3 Cdn Fd Coy R.C.E.
Members: Capt. E.A. Ballantyne 2 Cdn Fd Pk Coy R.C.E.
Lieut. G.W. Rooney 1 Cdn Fd Coy R.C.E.

Prosecuting Officer: Capt. W.B. Bates H.P. 1 Cdn Div (Lawyer)
Defending Officer: Lieut. J.D. Duncan Ont FD Park R.C.O.C.

At 1145 hrs. the trial commences.
The order convening the Court the Charge Sheet & Summary of
Evidence are laid before the Court.
The Court satisfies themselves as provided by RsP 22 & 23.
The accused is brought before the Court.
The medical certificate is attached to the proceedings &
marked "A" & signed by the Pres.
The order convening the Court is read by the President &
the names of the Pres. & members are read to the accused
& they severally answer to their names.
Pres. to accused.
Q. Do you object to be tried by me as Pres. or by any of the
Officers whose names you have heard read over?
A. No
The Pres. & members are duly sworn.
The charge sheet is marked "B" & signed by the Pres.
The accused is arraigned upon the charges in the Charge Sheet.
RP 35 (b) was complied with in regard to the First
and Third Charges.
Question recorded on foot of page 2 of Schedule was
asked.
A. - No

Prosecution

First witness B-73918 L/Cpl Adams H.W. Provost Corps having been duly sworn sworn, states –

Q. Are you a member of 3 Can Provost Coy.
A - yes
Q - are you stationed at Horsham
A - yes
Q - Tell the court what happened on 17 Oct 1942

A - About 1130, 17 Oct 42 I interviewed the accused at Horsham Police Station, and questioned him after duly cautioning him that anything he said could be used as evidence. I asked him if he knew a Sgt Stewart. He replied 'No'. I asked him if he had slept at the Horsham Hostel on 13 Oct 42. He said 'yes'. I asked him when he left and he replied 'At about 0730 on 14 Oct'. I neither used any force of persuasion nor did I make any promises to the accused. I then asked him if he knew Sgt Stewards wallet had been stolen & he replied No. I then asked why he had left the hostel so early in the morning & he replied he was going to Little Hampden. At this time the accused was under charge on an AWOL charge only, but I had reason to suspect the accused might have known something of this theft. Therefore I told him that on the evidence I had I was going to lay a theft charge against him concerning Sgt Stewards wallet. He denied stealing the wallet. I explained that my evidence was that he was A.W.L., was therefore without reason so to be absent from the hostel so early on the 14 Oct. On hearing this the accused [illegible] then replied "All right I took it". I then asked him - "Did you take Sgt Stewards wallet", he replied yes and said he would make a statement. The accused then wrote a full statement

Q. Was there any threat or coercion in obtaining this statement
A - None.

Q. Do you recognize this document as the statement made by the accused at this time?

A. Yes.

Q. Did you see him sign this document?

A. Yes.

The prosecution submits a statement signed by Thompson as Exhibit C

Q. Did the accused sign ~~this~~ write this statement of his own free will?

A. Yes

From information received I traced a pay book to the Pay Corps office at Horsham, and at about noon I went to this office I got a pay book which I found pages 3, 4, 5 6 and 2 3 were missing. On page 2 was written "B.2835[illegible] Pte Thompson". ~~which was printed~~ I see

Q. Do you recognize this pay book as the one you mentioned

A. Yes

The prosecution submits a Pay Book as Exhibit D

At about 2000, 18 Oct 1942 I went to Horsham Police Station with A/Cpl Quinn. I went in to see Pte Thompson and showed him this paybook Exhibit D and he said "Yes, that is my book." I cautioned him that anything he said could be used as evidence, then asked him if he was married or single, and questioned him about pages 3, 4, 5, 6 & 23. He replied "Yes, I tore them out."

Q. Was A/Cpl Quinn present at that time?

A. Yes.

He then wrote in my presence a statement which ~~this exhibit~~ did not refer to the missing pages

~~Q. Is this the statement written by the accused at that time.~~

~~A. Yes~~

Q. Is the paybook now as you found it

A. Yes

The defence ~~Accused~~ prosecutor cross examined the witness

Q. You asked him if he knew Sgt Steward, what did he answer

A. He replied 'no'

Q. You asked him at what time on 13 Oct he left the hostel in Horsham, what did he reply

A. He replied that he had left at about 0800

Q. Was there any ~~coercion~~ or force used in obtaining these statements

A. No.

Second Witness D-52736 W/Cpl Dunn, F.F. being duly sworn states. On 16 Oct 1942 at 2100 hrs I saw the accused in the Albion Terrace Road in Horsham and asked him for his pass and pay book. He could produce neither so he was placed under close arrest and escorted to the Civil Police Station. On 18 Oct in company with W/Cpl Adams I went to the Police Station in Horsham & saw the accused. W/Cpl Adams asked the accused if he knew where his pay book was, the reply was that it was lost. W/Cpl Adams then produced a pay book which the accused recognised.

Q - Do you recognise this pay book as the one in question

A - Yes.

The accused wrote a statement which did not include any reference to any missing pages

The defence cross examined the witness

Q - Did the accused make any reference to tearing out the missing pages at that time

A - No.

Third Witness, C-94142, Sgt Steward, J., being duly sworn the night of states. I belong to the 3 Div. Ord. W.R. Shop and on 13 Oct 42 I slept in the YMCA Hostel in a 5 bed room called the 'Small Room'. I retired there at about 2230 hours. Only one other bed was occupied, the occupant was a soldier getting undressed, I did not recognise him. I went to bed and

to sleep, having hung my clothes on the chair. I had a walleel containing £5-4-0 and perso~~nal~~ documents, both in one compartment there is another wallet containing as follows - four £1-0-0 notes and one - 2 shilling piece and two - 1 shilling pieces. I placed the wallet under my pillow. I woke up at 0500 hrs and pulled some clothes on to my bed, I saw a man sleeping in the bed beside me. This was not the bed that was occupied last night. I thought I saw the man move, took no notice and went back to sleep. I did not notice if the man I had seen the previous night was in the room. At 0745 I was awakened by the hostel keeper, I got up, looked under the pillow and found the wallet and contents were gone. No one else was in the room at this time. I have not seen my wallet since that day, nor have I recovered any of the contents

Q - Are you sure of the amount of money in your wallet

A - yes

The defence proceeded to cross-examine the witness

Q. When did you last count your money.

A. at about 2000 hours the night before.

Q - Do you recognise the accused.

A. No.

R.P. 40(A) was complied with. The accused stated he wishes to make a statement on oath and that no other witnesses would be called.

Defence

First witness B-28359 Pte. Thompson W.H. RCOC being duly sworn states. On 13 Oct at about 2340 hrs I entered the YMCA hostel at Horsham and prepared to go to bed - in the "Small Room" Numbers one and five beds were occupied My bed was number 2. I recognise Sgt Stewart as the occupant of "1 Bed. but did not know the occupant of "5"

Between 0730-0800 hours on 14 oct. I left the Hostel because we had been warned to leave early. Sgt Stewart was still in bed, I believe the other occupant had left

Q. are you sure he had left

A - No

on 17 oct in the morning. L/Cpl Adams & Detect Leaker of Horsham Civil Police questioned me regarding the loss of the wallet. L/Cpl Adams told me a wallet had been stolen in the hostel & asked me if I had known Sgt Stewart. I told him I knew Sgt Stewart by sight, having seen him around the hostel prior to the 13 October. I stated I knew nothing of the loss of this wallet. Detective Leaker asked me why I had left the hostel so early & where I had gone, I told him that I had gone to Littlehampton to see friends. Det Lee Leaker phoned Littlehampton to verify this. L/Cpl Adams asked me how I was living in Horsham without funds, I told him the names of friends who had loaned me money. He asked me if I had stolen Sgt Stewarts wallet. I said "No". He told me that if I were not careful my girl friend would be implicated. He then told me that if I made a statement concerning the theft of the wallet - a confession - My girl friend's name would be kept out of the case. I then signed prepared the statement.

On 18 oct both L/Cpl Adams & Quinn came to see me about my pay book. I told him I had lost it. He produced one which I recognised as mine. He asked me about the missing pages and I said I knew nothing about them.

Q. You knew nothing of loss of wallet.

A. No. I only signed the statement because I wished to keep my lady friend out of it.

The prosecution proceed to cross-examine the witness

Q How could your lady friend have been involved in this case at all

A I was told by L/Cpl Adams that she might be involved because she had been harbouring me while I was A.W.L., and so I made the statement

Q- Why did you sign the statement stating you had Q-
stolen £2-2-0 but refused to sign for the full amount
A- I had had £2-2-0 in my pocket before I left for Littlehampton and I thought they might check on the money I had spent in Littlehampton.

The prosecution states he has confined his cross examination of the accused to the admissability of the statements as the accused had the right to give evidence on that question only. When the document was rendered as an exhibit He now asks leave to recall L/Cpl Adams in rebuttal of the accused's evidence as to the inducement

Prosecution Fourth Witness

L/Cpl Adams being recalled, states

Q. The accused has stated that you told him his girl friend might be involved in charges against the accused. If the accused would not sign a confession

A - When the accused was brought to the Police Station on 16 Oct he was searched. On his person was a package of cigarettes among other items. They were laid out on the counter ~~After the accused had been looked up I the detective sergt noticed these cigarettes~~ As a On 16 October we went to a house on Horsham and questioned a woman. On 17 Oct I asked the accused if he knew the woman I had visited on the 16 Oct He replied "Yes, but you are not going to bring her into

this. I replied no.

Q - Did you say that you might bring her into the case if he didn't sign a confession

A - No.

He accused stated he was very fond of this woman and did not want her implicated. I told him I did not think she would be implicated with harbouring a soldier who was A W L.

Q. Did you or did you not tell the accused that this woman would be kept out of the case if he would sign a confession of stealing the wallet

A - No.

Q - Did you make any inducement of any kind whatso ever before the accused made his confession.

A - No.

The defence declined to cross examine the witness

The Court proceeded to question the witness

Q - When you told the accused that the confession he had made was incorrect in the amount of money in the wallet, it should have been £ 3-4-0 instead of £ 2-2-0., what did he reply. Sgt Hayward stated it

A. He replied that $1-00 was in the bill fold £100 in the stamp compartment and the two shillings in the bill fold that was all he had seen in the wallet & kept for some personal effects.

Q - Did the accused at that time make any statement as to how he had disposed of the wallet

A - He stated that he had gone into the toilet on the morning of the 14 ult, removed the money from the wallet and left the wallet in the toilet.

Q. What information is shown on Pages 3, 4, 5, 6 and 23 of a soldiers pay book

A - Page 3 - unit & corps
4 & 5 - next of kin and address
6 - rank and appointment
23 - details of a will

Exhibit "P"

Prosecution

~~The second witness for the defence~~
The accused was recalled for cross examination

Q - You have heard L/Cpl Adams ~~statement~~ giving your statement when requested to alter your confession to include the full amount stated to be lost. Was this statement made by you to L/Cpl Adams.

A - I did make that statement to L/Cpl Adams. I told him that all I had seen was £2-2-0 in the wallet. I also told him I went to the lavatory, removed the money and left the wallet there

Q - When did you last have in your possession the pay book which I have here.

A - Somewhere about the 29 ~~October~~ September - I lost it in Horsham

Q - Can you give any account of the missing pages.

A - No.

Q - Was this pay book complete when it was lost

A - Yes.

Prosecution Final Address

A confession of any sort must be proved by the prosecution to be voluntary before it is admissable. If the court accepts the evidence of L/Cpl Adams and L/Cpl Quinn. Then I feel the confession was voluntary. If the court believes the accused Then I feel about the confession should not be admitted. It has been accepted as an exhibit, but I think the record should show whether the court did in fact accept it. To be free & voluntary the confession must not be obtained by any threat promise or inducement. The admission refers only to the second charge ~~on the fourth charge I would like to say there is evidence of L/Cpl Adams that~~

Concerning the fourth charge, it is felt that the charge which the accused admits making in his pay book i.e. entering

SINGLE when on his own admission he is married, there a direct bearing on the pages which are missing from the book the missing pages (i.e page 4, 4S) deal with information on a similar subject i.e details of next of Kin, & the prosecution feels that the pages were removed with the intention of concealing the accused's married state

Defence Final Address.

No evidence that the accused removed pay book sheets
No evidence that it was necessary to ever remove sheets
No direct definite evidence that accused stole the money

The Court closed to consider the finding.

Finding

4 charge - not guilty. announced to accused.

Summary of Evidence read in respect to guilty plea & marked "G"

Capt W.B. Bredin, being duly sworn stated:

I produce certified copy of M.F.H. 6 (EXHIBIT "F") relating to the accused which is a true copy of the original, and I also produce a short statement as to particulars of service (Ex "E") relating to the accused signature of Captain Sayers of H.Q. 1 Can. Div.

The accused declines to cross examine the witness

The accused wishes to address the court in respect of mitigation of punishment. He stated he had been a cook for some months & felt

He accused did not at any time change his story concerning the second charge.

that on several occasions he had been unfairly criticized & had got "fed up".

[signature]
Capt

"C" Div.

No. 80

WEST SUSSEX CONSTABULARY

Statement Form

DIVISION. DETACHMENT.

19 .

Name Pte Wm Thompson B 28396

Address Pte 16th Edm Div R.C.O.C.

Profession or Occupation Cook Age 25

I would like to make a statement in that I B-28396 Pte Thompson lifted a wallet containing the sum of $32/25. from George Street at the C.N. Chateau Hotel Horbor on the night Oct 14/1942. I am willing to make restitution of the above amount & make this Statement of my own free will. And without Pressure or prejudice to anyone.

Wm Thompson
B 28396 R.C.O.C.
16th Edm Div Headquarters

Witness by Lt Jos Edm Adam B73918
#3 Canadian Pioneer Coy
Edward Harris L/Cpl

822-OM-100

"G"

Summary of Evidence in the case of
B 28395 Pte. Thompson, William Henry,
R.C.O.C. 1 Con. Div., C.A.D., charged with
A.W.L. (Sec. 15 (1) A.A.) stealing (Sec 18 (1) A.A.)
& making a false statement (Sec 25 A.A.)

By direction of the Commanding Officer the evidence is taken on oath.

First Witness. B 73918 L/Cpl. Adams, John W. No 3 Con. Provost Corps, sworn, stated:-

On 16 Oct 42 I was on duty at Shoreham, Sussex. There is a detachment of No 3 Con. Provost Corps stationed at Shoreham & I am with that detachment. I recognise the accused, he is Pte Thompson. He. I have seen him at the Y.M.C.A. Hostel before 16 Oct 42. I was talking to him there around the 6th & 9th Oct. On 16 Oct 42 I stopped the accused at Albion Terrace Shoreham & asked him for his pass. He said "I have not got one" I asked him was his name Thompson. He said "yes". I asked him if he was A.W.L. He said "yes". I asked him how long he was A.W.L. & he said since the 25th of September. I told him he was under close arrest & told him he was charged with being A.W.L. I escorted him to the civil police station at Shoreham & he detained until his unit was notified & told him he would be returned under escort.

On Oct 17 I accompanied Detective Lester of the Shoreham civil police to the Post Office, Shoreham, as I had reason to believe the accused had an account there, which I found he did not have. I returned to the civil police station. I questioned the accused in the presence of Detective Lester, first cautioning him I told him that anything he said could be used against him as evidence. I then questioned him. I asked him if he knew a Sgt. Stewart who had stopped at the hostel on the night of Oct. 13th. He said "yes" I said "Do you know that he was robbed of a wallet?" He said "no". I asked him what time he had left the hostel on Oct 14th & he said about 8 o'clock & that he had then caught a bus to go to Littlehampton. I asked him where he slept

on the night of Oct 13th. He said "at the Y.M.C.A. hostel next to Sgt. ~~Easter~~ Stewart. I then asked him his reason for leaving so early in the morning & he said "I was just going down to Littlehampton for the day." I then told him that the evidence I had was enough to lay a charge of theft against him & advised him of my existence, that is that he had been in the next bed to Sgt. ~~Easter~~ Stewart & that he had left early that morning. Detective Lester questioned the accused as to his movements in Littlehampton. He accused then said he would make a written statement. He also verbally admitted stealing Sgt. ~~Easter's~~ Stewart's wallet — his words were "Alright I stole it". Det. Lester then gave him paper & told him to write in his own words. The accused then wrote a ~~written~~ confession which he signed in my presence (Ex. "A") I signed as witness & so did Det. Lester.

On Oct 18 from information received I proceeded to the Anchor Inn, Stoke-on-Trym, to enquire about a pay book. I then proceeded to the Pay Corps Office, Horsham, where I picked up the accused's pay book (Ex "B") I received it from a Staff Sgt. On examining same I found pages 3-6 missing & also p. 23, & that the word "single" on page 2 & page 19 appeared to have been just entered lately. At about 2000 hrs. on Oct 17 in company with Lt/Cpl. Cousins of the No 3 Coy Pay Corps. I showed this pay book to the accused. I asked him where his pay book was & he said he had lost it. I then showed him Ex. B & asked him if it was his. He said "yes" I asked him are you a married man? " & he said "yes" I then said did you change the word married to single on p. 2 & 18. he said "yes". I then asked him about pages 3 to 6 & p. 23, he said that he had torn them out. I then asked him about an entry on p. 17 in regard to privilege leave & he said that had been entered by a Cpl. MacPherson which I later found to be true. He then volunteered to make a written statement & he did so of his own free will.

I identify this document as the written statement (Ex "C") which he wrote & signed in my presence, & the presence of L/Cpl. Quinn & we both signed it. We were then at Hroken civil police station. I forwarded Ex. A B & C to the O.C. No 3 Con. Provost Corps Staf. is Capt. Law.

Accused declines to cross-examine this witness

23 Oct 42

John Cth. Adams B23918

Second Witness D82736 L/Cpl Quinn F.F. No 3 Con Provost Corps, sworn, states:

I recognise the accused as Pte. Thompson. On 16 Oct 42 at about 2115 hrs. while in company with L/Cpl. Adams I placed Pte Thompson under close arrest as he could not produce a pass or a pay book. L/Cpl. Adams questioned him & Pte Thompson admitted being absent from his unit for about 21 days. L/Cpl. Adams & I escorted the accused to the civil police station at Hroken. The arrest took place at Hroken

In the civil police station at Hroken on 17 Oct. at about 0830 hrs. I saw the accused. L/Cpl. Adams was with me. L/Cpl. Adams then asked the accused if he knew anything about the whereabouts of the pay book. The accused answered that he had lost it. Then L/Cpl. Adams showed him a pay book which I recognise as Ex. "B". Pte Thompson was asked whether he recognised the pay book as his own & he said it was his own. Then L/Cpl. Adams asked the accused if he wished to make a written statement admitting that this was his pay book & that there are a few pages missing from it & also a charge made in the book. The accused made out the statement & I witnessed it & so did L/Cpl. Adams. I recognise the statement as Ex "C" & my signature is on it. There was no threat or inducement made to the accused at any time & he

wrote Ex "C" Voluntarily.

The accused declines to cross-examine this witness

28 Oct 42 [signature] [illegible]

Third Witness P27946 S/maj. Cheshire C.C.D. H.Q. 1 Cdn Div

Sworn States:

I know the accused Pte Thompson W. On 24 Sep 42 he was employed as general duty man at H.Q. 1 Cdn Div. On morning of 25th Sep 42 at 0700 hrs. Pte Thompson was on P.T. parade & answered his name at roll call. I called the roll. He was also on breakfast parade at 0745 hrs. I saw him again at about 0815 in the courtyard at Div. H.Q. I called to him & asked him if he was ready to go. He was posted to go to the Mobile Bath Coy RCOC on the 25th Sept & transport supplied by H.Q. 1 Cdn. Div. The truck reported to the Orderly Room at approx. 0840 on 25th Sep. I went to Pte Thompson's barrack-room at about 0840 - 0845 hrs to tell him the truck was here but he was nowhere around. I looked around the camp area but could find no trace of him. I held the truck until 0900 hrs. & then dispatched it as there were other men being posted to other units. I saw the truck leave. Pte Thompson was not on the truck. I reported by phone to the Prov. Coy. Pte Thompson's absence on 27th & 28th Sept.

Since the 25th Sep 42 until 18th & 19th Oct 42 when on escort was sent to Stroudsburg to pick Pte Thompson up, he was absent. I called the roll at P.T. parade at 0700 hrs. every morning with exception of possibly 5 days during period 25th Sep 42 to 18th Oct 42 & Pte Thompson was not present at any of these parades. If Pte Thompson had been within camp area during above period I would have seen him - he was absent throughout above period. All men unless on duty or pass attend the morning P.T. parade

The accused declines to cross-examine this witness.

29 Oct 42 [signature] C.C.D. Cheshire

Fourth Witness C/94142 Sgt: J. Stewart 3 Div. Ord. Wksp. R.A.O.C.
attached to Reg. H. Chandler, sworn, states:-

I was on leave at Horsham, Sussex on 13 Oct 42. I went to the Y.M.C.A. hostel there at about 2230 hrs. I had been staying there from 10 Oct. On the night of 13 Oct I was given a bed in a room known as the "small room". There are 5 beds in it. I went to bed about 2240 after taking about 5 mins. to undress. Only one of the other beds was occupied. When I went to the room the other occupant was standing by his bed talking & got undressed. I do not know who the man was. When I got in to bed the light was still on. I had a wallet. It contained £5.4, three a/c 2/- piece & 2 loose shillings, a £1 note in the zipped part & 4 other £1 notes in another part of the wallet, together with my leave pass, return ticket to Three Bridges & pictures & other personal papers. After undressing I put the wallet under my pillow. I went to sleep almost as soon as I got into bed. I woke up at about 0600 hrs. as I was cold & pulled my blanket & pants up to my bed. I noticed a man in the bed next to me. He was not the man who was in the room the night before. I don't know whether that man was still in the room or not. I noticed the man in the bed next to me move but I took no notice & went to sleep again. The lady in duty awoke me at about 0745 hrs. I got up & looked underneath my pillow & my wallet was gone. The man who had been sleeping next to me was gone. The other man had also gone. I reported the lady & the night steward that I had been robbed. I have not seen my wallet & any of the contents since.

The accused declines to cross-examine this witness.

2 Nov 42

John Stewart

The accused was cautioned as follows:-
Q. Do you wish to make any statement & to give evidence on oath? You are not obliged to say anything & your statement & to give evidence on oath? You are not any evidence you give will be taken down in writing & may be given in evidence.
A. I have nothing to say at the present time.

The accused does not desire to call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of 5 pages, was taken down by me in the presence of the accused on the 28 & 29 Oct & 2 & 2 Nov 42 & that R.P. 4(C)(D)(E) & (F) have been complied with

H.B. Bedwin Capt
A.A.G. 1 Corps Dist.

In the field
2 Nov. 42

COPY

N.B. 28395 Name W.H.Thompson Sqn.,Battery or Company Corps RCOC Date of enlistment 31-5-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Kingston	1-8-40	Pte.		AWL from 1000 hrs.1-8-40 to 0100 hrs.12-8-40.A.A.Sec.15(1).	Sgt.Tapper,W.	Forf.11 days pay.28 days detention.	12-8-40	Lt.Col.J.D.Pitman	
Kingston	3-10-40	Pte.		A.W.L. from 0600 hrs.3-10-42 to 0645 hrs.4-10-42.A.A.Sec.15(1).	Sgt.Tapper	1 days pay 3 days C.B.	4-10-40	Capt.D.E.Mounteen.	
Barriefield	2-11-40	Pte.		Drinking beer in barracks	Sgt.Warrick	7 days C.B.	4-11-40	Capt.G.G.Walker	
Bordon,Hants	21-2-41	Pte.		A.A.15(1).A.W.L. from 1700 hrs. 21-2-41 to 1830 hrs.1-3-41. Absent 8 dys,1 hr.& 30 mins)	[redacted] Cpl.Taylor Sgt.Turner	12 days Detn. Forf.9 days pay FR&I.149(1)(a)	3-3-41	R.W.Frost,Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26-1-42	Pte.		WOAS, was A.W.L. from Gas Parade held by order of his C.O. at 1330 hrs. 26-1-42. A.A. Sec. 15(1).	S/Sgt. Harris Cpl. Taylor	Admonished 3 dys without pass.	26-1-42	N. Archer, Capt.	
Field	5-2-42	Pte.		WOAS, neglect to the prejudice of good order & military dicipline, in that he left hisnrifle in a very rusty condition. A.A. Sec. 40.	Cpl? Polkinghorne	7 days C.B.	17-2-42	H.M. Calver, Lieut.	
Field	3-5-42	Pte.		WOAS, absenting himself without leave, in that he absented himself from 0700 hrs. 3-5-42 to 1445 hrs. 4-5-42. Absent 1 day 6 hrs. & 45 mins. A.A. Sec. 15(1).	Cpl. Marling	Forf. 2 days pay under FR&I. 149 (1)(a). Forf. 10 days pay under FR&I. 149(2).	5-5-42	H.D. Hay, Captain Camp Commandant, H.Q.1 Cdn. Div.	

No. B. 28395 Name W. H. Thompson | Sqn., Battery or Company | Corps RCOC | Date of enlistment 31-5-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No. 2

M.F.M. 8 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-7-42	Pte.		1st. Charge WOAS, an act to the prejudice of good order & military dicipline, in that HE at Horsham, Sussex, at 2030 hrs. was in possession of a document purporting to be a genuine MBM.1 Part II, Soldiers Pay Book, well knowing that it was not genuine. A.A.Sec.40.	Documentary	Forf. 21 days pay under FR& I.149(2).	11-7-42	Lt.Col.E.B.Wilson, A.A.& Q.M.G. 1 Cdn.Div.	
2nd.Charge. Field	7-7-42	Pte.		WOAS, prejudice to good order & military dicipline, in that he at Horsham, 2030 hrs. was not carrying MBM.Part I of his paybook. A.A.Sec.40.	Documentary	See 1st. Charge	11-7-42	A.A.& Q.M.G.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remark
3rd.Charge									
Field	7-7-42	Pte.		WOAS, prejudice to the conduct of good order & military dicipline, in that he at Horsham, at 2030 hrs. was improperly dressed, i.e. he was wearing a collar & tie with battle dress blouse open. A.A.Sec.40.	Documentary	See 1st. Charge	11-7-42	A.A.& Q.M.G.	
Field	30-8-42	Pte.		WOAS, absenting himself without leave, in that he absented himself from 2300 hrs. 30-8-42 to 1330 hrs. 3-9-42. (Absent 3 days 14 hrs. & 30 mins). A.A.Sec.15(1).	L/Cpl. Roussain	4 days pay under FR&I.149(1)(a). 5-9-42 Forf. 10 dys pay under FR&I.149(2) Total forf of 14 days pay.		H.D.Hay, Captain, Camp Commandant, H.Q.1 Cdn.Div.	

ORDERLY ROOM RECEIVED 2 NOV 1942 H.Q. 1st CDN. DIVISION

CERTIFIED A TRUE COPY OF THE ORIGINAL.

H.D.Hay, Captain,
Camp Commandant.

B28395 Pte WH Thompson
H.Q. 1 Con. Div.

none

22 22

none

26

30-5-40

None

Date 7-11-42

for Camp Commandant
H.Q. 1 Con. Div.

Pte. Thompson, W.L.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8958-49-70)
H.Q. 1772-23-67

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this TWENTY-FOURTH day of SEPTEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, Canadian Army (Active), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix 'A' to D.R.O. 772 on the trial of the person named on the schedule.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	H.J. Kennedy	Essex Scot.

Members.

Rank.	Name.	Regiment.
One Lieut to be detailed by O.C., R.Regt.C.		
One Lieut to be detailed by O.C., R.H.L.I.		
WAITING MEMBER - One Lieut to be detailed by O.C., R.Regt.C.		

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] (M.H.S. PENHALE) Brigadier

Commanding Fourth Canadian Infantry Brigade

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.66743 Private Wilson, Lindle, THOMPSON, 1st BN ROYAL REGIMENT OF CANADA.	FIRST CHARGE A.A. Sec 16 (4) Stealing public property (See Charge Sheet att.)	NOT GUILTY	NOT GUILTY	
	SECOND CHARGE A.A. Sec 40. Conduct to the prejudice of good order and military discipline. (See Charge Sheet att).	NOT GUILTY	NOT GUILTY	
	THIRD CHARGE A.A. Sec. 40 Conduct to the prejudice of good order and military discipline. (See Charge Sheet att)	NOT GUILTY	GUILTY SIX MONTHS IMPRISONMENT 26 SEPT 42 D. Kennedy Brig.	I confirm the finding and sentence but commute Imprisonment to detention.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No, Sir.

(Signed) (M.H.S. PENHALE) Brigadier
Commanding 4 Cdn. Inf. Bde.

(Signed) D. Kennedy Brig.
Convening Officer (e) *President*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The accused, No. B-66743, Private Wilson Lindle THOMPSON, 1st Bn. THE ROYAL REGIMENT OF CANADA, a soldier of the Canadian Army, Active Force, is charged with:

First Charge
Section 18(4)
Army Act

Stealing public property

in that he

at LITTLEHAMPTON, Sussex, on or about the 12th day of September, 1942, did steal public property to the value of six pounds, eleven shillings, six pence (£6.11.6) viz.,

Caps, comforter	72
Gloves, knitted, drab	11 prs
Socks, worsted	13 prs
Scarves, woolen	5
Chest protectors, woolen	2

Second Charge
Section 40
Army Act
(Alternative)

Conduct to the prejudice of good order and military discipline

in that he

at LITTLEHAMPTON, Sussex, on or about 1920 hours, on the 12 day of September, 1942, was in improper possession of the following articles of public property, to the value of six pounds eleven shillings six pence (£6.11.6)

Caps, comforter	72
Gloves, knitted, drab	11 prs
Socks, worsted	13 prs
Scarves, woolen	5
Chest protectors, wwolen	2

Third Charge
Section 40
Army Act

Conduct to the prejudice of good order and military discipline

in that he

at LITTLEHAMPTON, Sussex, on or about the 12th day of September, 1942, improperly disposed of rations consisting of a cut ham, to a civilian.

A H Fraser

(A. H. Fraser)
Lieut-Colonel, Commanding
1 R. REGT. C., CANADIAN ARMY

In the Field.

To be Tried by Field General Court Martial.

In the Field.

24 Sep 42.

(H.H.S. Penhale) Brigadier,
Commanding,
4 CDN. INF. BDE.

MEDICAL OFFICER'S REPORT

I certify that No. B66743 Pte Thompson W L
of 1 Bn RRGT 4 Bde is in a good state of health,
and fit to undergo Trial by Court martial.

R K Nixon Capt
Medical Officer

Station Tiels

Date 26 Sept / 42

M. F. B. 246
20M—6-41 (792)
H.Q. 1773-39-480

Trial of No. B66743 Rank. Pte Name Thompson W. L.
Unit R.R. of C.
Date of Trial 26/9/42.

1. Court:
Pres. Major Kennedy H.S. Essex Scottish
Members Lt. Cooper C.S. R.H.L.I
Lt. Kellie R.M. R.R. of C.
2. Prosecutor Lt. Rose D.W. (Lawyer)
Def. Officer Capt. Anderson J. & H.
Accused does not object to Pres. or members
Accused arraigned and pleads Not Guilty to charges
1st, 2nd, 3rd
5. O.K. Compulsorily Answers 'No' to questions at bottom of Page 2.
6. Prosecution Evidence

1st witness P.C. Edwards H. duly sworn, states.

I am a P.C. stationed at Little Angelus. On the 7.9.42. at Little I at Barnett + myself visited 28 Beaconsfield Rd, Wick. The door was answered by Mrs Barker, who asked us to enter. After she had taken us into the kitchen. At this time the accused was present + from a room in the Kitchen we received two loud bangs, full of swollen exhibits. I took one and let Bennett the other. On the table plates were about for a meal and we saw saw 5-6 slices of ham. We then left to obtain later such as R.P. + the A.P. and we proceeded to the B.O.R. when we saw the duty Off. The exhd. I was by Sorby regarding these swollen articles was "It is only some old coal brought there to be cracked but it would be use of we re-

CHARGE SHEET

The accused, No. B-66743, Private Wilson Lindle THOMPSON, 1st Bn. THE ROYAL REGIMENT OF CANADA, a soldier of the Canadian Army, Active Force, is charged with:

First Charge
Section 18(4)
Army Act

Stealing public property

in that he

at LITTLEHAMPTON, Sussex, on or about the 12th day of September, 1942, did steal public property to the value of six pounds, eleven shillings, six pence (£6.11.6) viz.,

Caps, comforter	72
Gloves, knitted, drab	11 prs
Socks, worsted	13 prs
Scarves, woolen	5
Chest protectors, woolen	2

Second Charge
Section 40
Army Act
(Alternative)

Conduct to the prejudice of good order and military discipline

in that he

at LITTLEHAMPTON, Sussex, on or about 1920 hours, on the 12 day of September, 1942, was in improper possession of the following articles of public property, to the value of six pounds eleven shillings six pence (£6.11.6)

Caps, comforter	72
Gloves, knitted, drab	11 prs
Socks, worsted	13 prs
Scarves, woolen	5
Chest protectors, wwolen	2

Third Charge
Section 40
Army Act

Conduct to the prejudice of good order and military discipline

in that he

at LITTLEHAMPTON, Sussex, on or about the 12th day of September, 1942, improperly disposed of rations consisting of a cut ham, to a civilian.

A.H. Fraser

(A. H. Fraser)
Lieut-Colonel, Commanding
1 R. REGT. C., CANADIAN ARMY

In the Field.

To be Tried by Field General Court Martial.

In the Field.

24 Sep 42.

W.H.S. Penhale

(W.H.S. Penhale) Brigadier,
Commanding,
4 CDN. INF. BDE.

I hereby request that Capt P.E.R. Wright represent me at my trial by Field General Court Martial.

B-66743 Pte. W.L. Thompson
(W.L. Thompson)

I certify that is available to represent B-66743 Pte. THOMPSON, W.L., at his trial by Field General Court Martial.

(G. M. MacLachlan)
Captain and Adjutant
1 R. REGT. C., CANADIAN ARMY

Trial No. B66743 Rank Pte Name Thompson W. L.

Unit R.R. of C.

Date of Trial 26/9/42.

1. Court:

Pres. Major Kennedy H.S. Essex Scottish.

Members Lt. Cooper C.S. R.H.A.

Lt. Kellie R.M. R.R. of C.

2. Prosecutor Lt. Rose D.W. (Lawyer)

Def. Officer Capt. Rudkin ? E.H.

3. Accused does not object to Pres. or members

4. Accused arraigned and pleads No. GUILTY to charges 1st, 2nd, 3rd

5. O.K. Completed with Answers 'No' to questions at bottom of page 2.

6. Prosecution Evidence

1st witness P.C. Edwards H. duly sworn, states.

I am a P.C. stationed at Little Current. On 19.20 hrs 7.9.42 at Little I met Barnett + myself I visited 28 "Ironspoke" Rd. Dick ? is door was answered by man Father who asked us to enter. We did so + entered the kitchen. At this time the accused was present from a room in the Kitchen one re- -moved two small boys and 2 woollen cloths. I took one and Bert Barnett the other & the latter placed same down for a meal and we saw saw 5-6 slices of ham. We then left to obtain later such as R.P. + the B.P. and we proceeded to the B.O.R. where we saw the Party of the 4th Sept. I was by Sgt. Bailey regarding these woollen articles was "I got it only some old wool brought here to be washed but it wasn't be used as we re-

MEDICAL OFFICER'S REPORT

I certify that No. B6674-3 Pte Thompson W.L.
of 1 Bn R.D.F. 4 C. is in a good state of health,
and fit to undergo Trial by Court martial.

J.B. Nixon Capt
Medical Officer

Station Tiels

Date 26 Sept / 42

M. F. B. 246
20M—6-41 (702)
H.Q. 1772-39 480

Knitting" We later returned to 38 Base Rd. leaving left the accused at the B.O.R. and Mechanic Dorby. Accused identified the accused made a statement re the bag to the effect "I took some left over rom supper. I brought it here." Exhibits A, B identified viz. containing assortment woollen knitted, gloves, scarves balaclavas knitted products. I sorted these and counted them. from the bag I had

24 Balaclava helmets
3 scarves
7 prs gloves
13 " socks

Cross Exam.

We went to 38 Base Rd. because information received We received the accused of his use had found the two same bags. I first mentioned the bag to the accused at the B.O.R. He said it was some left overs from supper and at no time said it was first time I can identify the same bag by its contents

Recalled.

2nd Witness Det Const Barnett A6 duly sworn states

I am at Hillchampton a Det. C. At 19.20. 12/9/42 with P.C. Edwards I visited 38 Base R.D., Wick. The premises of Mrs Joan Dorby. The door was answered by Mrs Dorby and in room I what I told her she desired us to come. In a room in the Kitchen we found 2 carpet bags, filled with woollen articles for the military army. In the house at the time was another woman and two Canadian soldiers one of whom was the defendant Edmund Chifney. I thereupon accompanied

visit to Kitchener and on appeal Thompson and he had brought there woollen articles to be washed. The women and Thompson present the wool would be useful for knitting. We left on Kitchener I noticed table was laid and on plates were 5 pairs of hose - thick. When they left the Belgs returned approx 19.50 hrs to the end on RP We then took possession of the 2 sandbags & contents & Thompson was taken to the D/A/G/S by the RP at the B.O.R. Upon examining the contents / Sandbags we found

41 balaclavas
2 hats
2 chest warmers
4 assorted gloves / mitts
2 prs sox

At the B.O.R. I told Thompson I should require to know where the item had come from. Without further ceremony Thomp replied "I took it up it was some left over from supper."

Cross-exam.

I could identify the contents of exhibit A & B by their quantity quantity and appearance. I gave Thompson no warning because I had no certain knowledge of an offence. Thompson did not remark later he brought the item from the cook-house.

~~The Def~~

Re. Exam. nil.

Court. nil

3rd Witness Pte B. Sgt. Duly sworn states.

I am a member of the R.R.C. on 12/4/42 I was Bde Duty Officer. Approx. 19.15 hrs. a P.C. 1 Det. came in as a result of what they told me I sent an R.P. to the 2/3 Bde to bring back the accused. At 20.00 hrs. they arrived back the P.C. Det. & myself carried the contents. Thompson said the articles had been obtained from salvage the Kits of men who failed to return from Alpp.

Cross Exam.

The contents might have been privately Knitted and sent from home. and belonged to men who failed to return from Alpp. Thompson said the ham was from the cook house.

Re Exam.

Court.

4th Witness Capt. Ryall R.R.C. Duly sworn states.

On the 11/4/42 Bacon was issued to the Regt for consumption 12/4/42. Accused is identified. PTE Thompson was cook for Transport Group and on occasions would draw rations for this group. He was the only cook for this group. Various articles emptied out of bags and identified either as Army issue or privately Knitted. There are 27 exp comforts and ½ pr socks & more than one is issued per soldier.

Cross Examination.

Had a pair of clothes in 2/3 store. On various occasions I told men who had not facilities of getting to their own 2/3 store to make up any deficiencies they might require by taking them from this pile of clothing which was from the Kits of men who failed to return from Alpp. I can definitely state that

certain of these articles are Govt issue. It might have been possible for PTE Thompson to construe my remarks as meaning "His clothing is available, help yourselves."

Re-examined

Court

Army issue means property of the Govt

5th Witness Miss Rosebery. Duly sworn states

I reside at 38 Beaconsfield Rd, Whk. I was in the house on 13/6/42. Accused arrived at I saw the bus conductor when I came home in the morning. He told me they were some things he had brought home for washing. I did not let the bus until I went into the kitchen with the police.

Cross Examine nil.

Re Examine - nil

Court - nil.

Prosecution closed.

RPHQ complied with.

Accused doesn't wish to give evidence or to make a statement or call witnesses.

Prosecution Closing Address.

2 Sandbags found at 38 Beaconsfield Rd containing 27 cops complete separately pronounced to be army issue. Each Soldier entitled to one only cap comforter. Accused told Police Officers the same

Saturday Sept 26th 42

Pte Jamieson R.H.L.I.
A.A. Sec 9(2) 1st chg.
Keeping Lewis Gun.
H.A. Sec 8 (2) 2nd chg.
Using Gas Respirators Language.

1st Witness - Lieut. T. Smith.
2nd " Lieut. R. Martin.

28 days.

cross from Kas cook Kamak.

Def Cpl. Kissing Kisskuss.

Prosecutor to Kasi Starkey. In possession unfortunately. At times in one pits. Prosecutor Starkey & 2 Ms remarks to take what they required to make up expenses. Accusation Khaw convey from cook house

1. Court closed for finality
2. Court Re opened
3. Prosecution files A.F.B. 296 and certified copy of M.F.M 6.
4. Accused makes following statement in mitigation of punishment —
5. Accused calls following character witness

1st Witness Capt Anderson J.E.H. R Regt J.L.

Known since March 1940 at that time I was serving Jfwr. A good soldier a good cook and has only minor charges against him

Cross Examined by Prosecutor

Court Closed for consideration of sentence.

Certified that the foregoing pages 1. to 6. is a true record of the trial

26th day of Sept 1942

Signed [illegible] Kennedy President

WAD.

Abstract of Evidence in the case of: B-66743 Private THOMPSON, W.L., 1st Bn. The Royal Regiment of Canada.

First Witness, B-66756, L/Cpl BUTLER, H.W., R.C.O.C. att 1 R.REGT.C.

will state that on Saturday, 12 Sep 42, he went into the kitchen of the Transport Platoon Mess Hall at about 1355 hours to get a cup of tea. While there, Pte. Thompson, the cook asked him if he would get a truck and take him, Thompson, to get rations at the Q.M. Stores. He saw the Transport Sergeant, Sgt. McLeod, who gave him permission to use a blitz buggy. This he brought around to the cook-house door and then Thompson placed two sandbags and some containers in it. He and Thompson started for the Q.M. Stores. Just before they got there, Thompson asked him to stop while he spoke to a girl in the street. The girl handed Thompson something which he couldn't see. They started on their way again and as they were about to turn into the driveway leading to the Stores, Thompson asked him if he would mind taking him up to house so that he, Thompson could leave his laundry in. He agreed to this. They went up to North Street, Littlehampton, turned on to it and at the first turning, turned left, stopping at the first house on the left. Thompson got out of the blitz buggy and took the two sandbags which he had previously placed in it into the house. Thompson used a key to open the door of the house, the sand bags were both full.

Second Witness, P.C. H. Edwards, Police Station, LITTLEHAMPTON.

Will state that at about 7.20 p.m., Saturday, 12 Sep 42, accompanied by Det. Const. Barnett he visited No. 38, Beaconsfield Road, Wick. He will describe where this is. On arriving there, a Miss Joan Gisby answered the door and admitted them. Pte. Thompson, of the Royal Regiment of Canada, was in the house. They proceeded to the kitchen where he and Barnett found in a recess, two sandbags containing khaki woolen goods. Pte. Thompson on being questioned, stated that he had brought them there to "get them washed". This remark was endorsed by Miss Gisby who was present, and who also added that the wool would come in useful for re-knitting. He and Barnett then left the house to get a member of the Regimental Police. The three of them returned at about 7.50 p.m. the same night, and took possession of the bags. He took one, Barnett the other. In the bag he recovered from the house were twenty nine balaclava helmets, three scarves, seven pairs of gloves and thirteen pairs of socks. On their first visit, he noticed that a meal had beenlaid on the table in the kitchen and that there were four plates each bearing a large thick slice of cooked ham. When they took the sandbags away from the house, they took Thompson with them and proceeded to The Royal Regiment of Canada Orderly Room where they saw the Duty Officer Lieut P. Biggs, and with whom they left the sandbags and contents. At the Orderly Room, Barnett asked Thompson about the ham and Thompson replied "I took it up there, it was some left over from supper".

Third Witness, Det. Constable A.G. Barnett, Police Station, ARUNDEL.

will state that at about 7.20 p.m. on Saturday, 12 Sep 42, accompanied by P.C. Edwards, he visited No 38, Beaconsfield Rd., Wick, and that they were admitted to the house by a Miss Joan Gisby. With Miss Gisby, he and Edwards went into the kitchen where they found two sandbags full of khaki woolen

goods. Pte. Thompson stated that he had brought them to the house "to get them washed" and the woman stated it was her intention to wash same. Miss Gisby added that the wool would come in useful to re-knit. On the kitchen table, he noticed a meal for four people had been laid out and that five thick slices of cooked ham were lying on the plates. He and Edwards left the premises to get a member of the Regimental Police. The three of them then returned at about 7.50 p.m. on the same night. He took possession of one sandbag, Barnett the other, and accompanied by Thompson, they proceeded to the Royal Regiment of Canada Orderly Room where Pte. Thompson was seen by the Duty Officer Lieut P. Biggs, and to whom the two bags with contents were turned over. The bag he took contained forty-two knitted helmets, two knitted chest protectors, two knitted caps, four various gloves and mittens, and two prs of socks. When he asked Thompson about the ham, he had seen at the house, Thompson said "I took it up, it was some left over from supper".

Fourth Witness, Lieut P. Biggs, 1 R. REGT. C.,

will state that at about 2000 hours, Saturday 12 Sep 42, Pte. Thompson, in charge of a member of the Regimental Police and two police officers was brought to him while he was acting as Bn Duty Officer at the Battalion Orderly Room. The police officers each had a bag containing khaki woolen goods. The bags together with contents marked exhibits A and B are the bags brought in by the police officers. That he counted the contents of the bags which consisted of seventy two woolen helmets, thirteen pairs of socks, eleven pars of woolen gloves, five woolen scarves and two woolen chest protectors. He heard Pte. Thompson state to the police officers that he, Thompson, had taken "some ham up it was some left over from supper".

Fifth Witness, Capt. E.J.H. Ryall, Quartermaster, 1 R. REGT. C.,

will state that ham was issued to the cookhouse of the Transport Platoon, HQ Coy, 1 R. REGT. C., on Friday 11 Sep 42 for consumption on the following day (Saturday), and that Pte. Thompson was employed as cook at this cookhouse. He will give values of certain goods shown him, and will state that they are army issue, viz:

72 cap comforters @ 0/1/1½d	4	1	0
11 prs gloves, knitted @ 0/2/7½d	1	8	10½
13 prs socks, worsted @ 0/1/8d	1	1	8
Total:	£6.	11.	6

Sixth Witness, Miss Joan Gisby, 38, Beaconsfield Road, WICK,

will state that on Saturday, 12 Sep 42, she met Pte. Wilson Thompson on Pier Road, LITTLEHAMPTON, at which time she handed him the key to her house at the above address. At about 5.45 p.m. the same day, Thompson came up to the house bringing with him about half a pound of ham. When Thompson came in he told her about the sandbags of woolen goods which he wanted washed and which he told her he had brought up when he got the key from her. She knew that the ham was Army Rations.

This Abstract of Evidence taken by me this 17th day of September, 1942.

D.W. Rose

(D.W. Rose) Lieut.
1 R.REGT.C.

List of Witnesses for the Prosecution

B-66756 L/Cpl Butler, H.W.	R.C.O.C., att 1 R.REGT.C.
P.C. H. Edwards,	Police Station, LITTLEHAMPTON
Det C. A.G. Barnett,	Police Station, ARUNDEL
Lieut P. Biggs	1 R. REGT. C.
Capt. E.J.H. Ryall	1 R.REGT.C.
Miss Joan Gisby	38 Beaconsfield Rd, WICK.

For the Defence

N I L

LIST OF EXHIBITS

Two sandbags containing woolen goods.

M.F.M. 6

No. B-66743 Name THOMPSON W.L. Sqn., Battery, or Company HQ Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 15/9/39 | G.C. Badges | Service or Proficiency Pay | Character

Sheet No. | Signature O.C. Company, etc. G.S.N. Gostling, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of Order directing trial	By whom awarded	Remarks
Toronto	23/10/39	Pte		Drunkeness (A.A. 19)	CSM Hardwick RSM Gaiger	Admonished	24/10/39	Major Gostling	
Toronto	26/10/39	"		Drunkeness (A.A. 19)	Sgt Robinson Sgt Kelly	5 dys C.B.	27/10/39	Major Gostling	5.00 fine (2nd offence)
ALDERSHOT	10-5-41	"		A.A. Sec 24(2) Losing by neglect his equipment, i.e. His steel helmet and respirator also that of Pte Ward which was loaned to him.	L/Sgt Nicholls	10 dysF.P.	10-5-41	Lieut-Col G.H. Basher	To pay cost of two steel helmets and two respirators, Forfeits 10 dys pay for F.P.

(P.T.O.)

Place	Date of offence	Rank	Corps of division-ance	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ALDERSHOT	16-5-41	Pte		A.A. Sec 40, Neglect, etc, allowing his rifle to become very rusty	S/Sgt. Smith.	5 dys F.P., 1st three dys to run concurrently with sentence awarded on 10-5-41.	17-5-41	Lt-Colonel G.H. Basher	Forfeits 5 dys pay for F.P. left to serve. (Three days run concurrently with previous award.)
ALDERSHOT	29/5/41	"		A.A. Sec 15, AWL from 2230 hrs, 28-5-41 to 2300 hrs 28-5-41.	Sgt Nicholls Cpl Finch	7 dys C.B.	2-6-41	Lt-Colonel G.H. Basher	

CERTIFIED A TRUE AND CORRECT COPY

(Substitute for A.F.B.296)

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

Regtl No. B-66743 Name THOMPSON, W.L. Unit 1st Bn.
The Royal Regiment of Canada, Canadian Army

Age: 29 Married or Single Single No of Dependents nil

Date of Attestation 15 Sep 39

No. of days spent in Close Arrest(to date of trial) 15

Civil Militia Hospital

Dates of Promotions, Appointments and Confirmation of Rank

Nil

(A Certified True M.F.M. 6 must accompany this form)

Date: 26 Sept 1942

Mac Lachlan
(Officer i/c Records)

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of Sept, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~3. The interpreter~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 26th day of Sept 1942.

A. D. Kennedy Major.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison until further orders.) ~~Struck~~

Signed this Twenty eighth day of September 1942.

W. H. Denham Brigadier
Confirming Officer Cmd 4 Armd Bde

Promulgated and extracts taken in the case of B66743 Pte Thompson W.C.

(a) (Dated) 28 Sept 42 (Signed) A. MacLachlan Lieut for LT.-COLONEL COMMANDING 1st BATTALION THE ROYAL REGIMENT OF CANADA C. A.

Promulgated and extracts taken in the case of B66743 Pte Thompson W.C. remitting the balance of sentence

(Dated) 2 April 1943. (Signed) LT.-COLONEL COMMANDING for 1st BATTALION THE ROYAL REGIMENT OF CANADA C. A. A. MacLachlan Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(47729) WL 40115—295) 200 m 1/40 P. St. G. Ltd.

RESTRICTED

F.G.C.M. - Trial: B-66743 Pte W.L. Thompson, R.Regt C.

Date of trial: 26 SEP 42

President of Court: Major H.J. Kennedy, Essex Scot.

1. For the information of the officers asked to sign below, the following irregularities are noted:-

(a) Convening order is not signed by the President of the Court. (See M.M.L. p.742).

(b) Thecharge sheet is not signed by the President of the Court. (See M.M.L. p.744).

(c) The charge sheet is not dated. (See M.M.L. p.714).

(d) The President has not signed each page of the transcript. (See R.P. 50).

(e) Page 3 of A.F.A.3 indicates that officers under instruction were present, but the transcript does not state the names of these officers.



2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters, please.

O. C. R.Regt C.	
Adjutant R Regt C.	
President of the Court	
A.D.J.A. 2 Cdn Div	
Staff Officer for Convening Officer	
Staff Officer for Confirming Officer	

(A.W. Embury) Major,
D.J.A., 1 Cdn Corps.

DISTRIBUTION:

C.M.H.Q.
A.D.J.A. 2 Cdn Div.
File

PP-158
GNR THOMPSON W.M

PP-150

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this sixteenth day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of RCA 5 Cdn Armd Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [xxxx

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-1470 Gnr William Marshall THOMPSON 7 Cdn Army Fd Regt	First Charge AA Sec 15 (1) When on active service absenting himself without leave (absent 3 days 22 hrs, 10 mins) as per att charge sheet.	Guilty	Guilty To undergo detention for a period of 60 days. Forfeits 4 days Pay for AWL W.F. Gilchrist Major	Detention Confirmed K.D.M.
	Second Charge AA Sec 40 When on active service conduct to the prejudice of good order and military discipline (as per att charge sheet)	Not guilty	Guilty To undergo 30 days detention Sgd 24/9/43 W.F. Gilchrist Major Sentence To undergo total detention period 90 days Forfeits 30 days Pay Sgd 24/9/43 W.F. Gilchrist Major	Detention Confirmed K.D.M.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" no.
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) K.D. Gillmorton (Signed) W.F. Gilchrist Major

(R.O.G. Morton) Brig — (W.F. Gilchrist) Maj

Commanding RCA 5 Cdn Armd Div — 17 Cdn Fd Regt

Convening Officer (*e*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of Sept. 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(Omit if not applicable.)

~~*(3. The Interpreter)~~

~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 18th day of Sept 1943

W.F. Gilchrist Major R.C.A.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.) K.D.M.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 24 day of Sep 1943.

K.D. Gillmorton Brig

Confirming Officer.

CRA 5 CDN ARMD DIV

Promulgated and extracts taken in the case of C 1470 Gnr Thompson W M

(*a*) (Dated) 25 Sep 43 (Signed) W Rhoades Capt

OC 7th. Cdn. A. Fd. Regt. R. C. A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44670) W1-46178-9/40 50,000 2-42 A.& E.W.Ltd. Op.888
(52356) W1-31192-71 100,000 5-43 " "

(2)

CHARGE SHEET

The accused C1470 Gnr. William Marshall Thompson, 7 Cdn. A Fd Regt RCA., a soldier in the Canadian Army Overseas, placed on Active Service is charged with:

First Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
in that he
in the field, when his regiment was engaged on "exercise Harlequin" and all ranks were confined to barracks, and he was in open arrest, absented himself from 1530 hrs 9 Sep 43 until 1340 hrs 13 Sep 43. (Time absent 3 days, 22 hrs, 10 mins)

Second Charge
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
in that he
when B.S.M. Henderson P.W. warned C1821 Gnr. Coulter, B.H. for guard said "that if he were ordered to go on guard he would go over the fucking hill" or words to that effect, in an insolent manner.

W. G. Myatt Lt Col
(W.G. Myatt) Lt.-Col.
Commanding,
7 Cdn A Fd Regt RCA.

In the field
15 Sep 43

To be tried by F.G.C.M.

R. O. G. Morton
(R.O.G. Morton) Brigadier
C.R.A., 5 Cdn. Armd. Div.

In the field
16 Sep 1943

(1)

MEDICAL OFFICER'S REPORT

I certify that No. C1470 Gnr. Thompson, W.H.
of 7 Cdn A Fd Regt is in a Fit state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station In the Field

Date 18 Sep 43.

M. F. B. 246

Record of PROCEEDINGS of a FIELD GENERAL COURT MARTIAL

Held in the FIELD in ENGLAND on the 16th day of SEPTEMBER 1943 to try

ACCUSED C-1470 Gnr William Marshall THOMPSON 7 Cdn Army Field Regt, R.C.A.

President	Major W.R. Gilchrist	17 Fd. Regt. R.C.A.
Member	Capt. J.G. Aitken	5 Cdn. LAA Regt. RCA
Member	Capt. A.L. Weirmier	4 Cdn. A/T Regt. RCA
Prosecuter	Lieut. J.M. Rose	7 Cdn. A Fd. Regt RCA
Defending Offr.	Lieut. S.B. Williams	7 Cdn. A Fd. Regt RCA

The President produced the Convening Order, Charge Sheets and Summary of Evidence.

The President in closed court, read the CONVENING ORDER and the CHARGE SHEETS to the Members, and the COURT satisfied themselves that it was properly Convened, and Constituted. That the Accused is amenable to Military Law and that the CHARGES disclosed an OFFENCE.

The accused is brought before the Court and at 1100 hrs the Trial Commenced.

The prosecuting Officer produced and handed to the Court a Medical Certificate that the Accused had this day been examined and is fit to undergo Trial by Court Martial.

The Certificate is signed by the President and is attached hereto.

President to Accused.
Ques. 1. Do you object to A-32152 Gnr Sawden, L.E., 7 Cdn A Fd. Regt RCA as Shorthand Writer in your hearing?
Ans. 1. No Sir.

A-32152 Gnr Sawden, L.E. was Duly Sworn.

The Convening Order was read in the hearing of the Accused and the President and Members severally answered to their names.

President to Accused.
Ques. 2. Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over.
Ans. 2. No Sir.

The President and Members are Duly Sworn.

The Charge Sheets were read to the Accused, signed by the President and are attached hereto.

The Prosecuter informed the Court that the Accused has NOT elected Trial by Court Martial.

President to accused,

Ques. 3 Having heard the first charge as read do you plead guilty or not guilty.

Ans. 3 Guilty Sir.

Ques 4 Having heard the second charge as read do you plead guilty or not guilty?

Ans. 4 NOT guilty. Sir.

President to Court,

We will proceed to deal with the second charge.

Prosecutor.

I do not wish to bore the Court with other than the evidence contained in the Summary of Evidence, and with the permission of the Court I would like to proceed with calling a witness for the prosecution.

Witness (L26221 BSM Henderson P.W.) called and duly Sworn, states.

I am L26221 BSM Henderson P.W. At about 1400 hrs 9 Sept 43 in the ablution room in the 45 Bty lines , I detailed Gnr. Coulter to appear at guard mounting that night. When I had detailed Gnr Coulter to appear on the guard, Gnr Thompson looking at Gnr Coulter said " If Im put on guard tonight I would go over the fucking hill". He repeated the same remarks to me looking straight at me. I placed him under open arrest for insolence. That is all sir.

Defence declines to examine the witness.

Defending Offr.

I wish to call C1821 Gnr Coulter B.H. as a witness for the defense.

Witness (C1821 Gnr Coulter B.H.) is called and duly Sworn, states.

I was in the washroom when Gnr Thompson and BSM Henderson came in and BSM Henderson said something about going on fireman or something. I went on shaving and never paid any attention to what they were talking about.

Prosecutor declines to examine the witness.

President to witness,

Ques 5 Coulter, how long have you been acquainted with the accused?

Ans. 5 About 2 years.

Ques 6 While in the washroom how far away were you from BSM Henderson and the accused?

Ans. 6 They were at one bench and I was at the other.

Ques 7 How far apart were the two benches?

Ans 7 About 12 feet Sir.

Defending Officer.

Ques 8 Did you hear Gnr Thompson say that if he were put on guard he would go over the fucking hill?

Ans 8 No Sir.

Witness retires.

President to accused.

If you wish to give evidence yourself you will be subject to cross-examination. You may however make an unsworn statement which will not be subject to cross examination.

Ques 9 Do you wish to give evidence yourself?

Ans 9 Yes Sir.

Accused is Sworn and proceedes to give evidence in his own behalf.

Contd sheet 3

Evidence of accused,

I was in the washroom sir, RSM Henderson came in and warned me for fireman, Gnr Coulter for guard. He asked me whether I would start doing it and I said as soon as I finish shaving. That was all that was said between us.

Witness retires.

Capt. A Melanson called as a Character witness duly Sworn states,
I was troop Cmdr of D troop for approx 10 months during which time Gnr Thompson W.V. was on the strength of the troop, and was employed as one of my drivers. During this time I found Gnr Thompson to be a good average soldier. He caused me no trouble from a disciplinary point of view I found him to be obiedient.

Prosecution declines to examine the witness.

Defending Offr to witness,
Ques 10 How long ago was it you were troop Cmdr of D troop?
Ans 10 Approx 10 Aug. 43

Witness retires.

Prosecutor addresses the Court,
The accused has had the expert advice of my learned friend but as the accused was not speaking the truth he overlooked one point. The accused has pleaded guilty to the first charge which includes" while in open arrest " Therefor I submit to the Court that he in effect pleaded guilty to the second charge, or else when was he he placed under open arrest, by whom, for what. If this cannot be proved by the accused the accused is therefor guilty of the second charge. He is also guilty of perjury I would ask the court to consider laying a charge of perjury against the accused.

Defending Offr addresses the Court,
The accused is being tried for insolence. We have before us the sworn statement of Gnr. Coulter that he did not hear any insolent remarks passed. The accused has taken the floor as a witness himself and states that he has made no such remark. The Prosecutor has produced one witness who states that the offence occurred, but no supporting proof. With reference the Prosecutors remarks regarding open arrest, I would submit that at no time has the accused said that he was not under open arrest. The accused has an almost clean conduct sheet. He has been in the army for some considerable time and has received a favourable character reference from his former Troop Commander. Therefore there is no reason for doubting his truthfulness regarding this matter.

The Court is Closed to Consider the Findings.
The findings of the Court on the second Charge are entered on the second page of A.F.A.3 and signed and dated by the President.

The court is reopened to hear the first charge,

Contd page 4

Hearing Of The First Charge.

President to the accused.

You have pleaded guilty to the first charge, and you have been warned as to the nature of your plea.

Ques,11 Do you desire to make any statement of the circumstances in reference to the charge.

Ans 11 No Sir.

Ques 12 The Summary Of Evidence has been read in your hearing. Do you wish to make any statement in mitigation of punishment?

Ans 12 No Sir.

Ques 13 Do you wish to give evidence yourself, or make a statement, or call any witnesses as to character.

Ans 14 No Sir.

Prosecutor reads Statement of Character and Service, and hands it with with Field Conduct sheet to the Court.

President to accused.

Ques 15 Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment.

Ans 15 The regt left Sir, We didnt know whether it was going overseas or not, and we didnt like the idea of being left behind.

Defending Offr. addresses the Court.

The accused Sir has had only one minor crime during his service. I would like to stress the evidence of Capt Nixon in the previous case of Gnr Coulter, to the effect that it was the opinion of some members of the battery that the regt probably was proceeding overseas, and the accused was probably depressed.

President to the Court.

The Court is closed for the consideration of the sentence. The sentence of the Court being subject to confirmation, will not be announced but will be promulgated later, and the proceedings in open Court are accordingly terminated.

The sentence is recorded, dated and signed by the President on p.2 A.F.A.3 attached hereto.

R.R. Gilchrist Major R.A.

(W.R.Gilchrist.)

President.

LAST ORDER No. 235 7 Sep 43

DAILY ORDERS PART I by Lt.-Col, W.G. Hyatt COMMANDING 7 CDN A FD REGT RCA

~~APPENDIX~~ EXHIBIT "A"

THIS ORDER No. 236 8 Sep 43

1. DUTIES
(a) Field Officer for 9 Sep 43:- Major R.W. Thompson
Next for duty for 10 Sep 43:- Capt. W.G. Ferguson
(b) Regtl Duty Officer for 9 Sep 43:- Lieut. W.E. Keen
Next for duty for 10 Sep 43:- Lieut. J.E. Kolb
(c) Regtl Duty Sjt for 9 Sep 43:- As detailed by Duty Bty
(d) Regtl Duty Bty for week ending 11 Sep 43:- F Bty
Next for duty for week ending 18 Sep 43:- K Bty
(e) The Regtl Duty Bty will detail the duties as published in Daily Orders Part I No. 122, d/15 May 43.

2. DAILY ROUTINE
Daily Routine will be as published in Daily Orders Part I No. 94, d/10 Apr 43.

3. BLACKOUT HOURS - From 2007 hrs 8 Sep until 0548 hrs 9 Sep 43.

4. REAL PARADES - Thursday 9 Sep 43
Real Parades will be as published in Daily Orders Part I No. 220, d/23 Aug 43.

5. O.B. Effective 2400 hrs 6 Sep 43 until further notice all personnel are confined to Barracks.

6. POSTAL REGULATION
During period of embargo all mail will have senders name and number on revers side of envelope.

7. CONFIRMATIONS
The u/m are confirmed in rank w.e.f. as shown:-

A28234 A/Bdr.	Stewart, J.L.	in the rank of Bdr	wef 2 Sep 43
16P103 A/Bdr.	Dyke, H.G.	in the rank of L/Bdr	wef 2 Sep 43
A31083 A/Bdr.	Jones, A.J.	in the rank of L/Bdr	wef 1 Sep 43
A31160 A/L/Bdr.	Akiwenzie, S.L.	in the rank of L/Bdr	wef 1 Sep 43
L28613 A/L/Bdr.	Bezeraha, D.K.	in the rank of L/Bdr	wef 1 Sep 43
A31152 A/L/Bdr.	Hilson, G.G.	in the rank of L/Bdr	wef 1 Sep 43
A31057 A/L/Bdr.	Jones, J.E.	in the rank of L/Bdr	wef 1 Sep 43
A33109 A/Bdr.	Spencer, E.L.	in the rank of L/Bdr	wef 1 Sep 43
G26351 A/Bdr.	McLaren, A.R.	in the rank of L/Bdr	wef 1 Sep 43

To W Bluedawald Capt
(W.G. Hyatt) Lt.-Col.,
C.O., 7 Cdn. A. Fd. Regt., R.C.A.

REMARKS

1. The Commanding Officer congratulates Lieut. Perley and the Baseball Team on their winning the Championship of 5 Cdn Armd Div.

MAIL

Letters addressed to Miss Mabel Reuben and Mrs Wilma Ledene, were posted in Regtl Post Office bearing no name or number on back of envelope.

The s/s letters are at HQ offine for completion by the writer of same.

(3)

Summary of Evidence in the case of C1470 Gnr. William Marshall Thompson, 7 Canadian Army Field Regiment, Canadian Army Overseas, charged with absence without leave from 9 Sep 43 to 13 Sep 43, and of neglect to the prejudice of good order and military discipline.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

I26221 BSM. Henderson, P.W., Rear Party, 7 Cdn Army Fd Regt, sworn, states:-

I was on 9 Sep 43, and am still, B.S.M. of Rear Party, 7 Cdn Army Fd Regt. I am aquainted with C1470 Gnr. Thompson, W.M. whom I recognize here as the accused, and who became a member of the Rear Party at about 1000 hrs 9 Sep 43 when the Main Party moved out on exercise Harlequin. At about 1000 hrs I warned Gnr. Thompson that there would be a Rear Party parade at at 1330 hrs. At 1330 hrs 9 Sep 43 when I called the roll the accused di not answer his name. At about 1400 hrs I found the accused in the Ablution Hut and I ordered him to take over the duties of fireman at the incinerator. I then warned C1621 Gnr. Coulter B.H. for guard for 1800 hrs that day and the accused , Gnr. Thompson, remarked that if he were ordered to go on guard he would "go over the fucking hill". Gnr. Coulter protested about being put on guard whereupon the accused repeated the foregoing remark. I immediately placed him under open arrest for insolence. I went about my duties and about 1500 hrs I went to the incinerator to see if the accused was on the job. Gnr. Thompson was not on the job and I found him in the Ablution Hut and asked him when he was going to start the job. He replied as soon as he was shaved. At about 1530 hrs when I came around to check up on the accused I could not find him. At about 1700 hrs I reported to Mr. King that the accused, Gnr. Thompson, was absent without leave. When I called the Rear Party roll at 0830 hrs and 1330 hrs 10 Sep 43 the accused did not answer his name. There were no other Rear Party roll calls because the Rear Party left the area on exercise Harlequin and when it returned the men rejoined their sub-sections. I did not see the accused after 1530 hrs 9 Sep 43, until I saw him in custody in the unit guard room on 13 Sep 43.

The accused declines to cross-examine this witness.

P W Henderson
I26221 BSM. Henderson, P.W.
7 Cdn A Fd Regt RCA.

Second Witness

C26227 Bdr. Pinfold, E.M., 7 Cdn A Fd Regt, sworn, states:-

I was, on 11 Sep 43 and am still, Bombardier of "F" Sub-Section, D Tp, 45 Cdn Fd Bty, 7 Cdn A Fd Regt. I am well acquainted with C1470 Gnr. Thompson, W.M., whom I recognize here as the accused and who has been for the last month a member of my sub-section. At the first parade at about 0800 hrs 11 Sep 43, I called the roll of my sub-section and the accused did not answer his name. I have called the sub-section roll on all subsequent parades and the accused has not been present. I did not see him again until I saw him in custody in the unit guard room on 13 Sep 43.

The accused declines to cross examine this witness.

E M Pinfold
C26227 Bdr. Pinfold, E.M.
7 Cdn A Fd Regt RCA.

Sheet 2 (3)

Third Witness

A31008 BSM. Jermyn, E.L., 7 Cdn A Fd Regt, Sworn, states:-

I was, on 8 Sep 43 and am still, BSM of 45 Cdn Fd Bty., 7 Cdn A Fd Regt RCA. On 8 Sep 43 I read Regimental Part I Orders No.236 dated 8 Sep 43, on the notice board in front of the 45 Fd Bty office. I hereby produce the above-mentioned orders which I took off the notice board and hand them to Lieut. J.M. Rose.

The accused declines to cross examine this witness.

E.L. Jermyn
A31008 BSM. Jermyn, E.L.
7 Cdn A Fd Regt RCA.

The regimental Part I Orders No.236 dated 8 Sep 43, referred to by the witness, produced, read over to the accused, marked exhibt "A", signed by me, and attached hereto

J.M. Rose Lt
Lieut. J.M. Rose
7 Cdn A Fd Regt RCA.

Fourth Witness

C1821 Gnr. Coulter, B.H., 7 Cdn A Fd Regt., sworn, states:-

I was, on 9 Sep 43 and am still, a gnr of 45 Cdn Fd Bty, 7 Cdn A Fd Regt. I am well acquainted with C1470 Gnr. Thompson, W.M, whom I recognize here as the accused. On 9 Sep 43 about 1500 hrs I was in the ablution hut when BSM Henderson, P.W. came in, and I heard some talk about a fireman at the incinerator between BSM Henderson, P.W. and the accused. I did not hear any remarks that I can remember.

The accused declines to cross-examine this witness.

B H Coulter
C1821 Gnr. Coulter, B.H.
7 Cdn A Fd Regt. RCA.

Fifth Witness

A31004 L/Bdr. Leppard, O.E., 7 Cdn A Fd Regt, sworn states:-

I was, on 13 Sep 43 and am still, a Lance Bombardier of the 7 Cdn A Fd Regt. I am well acquainted with C1470 Gnr. Thompson, W.M. and recognize him here as the accused. On 13 Sep 43 I was Orderly Bombardier. At approximately 1340 hrs the accused presented himself at the Battery Office and stated that he was reporting in from absence without leave. He was sober and properly dressed. I put him under close arrest at once and reported the fact to the orderly Sergeant.

The accused declines to cross-examine this witness.

O.E. Leppard
A31004 L/Bdr. Leppard, O.E.
7 Cdn A Fd Regt RCA.

Sixth Witness

Major R.W. Thompson, 7 Cdn A Fd Regt, sworn, states:-

I was, on 8 Sep 43 and am still, the Officer Commanding 45 Bty, 7 Cdn Army Fd Regt. I am aquainted with C1470 Gnr. Thompson, W.M. whom I recognize here as the accused. On several occasions before exercise Harlequin took place, I spoke to the 45 Bty either by troops or to the battery as a whole and warned them that confinement to barracks would be in effect during the exercise. On each occasion I pointed out the importance of the confinement to barracks order, and how necessary it was that such an order be complied with. The last occasion that I referred to this matter was on a Battery Muster Parade held on Wednesday, 8 Sep 43. This was the day before the Main Party left camp. On this parade the names of the Rear Party personnel were read out, which included the accused, Gnr. Thompson, and they were particularly warned that they were confined to barracks until further notice.

The accused declines to cross-examine this witness.

Major R.W. Thompson

Seventh Witness

A33093 BSM. Bateman, M.E., 7 Cdn Army Fd Regt, sworn, states:-

I was, on 8 Sep 43, and am still, B.S.M. of "D" Troop, 45 Bty, 7 Cdn Army Fd Regt. I am well aquainted with C1470 Gnr. Thompson, W.M., whom I recognize here as the accused. On either 7 Sep 43 or 8 Sep 43 a muster parade was held of "D" Troop, 45 Bty, at which the accused, Gnr. Thompson, was present. The parade was held to hear a talk by Major R.W. Thompson at which he stressed the fact that the battery was confined to barracks and at which he notified the Rear Party personnel, of which the accused was one, that they would not be going with the Main Party.

The accused declines to cross-examine this witness.

M.E. Bateman BSM.
A33093 BSM. Bateman, M.E.

The accused having been duly cautioned in accordance with R.P. 4 (e) declines to make a statement.

Certified that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 14 day of September 1943, in the Field.

J.M. Rose LT.
Lieut. J.M. Rose.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. C-1470 Name THOMPSON, W.M. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 26 Mar 41 — G.C. Badges 1 — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: Nil — No. and date of last drunk: Nil — Period not reckoning towards freedom from extra fine: N/A — Sheet No. 2. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Old sheet destroyed on completion of six months service - 27 Sep 41 Date of last entry -- Nil					
Field	1 Aug 43	Gnr	Nil	AA Sec 15(1) Absenting himself without leave from 0100 hrs 1 Aug 43 until 0615 hrs 2 Aug 43. Absent 1 day 5 hrs 15 mins.	Documentery	5 days pay	3 Aug 43	Lt.-col., W.G.Myatt	Ffts 1 days pay FR&I 149(1) Ffts 5 days pay FR&I 149(2)

Certified true copy of Regtl books in Possession.

.....
(R.W.Thompson) Major
O.C. 45 Cdn Fd Bty RCA.

(P.T.O.)

(4)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C1470	Gnr.	Thompson, W.M.	7 Cdn. A. Fd. Regt. RCA.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused; exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~,

or

~~There are no entries in the conduct sheets of the accused~~

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days, of which Nil, days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 26 Mar 41

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of service.~~

9. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward).)~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ,~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of , dated and in his regiment (or corps or department) the rank of dated~~

(*16548) Wt.30246/662 75,000 12/40 A & E W Ltd. Gp.498
(17655) Wt.48491/1987 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C1470 Rank Gnr. Name Thompson, W.E. of 7 Cdn A Fd Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of Sep 43

W.B. Lucas Lieut. Capt
a/c 7th. Cdn. A. Fd. Regt. R. C. A.

13. The above-named has served as a non-commissioned officer continuously without reduction, to the present date.

Date of Promotion

To the rank of ..... years, ...

To the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

List of Exhibits

Exhibit A - Regimental Part I Order # 236 dated 8 Sep 43.

LIST OF WITNESSES

For the Prosecution

1.	L26221 BSM.	Henderson, P.W.	-	7 Cdn A Fd Regt RCA
2.	C26227 Bdr.	Pinfold, E.M.	-	7 Cdn A Fd Regt RCA
3.	A31008 BSM.	Jermyn, E.L.	-	7 Cdn A Fd Regt RCA
4.	C1821 Gnr.	Coulter, B.M.	-	7 Cdn A Fd Regt RCA
5.	A31004 L/Bdr.	Leppard, C.E.	-	7 Cdn A Fd Regt RCA
6.	Major	R.W. Thompson	-	7 Cdn A Fd Regt RCA
7.	A33083 BSM.	Bateman, M.E.	-	7 Cdn A Fd Regt RCA

For the Defence

Nil.

PROSECUTING OFFICER - Lieut. J.M. Rose

DEFENDING OFFICER - Lieut. S.B. Williams

I desire the Convening Officer to detail Lieut. S.B. Williams, 7 Can A Fd Regt RCA., to represent me at my forthcoming trial by Field General Court Martial.

W.M. Thompson

C1470 Gnr. Thompson, W.M.
7 Can A Fd Regt RCA.

EXTRACT FROM REGIMENTAL DAILY ORDER PART I, DATED 8 SEP 43

5. C.B. - Effective 2400 hrs 6 Sep 43 until further notice all personnel are confined to barracks.

Certified true para 5 taken from regimental daily order Part I dated 8 Sep 43.

(E.J.S. Hermon) Lieut.
I.O. 7 Cdn A Fd Regt RCA.

I desire the Convening Officer to detail Lieut. S.B. Williams 7 Cdn A Fd Regt RCA to represent me at my forthcoming trial by Field General Court Martial.

B H Coulter

C1821 Gnr. Coulter, B.H.
7 Cdn A Fd Regt RCA.

List of Witnesses

For the Prosecution

1.	L26221	BSM.	Henderson, P.W.	- 7 Cdn A Fd Regt RCA
2.	A32203	Bdr.	Millar, B.R.	- 7 Cdn A Fd Regt RCA
3.	A31008	BSM.	Jermyn, E.L.	- 7 Cdn A Fd Regt RCA
4.	C1470	Gnr.	Thompson, W.M.	- 7 Cdn A Fd Regt RCA
5.	A31004	L/Bdr.	Leppard, O.E.	- 7 Cdn A Fd Regt RCA
6.	Major	R.W.	Thompson	- 7 Cdn A Fd Regt RCA
7.	A33071	Sgt.	Nestman, J.J.	- 7 Cdn A Fd Regt RCA

For the Defence - Nil.

28.L.

Pte. THOMPSON, W.H

O. H. M. S.

M. F. B. 270
500M-1-40 (2787-8-2-40)
H.Q. 1772-39-67

Correspondence to be PINNED here.

2nd CDN. INF. BDE. 24 JUL 1942

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

2nd CDN. INF. BDE. 4 AUG 1942

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fourth day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

PROCEEDINGS REVIEWED

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.W. Day	48th R

Members.

Rank.	Name.	Regiment.
Lieut	J.E.T. McMullen	Seaforth of C
Lieut	D. Harley	Seaforth of C
Lieut	J.H. Prowse	48th R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed P. Yokes Brigadier

*Commanding 2 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H 16101 Private THOMPSON Walter Martin PPCLI	1st Charge A.A. Sec 12 (1)(a) Deserting His Majesty's Service 2nd Charge A.A. Sec 24 (2) Losing by neglect his equipment, clothing and regt'l necessaries. 3rd Charge A.A. Sec 41. Committing a Civil Offence.	not guilty guilty guilty	Do not guilty of desertion but is guilty of absenting without leave. Guilty Guilty Sentenced to six months detention and to be put under stoppages of pay until he has made good the sum of $7.50 in respect of the cost of the articles and until he has made good the value of the articles in respect of the amount of $7/12/3 each remaining three articles of necessary kit	Confirmed Okell Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— no.

(Signed) Okell (H. Okell) Brigadier (Signed) E.W. Day (E.W. Day) Major.
Commanding 2 Cdn Inf Bde. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of July 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 30 day of July 1942.

E.W. Day Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 31 25 day of July 1942.

Okell Brig
Confirming Officer.
Comd 2 Cdn Inf Bde

Promulgated and extracts taken in the case of

(*a*) (Dated) 3 Aug 1942 (Signed) A.B. Chandler Major
Commanding R.P.R.C.L.

Promulgated and extracts taken in the case of

(Dated) AUG 4 1942 (Signed) D.W. Mclean Capt for H. Vokes Brigadier,
Comdg. 2 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47297/1937 35 M. 5/41 K.J.L./3265(2) Gp. 698/3

CHARGE SHEET

The accused, H16101 Private Walter Martin THOMPSON, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, is charged with, while on Active Service:

1st Charge
A.A. Sec 12(1)(a) DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, at 0630 hrs on 9 Dec 41, absented himself from Princess Patricia's Canadian Light Infantry until apprehended by the civil power at Glasgow, Scotland, at 0800 hrs on 30 Jun 42, dressed in plain clothes. (Cost of apprehension and return to Unit - £4-4-11). (Absent 203 days 1½ hrs)

2nd Charge
A.A. Sec 24(2) LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

In the Field, on or about 9 Dec 41, was deficient of equipments, clothing, and Regimental necessaries to the total value of £10-15-8½.

3rd Charge
A.A. Sec 41 COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, CONTRAVENTION OF THE NATIONAL REGISTRATION ACT

in that he

At Glasgow, Scotland, at 0800 hrs on 30 Jun 42, was in possession of documents, i.e. National Registration Identity Card No. SFAA/242/3, Certificate of Registration No. PDF/6433 and a Medical Grade Card No. PDF/6433, purporting to be genuine, well knowing that they were not genuine.

R.A. Lindsay
(R.A. Lindsay) Lieut-Col.
Commanding, P.P.C.L.I.

O.A.S.
8 Jul 42

To be tried by F.G.C.M.

24 Jul 42

Brig
Comd 2 Cdn Inf Bde

MEDICAL OFFICER'S CERTIFICATE
R.R. (CAN) PARA 557

I certify that I have this morning examined No. H16101 Private THOMPSON W.M., P.P.C.L.I., and in my opinion he is ~~fit~~ to undergo Trial by Court Martial.

In the Field,
29 Jul 42

(C.C. Fairfield) Capt.
R.C.A.M.C.

Trial of No H 16101 Private Walter Martin Thompson
P.P.C.L.I.

The Court satisfying themselves as prescribed by K.R. 22 & 23 3 Dec 1944

Prosecutor - Lieut. W.E. Robertson, P.P.C.L.I.

Defending Officer. - Lieut. C.M. McDougall, P.P.C.L.I.

At 10.15 hrs the trial commenced

The order convening the Court was read,
The names of the President and Members were read to the accused.
The accused was asked "Do you object to being tried by me as President or by any of the Officers whose names you have heard read over."
Answer by accused "No"
The oath was duly sworn.
The accused was arraigned upon each charge in the Schedule.
Question to the accused. "Are you guilty or not guilty of the first charge against you".
Answer by the accused "Not guilty Sir".
Question to the accused "Are you guilty or not guilty of the second charge against you".
Answer by the accused "guilty Sir".
Question to the accused. "Are you guilty or not guilty of the third charge against you".
Answer by the accused "guilty Sir."
The Court proceeded to try the accused upon the first Charge.
~~The Prosecutor submitted an opening address, & calling~~
EWR

Rule 35 (B) complied with

1st Witness. for the Prosecution.

B. 21185 C.S.M. Ross F.S. D. Coy: P.P.C.L.I.

having been duly sworn is examined by the Prosecution.

Q.1. Do you recognize the Accused?

A.1. Yes, he is # H16101 Pte Walter Martin Thompson.

Q.2. What do you know of his absence?

A.2. Sir, I am now and was on 9 Dec 41, C.S.M. of D Coy P.P.C.L.I. The accused was on 9 Dec 41 attached to D Coy. P.P.C.L.I. as Special Increment. On 9 Dec 41 the Accused was reported to me as being absent without leave.
He was returned to the Regimental Police on 2 Jul 42. At no time during this period did Pte Thompson return to the Company.
In December 1941 the Special Increment was not allocated to Platoons. They were under command of Sgt. Hart A. who has since returned to Canada.
The acting Company Orderly Sgt. on 9 Dec 41 was Cpl. Nigiars E. who has also returned to Canada since this date.

Q.3. From what time was the Accused reported absent.

A.4. From 0630 hrs, Sir.

The Accused declines to question the witness.
(R.P. 83.6. complied with.)

2nd Witness. for the Prosecution

Lieut C.P. Mc Pherson, Assistant Adjutant P.P.C.L.I. having been duly sworn is examined by the Prosecution.

Q.5. Do you recognize the Accused?

A.6. Yes, he is # H16101 Pte Walter Martin Thompson.

I am the Assistant Adjutant of the P.P.C.L.I. - I produce:-

"Record of the Declaration of a Court of Inquiry investigating & recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition

2nd Witness for the Prosecution (continued)

Equipments, Instruments, Regimental necessaries or clothing of 14161 Pte. Thompson W.M. R.A.P.C.A.I. marked Exhibit "A."

I also produce a bundle of papers received through the post on 3 Jul 42 and marked Exhibit "B"; the said papers purporting to be:-

1) Covering letter from O.C. No 6 Coy. Edn. Pnorat Corps.
2) Evidence of M 14146 L/Cpl. Boyce W.T. - AFB 252.
3) A.F.O. 1618.
4) Statement of Apprehension of accused made by Sgt. James Murray and Constable Alexander McCrae, Glasgow Police.
5) C.M.H.Q 1000:55
6) Certificate of Registration, Identity Card and Grade Card in the name of "Robert Watkis"
7) Tag from Glasgow Police.

The documents comprising Exhibits "A" & "B" are read to the Accused signed by the President, and annexed to the the Proceedings.

The Accused declines to question the witness.
(R.P. 86 b. complied with)

3rd Witness for the Prosecution

No 24 Sgt. James Murray, Marine Division, City of Glasgow Police having been duly sworn is examined by the Prosecutor:-

Q.1. The Accused ~~# 16101 Pte Thompson W.M.~~ is charged with desertion. Do you recognise him?

A.1. Yes, he is Wesley Thompson.

Q.2. What do you know of him?

A.2. On 30 Jun 42, at about 0400 hrs. I found him

3rd Witness for the Prosecution (continued).

in the house of Mrs Dykstra, #229 West Regents Street, Glasgow. We were making a search of the house and discovered the Accused under a bed in the kitchen. This was a suspected immoral house and it was therefore necessary for us to question each man & woman in the house. During the course of doing this I interrogated the Accused who produced the following documents which appeared to have been issued:-

1) Certificate of Registration
2) Identity Card
3) Ration Card

} in the name of:- Robert Walker

After some questioning the Accused admitted that he had been A.W.L. from his regiment, P.P.C.L.I., at Brighton since December 1941. I asked him for his Pay Book and he stated that he had flung it onto a shelf in the kitchen just before his arrest. Later I returned to the house and retrieved Part I of his Pay Book.

In accordance with the usual practice when dealing with Soldiers who are A.W.L. I questioned him regarding his military uniform. The Accused stated that he had disposed of it in a Café in the town, but was unable to state where or give me any indication of the locality. He informed me that he was endeavouring to get together his military kit in order to return shortly to his Regiment. He volunteered that a certain woman residing with him in the house at 229 West Regents Street had been the child which had subsequently died and that as all that was finished he was preparing to return to his unit.

Q 9. Did you speak to the woman?

A 9. Yes, & I know that this story is true.

3rd Witness for the Prosecution. (continued.)

Q. 10. Where did you charge the Accused?

A. 10. I charged him from the Box at the Marine Divisional Police Office with being an Absentee.

CROSS EXAMINATION by Defending Officer.

Q. 11. At what time did you arrest the Accused?

A. 11. 0400hrs.

Q. 12. At what time did the Accused appear before the Magistrate?

A. 12. 0900hrs the following same morning.

Q. 13. At the time of his arrest how was the Accused dressed?

A. 13. In civilian clothes.

Q. 14. Under what name was the Accused charged?

A. 14. Robert Walker.

Q. 15. On what charge was he arrested?

A. 15. No charge at first. He was taken to the Station for questioning as he was present in an immoral house.

Q. 16. As far as you knows you had arrested a certain Robert Walker and you had no suspicion of any other identity?

A. 16. Yes, but he was not arrested but only taken to the Station for questioning.

Q. 17. When were you first aware that the accused was not Robert Walker?

A. 17. When I saw that his Identity Card had been actioned my suspicions were aroused.

Q. 18. At what point did you discover that the Accused had been taken into custody under the wrong name.

A. 18. During the questioning he admitted he was an Absentee from the R.A.F.

CROSS EXAMINATION by Defending Officer (continued)

Q. 19. How did you know where to find the Accused's Pay Book?

A. 19. He told me exactly where it was.

Q. 20. Did the Accused admit of his own accord that he was A.W.L.?

A. 20. Yes, after questioning.

Q. 21. Would you say that he had volunteered the statement that he was A.W.L.?

A. 21. Yes, after a little questioning.

Q. 22. Is it true that the Accused admitted that he was A.W.L. & told you where to find his Pay Book?

A. 22. Yes.

Q. 23. Could the Accused have concealed his identity if he had wished?

A. 23. No. I would automatically have checked the particulars of his Registration Card at the Registration Office.

Q. 24. Were there any means at your disposal of disproving the real identity of this Robert Walker had he not admitted his identity?

A. 24. No. I could have proved it was not his identity Card, but would have been unable to prove his identity.

Q. 25. You then became aware of his identity by his own voluntary admission?

A. 25. Yes.

Q. 26. When you returned to look for the Accused's pay book did you discover any other of his belongings?

A. 26. No.

Q. 27. Was there nothing else on the shelf on which you found the pay book?

A. 27. Yes, books & general oddments & towels.

Q. 28. Was any military kit found in the house?

A. 28. No, we had occasion to search the house very thoroughly for something not connected with this case & we came across nothing.

Q. 29. After the Accused was taken into custody when was his uniform returned to him?

A. 29. It was never found & therefor it was never returned to him.

CROSS EXAMINATION by Defending Officer (continued)

Q.30. In your evidence you mentioned a young lady who was staying with the accused at 229 West Regents Street. Did you know her personally?

A.30. I knew her by sight as a woman who resides at this address.

Q.31. Is it true that she bore a child on approximately 10 Jun 42 and that it died the following day?

A.31. Yes, I believe this to be the case.

QUESTIONED by the ACCUSED.

Q.32. Sergeant, you returned to the house at 229 West Regent street accompanied by a plain clothes policeman.?

A.32. Yes,

Q.33. When the policeman returned did he not make any mention of finding a pair of army pants with a cut up the back & a piece being put in?

A.32. No.

RE EXAMINED by the PROSECUTOR.

Q.34. Had the accused been properly 'cautioned' that any statement he might make would be used in evidence against him?

A.34. yes, he was cautioned as soon as I suspected something was wrong owing to his identity card not being in order.

Q.35. Is it possible to purchase illegally false Identity Cards?

A.35. yes, I have had several cases of this recently.

Q.36. Is there, at any time, a general check up on Identity Cards?

A.36. No.

Q.37. It is therefore possible for a man to have a false Identity Card in his possession for a ~~con~~ indefinite period?

A.38. yes, but it is now necessary to have one's Identity Card checked before obtaining a new Ration Card.

Prosecution is closed.

9A. IF Ev. Day

CROSS EXAMINATION by the COURT.

Q. 39. Do you elect to give evidence yourself?

A. 39. Yes, Sir.

Q. 40. Do you propose calling any witnesses?

A. 40. Yes, Sir.

Q. 41. Witness as to character only?

A. 41. No Sir, witness as to fact.

Q. 42. Pte Thompson as a witness you are under oath & you realise therefor that you can be cross examined by the Prosecutor?

A. 42. Yes, Sir.

Q. 43. Does the Defending Officer wish to make an Opening Address?

A. 43. No Sir.

1st Witness for the Defence.

N.16101 Pte Thompson H.M. P.P.C.L.I. having been duly sworn is examined by the Defending Officer.

Q.44 Tell, in your own words, Pte Thompson, what happened.

A.44. Sir, before I came up to the field I was at Camp 103 Witley. Whilst there I went on 48 hours pass to London & met a girl called Phyllis Moore. I went with her for a while and when she became pregnant and not knowing what to do I used up on request and asked for 14 days leave. This was granted but a few days before the leave came up I was shipped off to the field.
For about four or five months I'd been receiving no pay as I'd lost ~~my~~ part II of my Pay Book & had not been issued with another. When I arrived at the Regiment I discovered my application for leave had not been sent up with me & that I had to go to the Depot of the Leave List, thus forgo my leave as arranged.
About 8 Dec 41 I went up to London to see Miss Moore to see what could be done about the fix we were in. I found there was much I could do at the time so I decided to stay and see the thing through. I sent for some money from home and when I received this I bought some second hand civilian clothes and a Painters Outfit of a pail & some brushes. I kept moving about London from place to place so that I would not have to answer difficult questions and then in March I took Miss Moore to Glasgow where she got a job as a housemaid at 229 West Regents Street.
I began to have quite a bit of trouble regarding "Papers" and when I got the chance to buy for £1 the one on the table (Exhibit B) I took it because with this paper I felt I could get work, make

1st Witness for the Defence.
(continued)

Some money & so on the business through.
The child was born on about 10 Jun 42 but it died within 48 hours. About 24 Jun 42 Mrs Moore was beginning to get about again, although she was not right, and as she had to register we registered the death of our child.

I was picked up on 30th June. I had intended returning to the Regiment as soon as Mrs Moore was properly well and I'd kept my Pay Book (Part 1) for this purpose.

Early in June, while in Glasgow I met a man called Steele in a pub & told him I would be returning to the unit in about 2 weeks. I am calling him as a witness in support of this statement.

~~Cross Examination by Defending Officer~~

Q. 45 Did you retain your Pay Book all the time you were absent?

A. 45 Yes, Sir.

Q. 46. Were you in possession of a military uniform during your absence?

A 46. Yes, Sir. I'd lost mine but I'd got told of another which was too small for me but it was being altered.

Q 47. Why did you keep your Pay Book and that uniform?

A 47. I needed them for my witness.

Q. 48. During your absence were you ever arrested in the name of Robert Walker?

A. 48. Yes Sir, for being drunk & fighting with the Police.

Q 49 What punishment did you get for this?

A. 49. One night in the Maryhill Police station & Glasgow and a fine of 2 guineas the following morning.

1st WITNESS for the DEFENCE

CROSS EXAMINATION by the Defending Officer (continued).

Q. 50. The Police considered that you were Robert Walker on the occasion?

A. 50. Yes Sir, my identity was not questioned?

Q. 51. When you were arrested on 20 Jun 42 why did you conceal your identity?

A. 51. Because Miss Moore was almost better and intending to return to the Unit in any case within a week or two, I decided to give myself up

CROSS EXAMINATION by the PROSECUTOR.

Q 52. Pte Thompson did you ask any advice on this matter Did you consult your Platoon officer, your Company Commander or the Padre?

A. 52. I was accepted for my leave before any Company Commander at Witley, but I granted it without asking any question.

Q 53. When, on arriving in the field, you learned that you were not getting your leave, Did you ask any advice then?

A. 53. No, Sir.

Q 54. How much Service have you had?

A. 54. I joined up on 11 Sep 39.

Q 55. You know it is an offence to go A.W.L.?

A. 55. Yes, Sir

Q 56. Did you realise that the longer you stayed away from your Regiment, the more serious your offence would become?

A. 56. Yes, Sir.

Q 57. You made the statement that you always, ~~kept~~ kept your Pay Book; Was that Pay Book always in your possession in the clothes you were wearing?

A. 57. Yes Sir, until the Police took it from me.

Q 58. Are you married?

A 58. No Sir

CROSS EXAMINATION
by the PROSECUTOR
(continued)

Q.59. To the best of your knowledge has anybody in the Regiment ever been refused a pass for circumstances such as these?

A.59. I've never heard of circumstances like these, so I don't know. I could not very well bring these things out because what could have been done?.

Q.60. Did you get any work and earn any money while you were A.W.L.

A.60. A few odd jobs sir, but I earned very little.

Q.61. How did Miss Moore get the job at 229 West Regents Street?

A.61. She heard of it in Glasgow & took a "house" job because of her condition.

Q.62. About what date did you get the false Identity Card?

A.62. About the middle of May.

Q.63. You stated earlier on that you'd lost your uniform, and then later you stated that you had one all the time. I left my uniform in a Café & I was later told that the police had got it. In travelling around Glasgow I heard of another which I got hold of. It was too small so I tried to get it altered.

Q.64. When were you awarded for being drunk?

A.64. About the middle of June. Just after the child was born.

Q.65. When you applied for 14 days leave what did you plan doing?

A.65. I hoped in some way, to be able to arrange to get rid of the child.

Q.66. Later you went up to London to see Miss Moore to see what could be done about the matter; when you found you could do nothing, why did you stay there?

A.66. To help Miss Moore, I felt I had to stand by her.

14 Days Ext

CROSS EXAMINATION by the PROSECUTOR (continued)

Q.67. Where did you get money to buy the clothes?

A.67. By a cheque through the Canadian Bank of Commerce in London.

Q.68. When arrested were you ready to return to your Unit?

A.68. I would have returned in about a week only Pte Moore had had a relapse & had to go to Hospital.

Q.69. What happened to the pair of trousers you asked the Sergeant about?

A.69. I cant understand, the policeman who returned with the Sergeant, said that they were right on top of the Pay Book and that I was making a poor job of the actusations.

Q.70. Why did you hide under the bed in the kitchen when the police came in?

A.70. I thought they had checked back on my papers after my arrest and were coming for me.

Q.71 What sum did you receive from Canada?

A.71. £6 Something.

Q.72. How did you live all this time?

A.72. Hard to answer until I got the "Papers", then I got a little work.

2nd WITNESS for the DEFENCE

H.13567 Pte Steele. C. D Coy. P.P.C.L.I. having been duly sworn is examined by the Defending Officer.

Q.73. While you were on leave in Glasgow did you meet the Accused?

A.73. Yes, Sir.

Q.74. Tell the Court of your conversation with the Accused.

A.74. It was in a Pub Sir, Pte Thompson told me that he would be seeing Wemyss soon as he was coming back to the Company. He had had some trouble with his girl which would soon be over.

15
EVIDENCE

~~2nd~~

CROSS EXAMINATION by the PROSECUTOR

Q. 75. When did this conversation take place?

A. 75. Between 10th and 17th April, Sir.

Q. 76. How long have you known the Accused?

A. 76. Not very long Sir.

Q. 77. When you saw him, did you know he was an Absentee?

A. 77. Not exactly.

Q. 78 What do you mean, what Company do you belong to?

A. 78. D. Company and I knew he'd been with D. Company.

Q. 79. How was the Accused dressed?

A. 79. In a civilian mackintosh?

Q. 80. Did he recognise you or you him?

A. 80. He spoke to me, Sir.

NOTE

Page 16 is now charged 7-9 A -

There is No page 16.

17
Exhibit

The Defending Officer addresses the Court summing up the evidence as follows:-

The criticism between desertion and absence without leave is intention. The charge against the accused is:-

"Deserting His Majesty's Service."

For proof of this charge the Prosecution must prove an intention on the part of the offender not to return to His Majesty's Service at all. This I submit, after having heard the evidence has not been done.

Let us examine first of all the facts of the case as set out by the accused in his evidence. In December 1941 while serving at the Holding Unit the accused learned that a young lady had become pregnant by him. At that time he was eligible for two weeks leave and he intended to visit her and as he says, "put things right". Unfortunately, at this juncture, he was put on draft to the field unit and found that his leave had to be postponed. He was under the impression that his name had dropped to the bottom of the leave roster, and that an application for leave would not be considered. Hence, rightly or wrongly, he decided to absent himself in order to assist the girl he had made pregnant.

At this point I would like to refer to the Court how unfortunate I consider the fact that the young lady in question has not been called as a witness. Owing firstly to the exigencies of the Service and the expense and loss of time involved she was not called, nor under R.P. + E. was there time for a statement to be obtained — not at least in the time available between my appointment as Defending Officer and the date for trial. Again owing to the exigencies of the Service I did not ask for an adjournment on the above grounds preferring to expedite matters and relying on the good intelligence of the Court under the circumstances. Certain of the facts you have heard however, are a matter of record, such as the birth & death of the accused's baby.

I continue with the story of the accused. Having met

Defending Officer's Summing up (contd)

the young lady he found that in fact she was pregnant. News his intention had been to put things right somehow or other, but he found that there was little he could do. As time went on and his situation became more critical and there was still no solution. During this condition she lost her job & he was faced with the necessity of supporting her. His intention at this time was to stay with her but until she had borne his child and was back on her feet again and then return to duty. Hence the plain clothes and documents. For to support her put money was necessary, and money meant work, and work could only be obtained as a civilian.

Hence we see the Accused in this unfortunate position - forced to pose as a civilian, but not to disguise himself — it was rather a necessity forced upon him. At all times he was in possession of a military uniform and his Army Pay Book — hardly the kind of possessions a man trying to disguise his military identity would be likely to keep.

Finally the baby was born and died soon after. — There is record of this in the Glasgow Registry office. After this Thompson was merely waiting until his pal was able to support herself until he returned to the unit. This time had practically arrived when he was arrested under another name and was not known to the police as an absentee. Thompson also decided that his justice had been achieved and that it was time to return and face the music. Hence he revealed his true identity that is the story. It is a sad one and it shows the Accused to be guilty of several things — of absence without leave, neglect and more, but it does not I submit show him to be guilty of desertion.

Let us now examine the facts that the Prosecution has put forward:-

The prosecution has shown that the Accused was absent from 9 Dec 41 until 30 Jun 42. But the Accused does not deny this. Moreover this fact is not proof of the Accused's intent to desert. I quote from Chapter III §18. M.M.L. dealing with intent to desert: "Mere length of absence is, by itself,

Defending Officer's Summing up (cont'd)

inconclusive as a fact." Hence no conclusion can be deduced from the fact of absence.

Secondly the Prosecution has shown that at the time of his apprehension the Accused was wearing plain clothes. That is a fact and the Accused does not contest it. Once again I submit that this fact is no proof of his intent to desert. Instead, I intend to show that the possession of plain clothes by the Accused was necessary in his plan to aid and support the unfortunate young lady who gave birth to his child. This was his purpose in purchasing plain clothes - not as the Prosecution would have it, so that he might disguise himself as a deserter. Now that the Accused at all times was in possession of a military uniform a fact that more than counterbalances his possession of plain clothes. Is it likely that a man who intended to desert, and by that I mean, a man whose one aim is to destroy all evidence of his military identity, would keep such an incriminating article as a military uniform? I submit to the Court that this is definitely not the action of a deserter.

Thirdly the Prosecution has tried to show that the Accused was in possession of certain documents, i.e. Motorcar Registration Cards, that he was not entitled to. Point the Accused has pleaded guilty to this charge. The REASON for this is plain for without these documents, as without plain clothes, he could not work and without work he could not obtain money to enable him to support the woman he had made pregnant and who was about to bear his child.

The Prosecution addresses the Court, summing up the evidence as follows:-

The absence of the accused has been proven by documentary evidence of such a nature as the Army Act make admissable and by the evidence of the first Witness.

The evidence of the Third Witness proves that the accused was in Civilian clothes and was in possession of a false identification card and medical grade card at the time of his apprehension. From these facts it is evident that the accused had taken definite steps to conceal his identity and had succeeded in doing so for some considerable period.

The accused has had sufficient service to make him realise the gravity of his offence and also his responsibilities as a Soldier on active service. Personal troubles cannot and must not be accepted as reasons for committing an offence under the Army Act.

The third witness stated that after questioning, the accused admitted his real identity and from that point on gave the police every assistance. Was it not because he realised the "game was up" that he did this? Did the accused acquire a uniform as a means of concealing his "intent" to desert if his case ever came to trial? These are questions for the Court to answer.

In conclusion, the fact that the accused did conceal his identity and did not take any steps to inform his unit as to his whereabouts must lead one to believe that "intent" was there. Whether he changed his mind later on or not is beside the point.

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E.W.Tudway

The Court having been reopened the accused is again brought before it and the charges to which he has pleaded guilty are read to him again.

The accused # H16101 Pte Walter Martin Thompson P.P.C.L.I. is found guilty of the 2nd & 3rd charges.

The accused declines to make any statement in accordance with R.P. 37 (B)

The Summary of Evidence is read, marked 'D' signed by the President and attached to the proceedings.

Upon instructions of the court C.Q.M.S. Tudway C.R. is called to explain Exhibit C referred to in the Summary of Evidence.

R85344 C.Q.M.S. Tudway C.R. having been duly sworn is examined by the court.

Q. This document submitted as exhibit "C" is not intelligible, will you explain it.

A. On examination of the equipment and clothing of the accused I marked a D against articles which were missing and noted the price. To clarify this exhibit I have had this information typed on another sheet which sets out the facts more plainly.

These exhibits were marked C & C1 respectively read & signed by the President, and attached to the proceedings.

Question to accused. Do you wish to make any statement in mitigation of punishment.

Answer. Everything that can be said was included in the address of the defending Officer.

Question to Accused.

Do you wish to give evidence yourself or call any witness as to character?

Answer - No.

The Court is closed to consider its findings.

The Court is reopened.

Lieut Mc Pherson, A/Adjutant R.C.E.M., having been duly sworn says: I produce certified true copy of M.F.M. 6 of the accused and a short statement as to the particulars of service of the accused.

The said documents were marked "E" and "F" respectively, signed by the President and attached to the proceedings.

The Court is closed to consider the sentence.

Exhibit A.

-23-

Exhibit

RECORD of the Declaration of a Court of Inquiry assembled at Rottingdean, Sussex on the 2nd day of January 19 42 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of

No. H16101 Private THOMPSON, W.M., P.P.C.L.I.

DECLARATION

The Court declares,

That No. H16101 Private THOMPSON, W.M., of the Princess Patricia's Canadian Light Infantry, illegally absented himself without leave at Rottingdean, Sussex on 9th day of December, 1941 that he is still so absent, and that on 30th day of December, 1942 he was deficient, and that he is still deficient of the following articles.

ARTICLES	VALUE	ARTICLES	VALUE
Vests, woollen	6/6	Hairbrush	2/1
Drawers, "	6/3	Toothbrush	1/5½
Shirts, Angola	10/	Brushes, boot	/8½
Socks, prs	1/11	Brushes, clothes	2/9
Battle Dress, pants	1/0/6	Comb	/2
" " blouse	1/2/6	Knife, clasp	2/10
Boots, ankle, prs	1/2/6	Gloves, prs	1/8
Greatcoat	2/8/6	Shoes, canvas, pr	2/3
Denim Pants	11/9	Shorts, P.T.	2/2
Respirator, complete	16/10	Vest, P.T.	1/6
Anklets, web, prs	3/11	Button Stick	/2
Cape, A.C.	15/	Button, Brush	1/2
Razor	/5½	Identity Discs	-
Shaving Brush	1/2	Blankets, G.S.	12/
		Total	£10/1/6½

Names of President and Members:

President Major J.A. Early, P.P.C.L.I.

Members Capt. D. Younger, S.S.M. & S.R.

Lieut. R.D. Brown-Clayton, PPCLI

R.A.Lindsay

Signature of Commanding Officer R.A. Lindsay Lieut.Col. P.P.C.L.I.

R.A.Lindsay

Certified true copy..... (R.A. Lindsay) Lieut-Col.. Signature of Commanding, P.P.C.L.I. al records.

M.F.S. 375
2M 10 39 (2198)
H.Q. 1772-39-257

Summary of Evidence in the case of H16101 Pte Walter Martin Thompson, "D" Coy, P.P.C.L.I.

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D
Ex. Docs

By direction of the Commanding Officer, P.P.C.L.I. the Summary of Evidence is taken on oath

1st Witness for the Prosecution P 21185 F.S. Ross, W.O.2 (C.S.M.) D Coy, P.P.C.L.I having been duly sworn states:-

"I am now, and was on 9th Dec 1941 C.S.M. D Coy P.P.C.L.I. The accused, whom I recognize, was on 9 Dec. 1941 attached to D Coy, P.P.C.L.I, as Special Increment. On 9 Dec. 1941 the accused was reported to me as being absent without leave. He was returned to Regimental Police on 3 July 1942. At no time during this period did Pte. Thompson W.M. return to this Coy. In December 1941, the Special Increment were not allocated to Platoons. They were under command of Sgt Hart. A., who has since returned to Canada. The Actng C.S.M. on 9 Dec 1941 was Sgt Nigro E. who has since returned to Canada.

F S Ross

The accused declines to question this witness (R.P. 44(d))

2nd Witness for the Prosecution Lieut C.A. McPherson, a/Adjutant P.P.C.L.I. having been duly sworn states:-

"I am a/Adjutant P.P.C.L.I. I produce herewith a certified true copy of the from the Regimental Records of the finding of a Court of Inquiry dealing with the absence & loss of equipment of the accused, marked Exhibit A.

I produce herewith a bundle of papers received through the mail on 3 July 1942 and marked Exhibit B, said papers

purporting to be:-

(1) Covering letter from OC. no.6 Coy. Edm. Provost Corps.
(2) Evidence of WO.II 7146 L/Cpl Boyce W.J.
(3) Confession of accused.
(4) Statement of Apprehension of accused made by Sgt. James Murray and Constable Alexander McRae, Glasgow Police.
(5) Statement of travelling expenses re apprehension of Accused.
(6) Certificates of Registration Identity Card and Trade Card in name of "Robert Walker"
(7) Tag from Glasgow Police.

It is not convenient that the above mentioned people in connection with the above document be brought to Hassocks Sussex, for the reading of the present Summary of Evidence. I certify that the attendance of these witnesses (Sgt James Murray and Constable Alexander McRae Glasgow Police) is not procurable, and that a written statement of their evidence signed by them has been read to the accused, and is attached as Exhibit 'B' to this Summary.

The accused declines to question the witness. (R.P. 44).

I do not require the attendance of Sgt James Murray and Constable Alexander McCrae, Glasgow police, for the purpose of cross examination

3rd Witness for the prosecution K 85344 C.S.M.C. Tudway, C.R. D Coy. R.P.C.U. having been duly sworn, states:-

"I am and was on 3 Dec. 1941 C.S.M.C. D Coy. R.P.C.U. I recognize the accused as the person claiming the effects of 11.16101 Pte Thompson, W.M. the third night, 3 July 1942.

I produce herewith a list of deficiencies of clothing & equipment and replacement price thereof, of WO II 16101 Pte Thompson W.M. marked exhibit C, as of 3 July 1942.

C.R. Tudway"

The accused declines to question the witness.

4th Witness for the Prosecution 4 7196 Pte (a Lcpl) Kowalski. P.J. Regimental Police R.P.C.U. having been duly sworn states:-

"The accused whom I recognize was handed over to the Regimental Police, R.P.C.U. by the Edmonton Regiment Regimental Police on 3 July 1942 at 1530 hrs. The Edmonton Regiment Regimental Police stated that they had brought the accused from Can Det Reception camp at Worthing, Sussex.

The accused declines to question the witness

The accused having been duly cautioned in accordance with Rule of Procedure 44(B) declines to make a statement

I certified that Rule of Procedure 44(C)(D)(E) and (F) have been complied with

Taken down by me in the presence of the accused, this 6th day of July 1942, at Hassocks, Sussex.

R.S.M. Ammell coldstream R.P.C.U.

Exhibit B. ①

File No. 13/81.....

Officer Commanding;
C.P.C.L.I.
Worthing.

Re; H-16101 Pte. Thompson,W.M.

1 Forwarded for your information and necessary action, please, and disposal under C.A. Routine Orders (O) No 388 dated 29-Oct-1940

.....Lieut.
for Capt. M.E.Byers,
O.C. No 6 Coy. Cdn. Provost Corps.

London
2-July-42

Army Form B 252
(See King's Regulations)

CHARGE.

..... Regiment
..... Battery / Squadron / Troop or / Company

CHARGE against No. ..... Rank .....

Name .....

Place ..... Date of Offence .....

OFFENCE .....

.....

.....

.

Statement of **EVIDENCE** in the case of.
1-16101 Pte Thompson W.H.
R.A.S.C.T. H.Coy.

Sir;
At Glasgow on the 1-7-42 at 1730 hrs I proceeded to the Lairds Police office were the a/m soldier was handed over to me. I escorted him to Gdn.Prov.Corps H.Q. Glasgow, to await escort to London.

Glasgow
1-7-42

.....W.T.Boyce L/Cpl.
(1-17146 Boyce W.T.)
Gdn Prov.Corps No.6.Coy.
Glasgow Det.

REMARKS

Has no complaints

Lieut.
O i/c Detention Room
No. 6 Provost Company.

DESCRIPTIVE RETURN OF ‡ No.H/16101 Pte. Walter Martin Thompson

was arrested at Glasgow (hour) 8 a.m. of the 30th. day of June, 1942 and was committed to confinement at Marine Police Office, Glasgow on the 30th. day of June, 1942 as a Deserter ~~from~~ (or Absentee without leave) from the ~~Regiment~~ Princess Patricia's Canadian Light Infantry.

Age	24.	Height	Five feet Eight inches
Complexion	Pale.	Hair	Fair. Eyes Hazel.
Marks	Nil.	In uniform or plain clothes	Plain Clothes.

Probable date and place of attestation	11/9/39. Winnipeg. Canada.
Probable date of desertion or beginning of absence and from what place.	15.12.41 - Brighton.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Sergeant James Murray, Constable, Alexander McRae. Both City of Glasgow Police, "B" Divn..
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	As per attached statement.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is a deserter from the before-mentioned Corps.

John Warren — Signature
City Chambers, — Residence
Glasgow. — Post Town
30-6-42 — Date of Signature
of Committing Magistrate.

* W Thompson — Signature of Prisoner

James Murray — Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

_____ Signature
_____ Residence
_____ Post Town
_____ Date of Signature
of Magistrate.

‡ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form G 1818.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ at ____

Regiment at ____ on ____ by ____

who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the_____

Police in connection with the apprehension of_____

_____ and are

payable to_____

(Superintendent or Officer i/c Police Station at

Date_____

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster_____ is hereby authorised to pay to_____ being the person recommended by the Committing Magistrate, a reward of_____ for the apprehension of_____

Date_____

(O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE.

Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee **without Leave.**

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*16171) W.L.(P.C.(G.)) 50,000 11/40 A.&E.W.Ltd. Gp.678 Forms/O.1618/32

B+ Gordon 27

Apprehension of Pte. Thompson.

Walter Martin Thompson, (24) No. R/16101, Private, Princess Patricia's Canadian Light Infantry at Brighton.

----------oOo----------

JAMES MURRAY, No. 24 Sergeant, Marine Division, Glasgow Police.

States:- I am 40 year of age and have 19 years Police Service.

About 3 a.m. on Tuesday, 30th June, 1942, while engaged raiding a house at 229 West Regent Street, Glasgow, I found the accused lying underneath the bed in the kitchen.

I asked him his name and he told me that it was Robert Walker. He produced a National Registration Identity Card, No. SFAA/242/3, bearing that name, and giving his address as 77 Hill Street, Glasgow, a Certificate of Registration, No. PDF/6433, under the National Service (Armed Forces) Act, 1939, and a Medical Grade Card, No. PDF/6433, bearing the same name and address as the Identity Card.

It was quite evident that these documents had been altered and I took possession of them. The accused then admitted that he was a deserter from Princess Patricia's Canadian Light Infantry at Brighton since 15th December, 1941, and that his proper designation was R/16101, Private Walker Martin Thompson, attached to the above Regiment.

He was charged as libelled, and after being duly cautioned he made no reply. Pte. Thompson was thereafter conveyed to the Marine Police Office, where he was again cautioned and charged, but made no reply. He was detained.

On reaching the Marine Police Office, I asked the accused for his pay book, and he stated that it was on the shelf in the kitchen where he had thrown it when the Police entered the house. I returned to the house and retrieved the pay book.

Pte. Thompson was dressed in civilian clothing and stated that he had been residing at 229 West Regent Street since about the end of March, 1942, but he denies that the people had any idea that he was a deserter.

The accused informed me that he had forwarded his civilian clothing to an address in Glasgow prior to his arrival, but he would not reveal this address, and on his arrival he collected this clothing and changed from his Army clothing in a Cafe somewhere in Argyle Street, Glasgow.

He also stated that he had left his uniform in this Cafe, and that he intended to call back for it some time later, but was told that his uniform had been handed over to the Police, and he made no attempt to verify this information.

James Murray.
No. 24 Sergeant.

Alexander McCrae, No. 204 Constable, Marine Division, Glasgow Police.

States:- I am 42 years of age and have 20 years service.

About 3 a.m. on Tuesday, 30th June, 1942, I was on duty along with the previous witness and corroborate his statement.

Alexander McCrae No. 204 Constable.

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. H-16101 Rank Pte. Name Thompson, W Unit PPCLI

The following expenses were incurred in apprehending and returning the M/N Soldier to [redacted] from London from Glasgow

Date	Particulars	Amount £	s	d
2 July 42	2 Escorts return fare from LONDON To Glasgow (3 parties	2	1	1
	Prisoners single fare to LONDON From Glasgow	1	10	4
	To			
	Prisoners fare from		2	8
	Escorts & Prisoners expenses for ~~Bed~~, Meals, ~~Bus fares~~			
	Total £	3	14	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W J Greenaway Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.R.Q. 1000/55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H-16101 Rank Pte. Name Thompson, W. M. Unit PPCLI

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
3 July 42	2 Escorts return fare from LONDON To Worthing (½ portion)		6	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Worthing		4	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. A. Stewart Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

AREA

Exhibit C

INDIVIDUAL'S CLOTHING AND EQUIPMENT STATEMENT

Regtl. No. 416101 Rank Pte Name THOMPSON, W.M. Date of Attestation

CLOTHING

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Anklets, Web, prs	1			D			3 5½								
Battle Dress—															
Blouses, serge	2			-1			£1 7 8								
Trousers, serge, prs	2			D			£2 15 10								
Belts, waist, leather, brown															
Boots, ankle, prs	2			D			£2 3 0								
" ankle, felt, prs															
" Lumberman's, rubber, prs															
Breeches, D.C., or trousers, S.D., prs	1			D			3 8								
Caps															
Cloak or greatcoat, drab	1			✓											
Drawers, cotton, short, prs	2			✓											
" woollen, prs															
Gloves, woollen, khaki, prs															
Helmets, sun															
Jackets or doublets, S.D.															
Jackets, khaki, drill	1			✓											
" aawster															
Mitts, pullover, leather, prs	1			✓											
Overalls—Blouses, denim	1			✓											
" Trousers, denim, prs															
Overshoes or rubbers, prs															
Pantaloons or trousers, service, prs															
Puttees, prs	2			-1			10 0								
Shirts, flannel, khaki															
" khaki, cotton, with short sleeves															
" service															
" under, cotton															
" woollen	1			D			2 3								
Shoes, canvas, prs	3			✓											
Socks, prs															
Trousers, khaki, drill, prs															
" khaki, drill, short, prs															
							£ 7 5 10½								

NECESSARIES

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials			
Bags, kit	1	✓				
Blacking, tins						
Bootdressing, tins						
Bootlaces, prs	1	✓				
Braces, prs	1	D		2		
Brasses, button	1	D		8		
Brushes, boot, blacking	1	D		9		
" boot, polishing	1	✓				
" button						
" cloth	1	D		1	1	
" hair	1	D		1	4	
" shaving	1	D				
" tooth						
Caps, comforter	1	D		2		
Combs	2	D				
Discs, identity, with cord	1	✓				
Dressings, first, field	1	✓				
Forks	1	✓				
Holdalls	1	✓				
Housewives	1	✓				
Knives, clasp, and lanyard	1	✓				
Knives, table	1	✓				
Razors, safety						
" blades						
Sponges, pigeclay	1	✓				
Spoons, table	2	✓				
Towels, hand						
Badges, arm	1	D		4		
Badges, cap	3	D		1	8	
Badges, shoulder or worsted, prs						
Buttons, G.S., large						
" small	3	D		1	0	
Pull-Throughs, Rifle						
				2	0	

Free Issues only will be accounted for on this form.

Signature of Soldier

Signature of Quartermaster

P.T.C. 800
10-40 (7368)
1773—39-1043

CERTIFICATE TO BE SIGNED BY ACCOUNTING OFFICER ON TRANSFER OR ATTACHMENT OF SOLDIER

Certified that the record detailed on this form is correct			Certified that the record detailed on this form has been verified with the articles in possession of the soldier			Transferred	Attached
On transfer or attachment to the undermentioned Unit	Date	Signature of Accounting Officer	On transfer or attachment from the undermentioned Unit	Date	Signature of Accounting Officer		

EQUIPMENT (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue	ARMS AND MISCELLANEOUS (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue
Attachments, brace					Bayonets and Scabbards	1	✓		
Bags, ration	1	D		2½	Bottles, oil	1	✓		
Bandoliers					Pistol				
Belts, waist	1	D	3	6	Pullthroughs	1	✓		
Bottles, water	1	✓			Rifles	1	✓		
Braces	2	D	3	6	Swords and Scabbards				
Carriers, cartridge									
" waterbottle	1	✓							
Cases, pistol									
Covers, mosstin	1	D		3	Blankets				
Frogs, bayonet	1	✓			Sheets, ground	1	✓	16	6½
Haversacks	1	✓			Respirator Complete	1	D		
Helmets, steel	1	✓			Cape A/G	1	D	12	3
Lanyards, pistol					Leather A/G	1	D		9
Packs	1	✓			Shorts P.T.	2	D	3	10
Pouches, ammunition					Vests P.T.	2	D	3	0
Pouches, basic	2	-1	6	3				£1-16-	4½
Slings, rifle	1	✓							
Spurs, jack, pr.									
Straps, shoulder	2	✓							
" web, supporting	2	✓							
Tins, mess	1	✓							

OK OK

£7-5-10½
7-0
13-8½
£1-16-4½
£10-1-11½

(a) Arms and equipment will not be transferred with the soldier unless authorized by the D.O.C.

On return of any article the Q.M. will initial in the date column opposite the article returned and line through in red ink.

Signature of Soldier | Signature of Soldier | Signature of Soldier | Signature of Soldier | Signature of Soldier | Signature of Soldier | Signature of Soldier | ...ture of Soldier

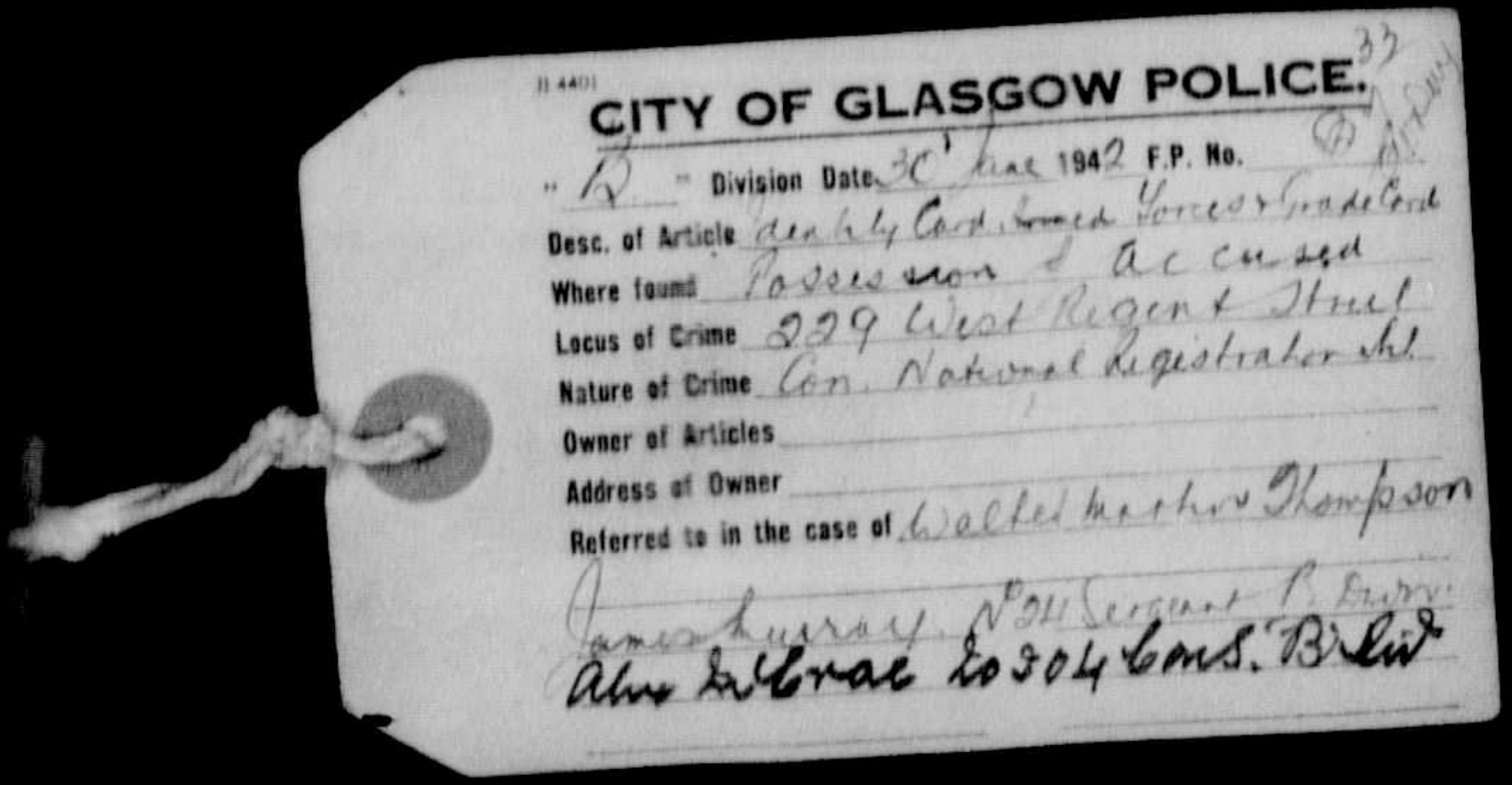
35

EXHIBIT "C"

List of Deficiencies of kit of H16101 Pte. THOMPSON W.M., "D" Coy, PIOLI.

as on 3 Jul 42.

		£	s	d
Anklets, web prs	1		3	5½
Battle Dress, Blouse	1	1	7	8
Trousers	2	2	15	10
Boots, ankle, prs	2	2	3	0
Cap, F.S.	1		3	8
Shirts, flannel, khaki	1		10	0
Shoes, canvas, prs	1		2	3
Brasses, button	1			2
Brushes, boot, blacking	1			8
Brushes, boot, polishing	1			9
Brushes, hair	1		1	1
Brushes, shaving	1		1	4
Comb	1			2
Badges, cap	1			4
Badges, shoulder prs	3		1	6
Patches, "D" Insignia prs	3		1	0
Bags, ration	1			2½
Belts, waist	1		3	6
Braces	2		3	6
Covers, mess tin	1			3
Pouches, basic	1		6	3
Respirator, complete	1		16	6½
Cape A/G	1		12	3
Wallet A/G	1			9
Shorts, P.T.	2		3	10
Vest, P.T.	2		3	
TOTAL		£	10	2 11½



B 4401

CITY OF GLASGOW POLICE.

33

"D" Division Date 30th June 1942 F.P. No.

Desc. of Article Identity Card Armed Forces & Ration Card

Where found Possession of Accused

Locus of Crime 229 West Regent Street

Nature of Crime Con. National Registration Act

Owner of Articles

Address of Owner

Referred to in the case of Walter Arthur Thompson

James Murray No 211 Sergeant C. Div.

Also Dr Brae Lo 304 Cons. B Div

KEEP THIS CARD SAFELY

NATIONAL SERVICE (ARMED FORCES) ACT, 1939

Certificate of Registration

Industry Letters 11-12 — Registration No. PDF. 6433

Holder's Name Walker Robert

Home Address 37 Hill Street Glasgow

Date of Birth 6/3/18

Holder's Signature Robert Walker

READ THIS CAREFULLY

Care should be taken not to lose this certificate, but in the event of loss, application for a duplicate should be made to the nearest office of the Ministry of Labour and National Service.

If you change your address, etc., at any time between the date of registration and the date of being called up for military service, you must complete the appropriate space on the other side of this certificate and post it at once. A new Certificate of Registration will then be sent to you.

If you voluntarily join H.M. Forces you should hand this certificate to the appropriate Service Officer.

You should not voluntarily give up your employment because you have been registered for military service.

This certificate must be produced on request to a constable in uniform.

A person who uses or lends this certificate or allows it to be used by any other person with intent to deceive, renders himself liable to heavy penalties.

N.S.2.

ON HIS MAJESTY'S SERVICE

OFFICIAL PAID

*I removed on _____ *(date)
to the following address :—

_____

Nearest railway station :—

_____

* I have changed my name to

_____

Signature _____

* Complete as necessary.

FOR USE OF SERVICE AUTHORITY ONLY

This man has joined H.M. Forces as a volunteer.

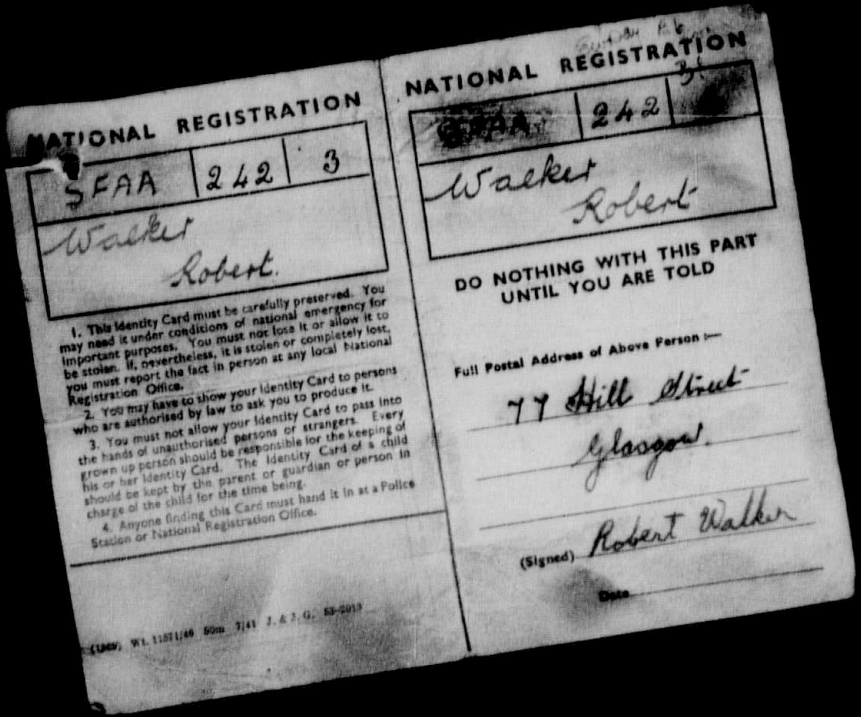
Unit _____

Date _____

Signature _____

Rank _____

The Manager,
Local Office of the
Ministry of Labour
and National Service,
103 WATERLOO STREET
GLASGOW, C.2.



NATIONAL REGISTRATION

SFAA | 242 | 3

Walker

Robert.

1. This Identity Card must be carefully preserved. You may need it under conditions of national emergency for important purposes. You must not lose it or allow it to be stolen. If, nevertheless, it is stolen or completely lost, you must report the fact in person at any local National Registration Office.

2. You may have to show your Identity Card to persons who are authorised by law to ask you to produce it.

3. You must not allow your Identity Card to pass into the hands of unauthorised persons or strangers. Every grown up person should be responsible for the keeping of his or her Identity Card. The Identity Card of a child should be kept by the parent or guardian or person in charge of the child for the time being.

4. Anyone finding this Card must hand it in at a Police Station or National Registration Office.

(Lion, Wt. 11571/40 50m 7/41 J. & J. G. 55-5013

NATIONAL REGISTRATION

SFAA | 242 | 3

Walker

Robert

DO NOTHING WITH THIS PART UNTIL YOU ARE TOLD

Full Postal Address of Above Person :—

77 Hill Street

Glasgow.

(Signed) Robert Walker

Date


NATIONAL
REGISTRATION
IDENTITY
CARD

NATIONAL SERVICE (ARMED FORCES) ACT, 1939

GRADE CARD

Registration No. PDF. 6+35.

Mr. Robert Walker

whose address on his registration card is

77 Hill St GLASGOW.

was medically examined at GLASGOW CENTRAL MEDICAL BOARD (No. 2)

14 MAY'40

and placed in

GRADE* II (two) (a) (Vision)

E.D. Until* (Medical Board stamp.)

Chairman of Board D. Glen

Man's Signature Robert Walker

*The roman numeral denoting the man's Grade (with number also spelt out) will be entered in RED ink by the Chairman himself, e.g., Grade I (one), Grade II (two) (a) (Vision). If the examination is deferred the Chairman will enter a date after the words "E.D. Until", and cross out "Grade"; alternatively, the words "E.D. Until" will be struck out.

[P.T.O.

N.S. 54

DESCRIPTION OF MAN

Age 24 Y 303 ays Height 5 ft. 6 ins.

Colour of eyes Blue Colour of hair Dark

If this Card is found please post it to the finder

The finder should send it to the nearest Local Office of the Ministry of Labour and National Service.

(77752) 9228/4089 500m 4/40 M&C Ltd. 706

M.F.M. 6
A.F.W. 7787
19M—7-40 (1919-40)
H.Q. 1777-19-1612

No. H16101 Name Thompson V M Sqn., Battery, or Company D Corps Provl

Previous sheet destroyed 1/7/41

Date of enlistment 11-9-39 G.C. Badges

Service or Proficiency Pay

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Signature O.C. Company, etc. Major A.L.E. Mitchell

Sheet No.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30/6/40	Pte.	—	(1) AWOL AHL from 2130 hrs 30/6/40 until 2230 30/6/40. Absent 1 hour AA Sec 15 (1)	Cpl. Stephen V.K.	5 days C.B. 5 hrs digging	3/7/40	Capt. R.P. Clarke	—
Field	2/7/40	Pte.	—	(1) AWOL AHL 2130 hrs 2/7/40 until 0230 3/7/40 Absent 5 hrs AA Sec 15 (1)	Cpl. Stephen V.K.	Forfeits 1 day F.R.1. 3 days fine 4 days C.B.	16/7/40	Capt. R.P. Clarke	
Field	14/1/41	Pte.	(1)	(1) AWOL AHL from 1 days parade 0/S 0900 hrs 14/1 hrs until 1600 hrs 14/1. Absent from 1600 hrs until 0900 hrs 15/1 Absent 15 mins AA Sec 15 (1)	Cpl. Daniels	3 days C.B.	20.1.41	Capt. R.A.A. Stevenson	
			(2)	(2) AWOL AHL from Adj orders from 0830 hrs until 0830 hrs 15/1/41 Absent 1 hr AA Sec 15 (1)	Cpl. Daniels				

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fields	18.3.41	Pte	-	W.O.A.S. Failing to appear at the place of parade appointed by his Comd Officer that he was absent from parade. A.A. Sec. 15(2)	C.S.M. B. Bethell	7 days C.B. 3 Mths Leave	21.3.41	Capt. D. Bond	
Field	20.3.41	Pte	-	W.O.A.S.-A.W.L. from 0600 hrs 20.3.41 until 1300 hrs 20.3.41. Absent 7 hrs 30 mins. A.A. Sec. 15(2)	Sgt Bethell	7 days C.B	21.3.41	Major R.A. Lindsay	
Hanley	1.3.41	Pte	-	W.O.A.S.-A.W.L. from 2200 hrs 11.6.41 until 0020 hrs 18.6.41 Absent 4 days 2 hrs 20 mins A.A. Sec. 15(2)	Documentary	28 days D.D.	27.6.41	Lt. Col. D. Baker	
Wisley	9.7.41	Pte	(1)	W.O.A.S.-A.W.L. from 0 hours 9.7.41 until 2150 hrs 16.7.41. Absent 7 days 15 hrs 30 min. A.A. 15(1)	Documentary	27 days D.D.	21.7.41	Col Redmond	Forfeits 27 days pay F.R.1. 3 days pay C. Amt.
			(2)	Improperly altered wearing civilian clothing without permission					

Released from detention barracks whilst on 14 days 81 sentence being appealed

41

H 16101 Pte Thompson W. M

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Whitley	17.8.41	Pte	–	W.O.A.S.A.W.L from 0630 hrs 17.8.41 until 0600 hrs 18.8.41 Absent 23hrs 30 mins A.A. 15(1)	Sgt Montgomery C	3 days C.B	18.8.41	Lt Col Redman	Forfeits 1 day pay Forfeits 2 days pay
Whitley	26.8.41	Pte	–	W.O.A.S.A.W.L from 0600 hrs 26.8.41 until 0940 hrs 17.9.41 Absent 22 days 2 hrs 40 mins A.A. Sec 15(1)	Sgt Montgomery C	21 days Det	18.9.41	Major W. Redman	Forfeits 21 days pay
Whitley	25.11.41	Pte	–	W.O.A.S.A.W.L from 0630 hrs 25.11.41 until 0930 hrs 26.11.41 Absent 3 hrs. A.A Sec 15(1)	1st Kind Sgt	7 days C.B	26.11.41	Major J.E. Sinclair	

CERTIFIED TRUE COPY

R.A. Findlay

(R.M. Commdg) Lieut R.C.N.

Commanding, F.E.F. (L.)

SHORT STATEMENT AS TO PARTICULARS

OF SERVICE OF THE ACCUSED

E Ewan 38

(a) The accused has been in confinement awaiting trial on the present charges for one and one-half days in Civil Custody and from 1730 hrs 1 Jul 42 for seven and one-half days in military custody making a total of nine days of which no days were spent in hospital.

(b) The present age of the accused according to his attestation paper is twenty-four (24) years.

(c) The date of his attestation specified in his attestation paper is 11 Sep 39.

(d) The accused is in possession of, or entitled to no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental books in my custody.

R A Lindsay

(R.A. Lindsay) Lieut-Col.
Commanding, P.P.C.L.I.

O.A.S.
8 Jul 42

1771

REGIMENT 12 JUL 1942

4E-62
CEN. THOMS M.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Cfn Murschell Howard THOMS, 2 Cdn Inf Tps Wksp

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge	Not guilty	Not guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~:

(Sgd) ..... Judge-Advocate, if any. 8 Nov 44. Date awarded. (Sgd) J.B. Annand Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4 DE 62
RECEIVED 20 NOV 1944 CMHQ
CFAMP (Tels Insp) SAPAB1 40/P 36 (8) (1065) (D) (1)
38B
PROCEEDINGS REVIEWED JAG Army Gp
Date 1 DEC 1944
PROCEEDINGS REVIEWED
Hdqrs Airborne Lines
11 Nov 44
REVIEWING OFFICER, JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

Convened by Brigadier J.R.R. Gough Comd A. Tps Area dated 5 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
A 4305	Cfn.	Murschell Howard	THOMS

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 8 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13124

A1. The President, Members, waiting Member, ~~JA if any and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1420 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans. .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA if any and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	ANNAND	J.B.	2 Cdn Inf Tps Wksp
Member	Capt	ECKARDT	E.A.	1 Cdn Army Tps Wksp
Member	Lieut	CHITTICK	J.G.	4 Cdn Armd Tps Wksp
Judge-Advocate				
Prosecutor	Lieut	Fry	R.M.	2 Cdn Inf Tps Wksp
Defending Offr	Capt	Dowswell	G.R.	2 Cdn Inf Tps Wksp

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Cfn Murschell Howard THOMS before arraignment make(s) (no) ~~(es)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is adjourned and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No, sir .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I wish to give evidence myself as a witness. Do you intend to call witnesses on your behalf ? Ans. Yes. Are they witnesses as to character only ? Ans. No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s) being subject to confirmation, will be promulgated later.(1)~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

THE ACCUSED ELECTED TRIAL BY COURT MARTIAL

CHARGE SHEET

ELECTS TRIAL BY COURT MARTIAL

The accused No. A-187305. GNR. THOMS. MURCHMIL HOWARD of 2 Cdn. Inf. Tps Wksp RCEME, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 40
ARMY ACT

WHEN ON ACTIVE SERVICE,
CONDUCT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field at or about 0100 hrs 30 Oct 44 improperly fired a rifle in the billets creating a disturbance.

(G.M. HUNTER) Major
Officer Commanding
2 Cdn Inf Tps Wksp RCEME

In the Field
4 Nov 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.R.P. Gough) Brig
Comd A Tps Area
First Cdn Army.

In the field
5 Nov 44

CFA 95 (In lieu of AFA3)
40/P&R/1697 (2058)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-1305	Cfn	Cfn	Murchell Howard	THOMS	2 Cdn Inf Tps Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Nov 44 endorsed by me, ~~for by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is ~~not~~ practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.B. ANNAND		3 Cdn Inf Tps Wksp

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	E.A. ECKARDT		1 Cdn A Tps Wksp
Lieutenant	J.G. CHITTICK		4 Cdn Armd Tps Wksp

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	~~ADVOCATE~~		

(Rank.)		(Must be named, if any. RP 106.)	
Brigadier	Gough		

On Active Service in the Fd

in BELGIUM (Country.)

Date 5 Nov 44

(Signed personally. RP 105 fn 2.)

(JRR Gough.)

Commanding A Tps Area, First Cdn Army

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JH

D 3.

First Witness for the Prosecution
T-0066288 Dvr. Grant N - Sworn states -

We were lying in bed when two of the boys came in the worse for drink, leaving the door open. Dvr. Thompson asked them to close the door. They used abusive language & refused. We told them to go to bed & Dvr. Thompson then closed the door himself. When Dvr. Thompson had closed the door, they were still standing by his bed. We drew our bayonets & chased them to their beds. When we got back in bed, ~~Cfn Thoms came over to our beds. JH to pick up a rifle that had slipped onto the floor~~ my rifle slipped to the floor. Dvr. Thompson leaned over & picked it up. While putting it beside his bed, Cfn Thoms came over & grabbed the rifle. Thompson told him the rifle was charged. Cfn Thoms pulled back the Bolt, closed it again causing ~~the~~ a bullet to go into the breach. He must have pulled the trigger because there was the sound of a shot. After the shot, he asked me what I was doing with a German rifle - He took both Cfn Thompsons & my rifles away with him. The rifle was charged, not loaded. Cfn Thoms and I both had flashlights. I did not see the bolt open but I heard it. I am sure the rifle was fired while it was in Cfn Thoms hands

JH

Cross-Exam:

While chasing the two drunk chaps
I did not say anything - about half the
men in the barracks were awake at the time
Cfn Thoms took my rifle away first.

Exam by Court:

At the time the rifle was loaded
& the shot was fired, Cfn Thoms had his
flashlight lit in his hand. the beam
was shining on the floor. My flashlight
shone on the rifle as Thoms picked it up.
It was not on it when the shot was fired.
Thoms was standing about eight feet away
from me when the shot was fired. Next
morning Thoms brought back both rifles
and stood them against the wall. After
breakfast I checked my rifle & found an
empty cartridge in the breach.

RP 83 (B) complied with.

D 3

Second Witness for the Prosecution
T 10702273 Dvr Thompson A - Sworn States=

Two soldiers came into the barracks drunk. They banged open the door & left it open. After an argument ~~I~~ closed the door & on coming back, I found the two drunks standing by my bed. We drew our bayonets & chased them back to their beds. When getting back into bed a rifle slipped to the floor and as I was picking it up. Cfn Thoms came over & asked me what I was doing with the rifle. He demanded both ~~our~~ rifles & ~~Dvr~~ Dvr Grants rifle and took Dvr. Grants rifle. I told him to be careful as it was charged. He paid no attention & continued to argue. He finally ~~pulled~~ worked the bolt thus loading the rifle and pulled the trigger causing a shot to be fired. I told him he would have to take the "rap" in the morning. He replied "OK" I'll take the rap. He then took both rifles to his bed. ~~I saw Dvr~~. Cfn Thoms took the rifle ~~from~~ directly from my hands before the shot was fired. I definately saw him work back the bolt & squeez the trigger. He was only one foot away from me.

Cross Exam

About one half of the barrack personnel were awake at the time of the shooting. I don't recall saying anything after chasing the drunks to their beds. After the shot was fired, I did say - What if we start throwing grenades.

Exam by Court-

Thoms had a flashlight and Dvr Grant had a flashlight - both were shining on the rifle when it was loaded & fired. The rifles were returned in the morning with both magazines taken out. My magazine was fully charged - Dvr. Grants magazine was empty.

RP 83 (B) complied with.

~~Accused Witness for Prosecution~~ Withdrawn

D-6

First Witness for the Defence

4-4315. Cfn Thoms H.H. - duly sworn - states -

I had been in bed for about two hours when the squabble started - I got up because one chap hollered that he had been stabbed by a bayonet. I could not find any bayonet wound on the chap that called out. Most of the men in the barracks were arguing by then & the two British Soldiers were saying that there wasn't any Canadian who had the guts to come & fight them. I went over & told them to go to bed. As I was returning to my bed I heard a rifle being cocked. I was then about 15 feet away

D6

I returned towards their bed and switched on my flashlight. the light showed me that Dvr. Thompson sitting up in bed with the rifle across his knees. As I approached him, the rifle swung in my direction. I held my flashlight to one side and got close enough to grab the rifle which I pushed aside. He said "be careful, it's charged"! - I replied, you're damned right - "it's loaded!" I finally got the rifle away from him I then said there wouldn't be any firing in the barracks if I could help it. Dvr Thompson repeated that the rifle was only charged. I called him a "liar" & said it was loaded. I then took the magazine off to show him the rifle was loaded. I touched the safety catch & the rifle went off. I then put the rifle under my bed and after hearing a remark about throwing grenades, I returned to see what the British soldiers were doing. I flashed my light & saw another rifle near Dvr Thompsons bed. As I picked this rifle up I heard a Bayonet been drawn at Dvr Grants bed. On investigation I saw him trying to pick a bayonet up - I kicked it under the bed. I then took both their bayonets & the rifle over to my bed. I returned the equipment in the morning.

RP 83 (B) complied with.

D6

Second Witness for the Defence.

A-103403 Pte Walker F R. - duly ~~sworn~~ sworn states -

I was in one of the closest beds to the disturbance. I heard the rifle being cocked before Cfn Thoms appeared on the scene. After the rifle was cocked one of the British soldiers shouted that there was one "up the spout". This caused further shouting & arguing. Cfn Thoms then came & took the rifle away from the Br. Soldier. I did not get up to assist Thoms as the quarrel was getting rather violent. I think it was a good thing that Cfn Thoms intervened when he did as the disturbance was becoming more violent.

Exam. by court.

The rifle was in Cfn Thoms hands when it ~~was fired~~ went off.

RP 83(B) complied with

D6 Third Witness for the Defence

B 26 08 - Pte Adams L.C. - duly sworn states.

I was in one of the closest beds to the disturbance. The rifle was cocked before Cfn Thoms came on the scene. I stayed in bed as I was too scared to get up & assist. The majority of the soldiers were awake at the time. I think Cfn Thoms helped stop the disturbance. Thoms had the rifle in his hand when the shot rang out.

Cross Exam.

I did not hear the remark re "one up the spout"

RP 83 (B) complied with.

D6.

Fourth Witness for the Defence
A55228 Cfn Spring W D - duly sworn, states -
I my bed is situated about 12 feet from where the disturbance took place. Cfn Thoms was standing by my bed when I heard a rifle being cocked. I heard a voice say - there ~~is~~ one up the spout"! I could not tell if it was spoken by a Britisher or not. I think. Cfn Thoms assisted in quietening the disturbance as it ceased after he took away their weapons.

R.P 83 (B) complied with.

Character Witness for Defence
V60302 S/Sgt Smith E.V - duly sworn states -
I've known Cfn Thoms since Oct 1941 during which time he has worked for me. I found him honest & willing worker. I have never had any trouble with him.

R.P. 83 (B) complied with.

Closing address by Defending Officer

The disorder in the barracks started when the two drunk soldiers left the door open. long before Cfn Thoms appeared on the scene. It increased in severity until finally Cfn Thoms left his bed and came over to intervene. He had to come three quarters of the way across the very large barrack room to reach the scene of the disturbance. He got out of bed because someone was crying that

he had been stabbed with a bayonet. There were
any number of NCOs in the barrack room
but none of them made any attempt to stop
the disorder. It was left to Pte Thomas to do
what he could to prevent the disorder becoming
more serious.

The rifle was in his hands at the time
when it was discharged but he was carrying
a flashlight and a magazine. It was dark and
the situation was full of tension. It would be
very easy for the rifle to go off by accident.

I believe that Pte Thomas should be
complimented rather than blamed for the part
he took in quietening the disorder.

Closing address by the Prosecutor.

The accused is charged with
improperly firing a rifle in the barrack room.
I believe that it has been shown that without a
doubt he had the rifle in his possession when
the shot was fired.

SUMMARY OF EVIDENCE IN THE CASE OF NO. A-4305 CFN. THOMS, M.H., 2 CDN INF TPS WKSP, BCOME, C.A.C. CHARGED WITH FIRING A RIFLE IN THE BILLETS CREATING A DISTURBANCE. A.A. SECT. 40.

BY DIRECTION OF THE COMMANDING OFFICER, THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS: T-10666288 DVR. GRANT, N., SWORN STATES: The two men (Pte. Betts and Pte. McPhee) came in drunk and I was lying in bed next to the door. They walked towards their own beds and left the door open. I asked them to close the door. They told me "Fuck the door - Fuck you". Dvr. Thomson told them to go to bed and he would close the door. He closed the door and when he returned they were still standing beside his bed wanting to fight. He decided to give them a bit of a fright and we drew our bayonets and chased them. After they went to bed we were going to bed when one of the rifles slipped and fell on the floor. My partner (Dvr. Thomson) picked up the rifle and put it beside his bed. Cfn. Thoms came over, he must have thought we were going to use them or something, he asked for the rifles and my partner told him the rifle was charged. He pointed the rifle to the ground and opened the bolt. No round came out. He closed the bolt again causing a round to enter the breech. I don't know whether he thought the magazine was empty or not, but he squeezed the trigger and that caused the round to go off. Cfn. Thoms took the rifles away and asked me what I was doing with a German rifle. If he knew his rifles he would have known it was a British rifle.

CROSS/EXAMINATION BY THE ACCUSED:

Q. Where did I pick up the bayonets?
A. My partner had the bayonets.
Q. Which side of the bed did I pick up the two rifles?
A. Nearest the door - that is Dvr. Thomson's side.
Q. What was the reason I came over?
A. I think you must have come over to see what the row was about.
Q. Can you identify the fellow who told you to get back to sleep?
A. Yes I can.
Q. Could you identify that person the same night? If so how?
A. I could, I had a torch and flashed it in his face.

Norman Grant
Dvr. Norman Grant

SECOND WITNESS: T-10702273 DVR. THOMSON, A, SWORN STATES: Two of the boys came in drunk and left the door open. We told them to close the door which they refused to do, so I closed it myself to save any further argument. After that they stood by our beds and wanted to have a fight with us. We grabbed our bayonets and chased them off to bed and then returned to bed ourselves. After that Cfn. Thoms came down just as one of the rifles slipped and I was picking it up to put it back against the wall. He asked me what I was doing with the rifle. We gave him the rifle to end the argument. He stood holding onto the rifle. I told him it was charged but he didn't seem to be taking any heed of me. After that he opened and closed the bolt. No round came out then a shot was fired. I told him he could take the rap for that in the morning and he said he would. He took the two rifles and bayonets and went to his bed.

CROSS-EXAMINATION BY THE ACCUSED:

Q. Which one of you two had the lamp?
A. My partner had the lamp.
Q. Could you identify the two fellows who came in drunk?
A. I knew one was Cfn. Betts. I couldn't identify the other one.
Q. Did you turn the light on me?
A. I didn't turn the light on you, Dvr. Grant did.
Q. How far did you chase them with the bayonets?
A. As far as the first bed across from us - just a few paces.
Q. Where was the bayonet when I picked it up?
A. It was sticking in the scabbard in my haversack.
Q. Where were the rifles?
A. The two rifles were lying at my head, on the right side of the bed just against the radiator.
Q. Were both rifles charged?
A. Yes, they have been ever since we entered active service.
Q. Did I load the rifle?
A. Yes you did.

Q. Where did I pick up the second bayonet?
A. We handed it to you.

Angus Thomson
Pte. Angus Thomson

The accused, A-[illegible]05 CFN. THOMS, M.H., after being duly warned, declines to make any statement.

FIRST WITNESS, CALLED FOR THE DEFENCE A-103[illegible]03 PTE. WALKER, F.R., SWORN STATES:

My bed is the closest one to the scene of the disturbance. When the two men came in the noise they made woke me up. There was an argument between them and the two English soldiers as to who should close the door. An argument followed and the two English fellows chased the boys with bayonets. They ran (one of the two English chaps and MacPhee) between my bed and Pte. Adams where MacPhee was cornered. Betts continued down the alleyway and got to his own bed. The two Englishmen went back to bed where upon somebody started yelling they should be killed. I heard a rifle cocked. I don't know whose rifle it was but the sound came from their beds (the two Englishmen's beds). The argument continued through the barracks. Everybody was hollering once the rifle was cocked. I heard a movement from the English soldiers' beds and Thoms turned a flashlight onto them. One of them was lying on his back holding a rifle across his body, the muzzle pointing diagonally to the roof. There was an argument about the rifle being loaded, then a shot. Thoms collected the rifles and bayonets and went back to bed.

Q. Did you hear a bolt open and close immediately before the shot?
A. No I did not.
Q. If it had been opened and closed would you be able to hear it?
A Yes, because I heard the one before.

CROSS-EXAMINATION BY ACCUSED

Q. Did you see me pick up the bayonet?
A. I saw you pick up some object beside the beds but couldn't swear what it was.
Q. Did they give me the rifles?
A. No, you took them from them.
Q. Could you see me behind my flashlight?
A. Not to recognize you - I could recognize your voice.
Q. Did one of them have a flashlight turned on me?
A. I didn't see that. I didn't see them use a flashlight.
Q. Did you see me take the rifle from the fellow sitting on the bed?
A. Yes.
Q. Did I take both rifles together?
A. No, you took the first one and then returned for the second one.

F.R. Walker
A-10[illegible]03 Pte. Walker, Frank

SECOND WITNESS: [illegible] FOR THE DEFENCE, B-2606 PTE. ADAMS, L. G., SWORN STATES:

I was lying asleep in bed when I heard a scuffle by my side and saw an upraised arm silhouetted against the window. There were two people beside my bed. One ran down the aisle and the other went back to bed about fifteen feet away from me. The next thing I noticed was the sound of a bolt being shot home. I then saw Cfn Thoms standing shining a light on the English soldiers lying in bed. He had a rifle lying across his body. I saw Thoms take the rifle away from him. After that there was a shot and I ducked under the covers.

Q. After Cfn. Thoms took the rifle did you hear a bolt open and close?
A. No. I did not.

CROSS EXAMINATION BY THE ACCUSED.

Q. Did one of them have a flashlight turned on me?
A. I saw them using a flashlight afterwards but I didn't see it come on you.

THIRD WITNESS: CALLED FOR THE DEFENCE A-55025 CFN. SPRING, H.D., SWORN, STATES:

I was asleep when a lot of noise woke me up. The two drunks were standing by the English soldiers' beds when the English lads charged them with bayonets. Then there was a lot of row with half the men in the room yelling. The English chaps brought up the idea of firing a rifle at someone. Thoma got out of his bed and came down and thold them there would be no firing of rifles, to put them away and go to sleep. After that Thoma stood by the partition near the door which is by my bed. The argument started again and someone picked up a rifle and opened and closed the bolt. Thoma shone his flashlight on the bed, walked over and took the rifle away from one of the English soldiers. The chap said it was charged but not loaded. The next thing I heard was the shot go off. Then Thoma took the rifles and bayonets to his bed.

Q. Did you hear a bolt open and shut after you saw Thoma take the rifle from the man?
A. No, I did not.

CROSS-EXAMINATION BY THE ACCUSED

Q. Did you see them shine a flashlight on me?
A. No I didn't see them turn a light on you.
Q. Did you see me searching the beds when they mentioned grenades.
A. No I did not, but I did hear them mention grenades.
Q. Did you hear them say they were going to fire a rifle?
A. Yes I did, after the noise of the bolt opening and closing, I heard one of them say "There's a round up the spout now."
Q. What did the scotchmen say when I asked him why he had it loaded?
A. He said it was just charged, not loaded.

H.D. Spring

A-55025 CFN. Spring, H. D.

Rules of Procedure 4 (c), (d), (e) and (f) have been complied with. I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused this first day of November 1944.

R.M. Foy Lt.

R. M. Foy, Lt.

VV-19

GNR THOMS W.D

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

VV-19

GNR THOMS W.D

JAG BRANCH - REVIEW RECORD

Accused

A-27178 Gen Thoms W.D.

I can sign Recmf &c.

Remarks	Date
Trial in (Country) Eng.	15 Nov 43
Charges See 15 (1)	
Sentence 6 o days ditn	15 Nov 43
Rec'd from CR at JAG Branch	29 Nov 43
To Rev 4 for (pre)(post) rev	29 Nov 43
Recommendations by MAM JAG Rev 2	
(1) Pass and record.	
~~(2) Ltr on irregularities~~	
~~(3) Quash~~ charge(s).	
(4)	
Ret'd to JAG Rev 1 by Rev 2	30 Nov 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal Record to file	30 Nov 43
Instrs completed by	

Review Sheet - J.A.G. Branch

E.G.C.M. - 15 Nov 43

L-27178 - Gnr. Thomas W.D.

H/S Bty - 1 CSRU.

I

I MFB 355 - Deletions not initialed

No MFM b with proceedings although referred to as by "C"

No further comments

30 Nov 43 W.C. Inch Lieut.
J.A.G. Rep H

II

1. Pass R.P. 0.C.
30 Nov 43 J.H. Waugh Capt
J.A.G. Rep

ENTERED IN RECORDS OF C.M. VV-19

VV-19

CPA96 (In lieu of AK43)
AG. P.A.C. 1000 (3/9/44)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col H.R Tyner Comd B Gp. ERU, dated 13 Nov 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-27178	Gnr	W H.	Thomas.	1 CSRU.

Proceedings Reviewed 30 Nov 43 Maj (Sgd) Reviewing Officer (J.A.G.'s Dept.)

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 13 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as to how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter?~~ Ans

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer?~~ Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No objection.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col.	W. E. H Hitchen	1 CSRU.
Member	Capt.	D. V Huxley	1 CERU.
Member	Lieut	G H. Colourmont	1 CASCRU.
Judge-Advocate	Lieut	R. Davenport	1 CSRU
Prosecutor	Lieut	R. C Elliott	1 CSRU
Defending Offr	List of ~~attached~~ offrs		~~summary~~ instructions attached

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment made(1) (no) (~~a~~) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: No undue detention for a period of sixty (60) days.

15 Nov 43 (Sgd) W. E. H Hitchen Lt Col President. (RP 45, 50.)

Date awarded.

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~Further that the accused be~~ (1. AA 57A. Delete if not used.)

(Sgd) H.R. Tyner Col

Date 16 Nov 43 Commanding ~~AA~~ Commander Con. Bn Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

L 27178, Gnr. Thomas W.D 16 Nov 43 ICSRU DO 28 dd 19 Nov J.D. Wilson, Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N D .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No .
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C : respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes I say I'm pleading for .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, HP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. L-27178 Gunner Thoms, W.D. of No. 4/5 Battery, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

Absenting himself without leave,

SEC 15 (1)

Army Act

in that he

at Norval Barracks, Cove, Hants at 0800 hours 9 August 1943 absented himself without leave from his quarters until apprehended by the Cdn Provost Corps at Piccadilly Tube Station, London at about 1945 hours 7 November 1943.

Total Absence - 90 days - 11 hours - 45 minutes.

(W.C. Peffers) Lt.-Colonel
A/Officer Commanding
No. 1 Canadian Signals Reinforcement Unit.

In the Field
7 Nov 43

To be tried by Field General Court Martial.

(H.R. Tyner) Colonel
A/Comd "B" Gp
Can Rft Units

13 Nov 43

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. L 27178 Gnr. Thoms W. D.
rank name
of L.C.S.R.U.(R.C.H.) and in my opinion he is fit to undergo
unfit
trial by Court Martial.

Station No.1.C.S.R.U. signed Thwaites capt
Medical Officer

Date 15 Nov. 1943

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. L 27178 Gnr. Thoms W. D.
rank name
of L.C.S.R.U.(R.C.H.) and in my opinion he is fit to undergo
unfit
trial by Court Martial.

Station No.1.C.S.R.U. signed Thwaites capt
Medical Officer

Date 15 Nov. 1943

7

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-27178	Gnr		W.D.	THOMS	1 CSRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Nov 41 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	W.C. Fletcher	1 CASCRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CERU
Lieutenant	to be detailed by	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 (v 2)) (Rank.)

Date 13 Nov 41

A/ Commanding

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

'E3'

Statement of Defence. 427197 Sam Thomas W.B.

1. Comparatively clear crime sheet over a period of three and one half years.

2. Got into difficulties with an overdraft. Lost his head when the girl was going to have a baby and admits it was dishonest work in London in order to defray expenses. Intended to return & then situation would better financial position.

7

Officer's Report

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42.

I Certify that No. [illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at [illegible] (Place)

at [illegible] (hour) on 7 Nov.43. (date) and that at the time of his arrest he was wearing (Military Uniform) ~~or (Civilian Clothes)~~.
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable).

L.S. Grayson

[illegible] Capt.,

(L.S. Grayson), D.A.P.M.,
London Area.

London
8 Nov. 43.

CHARGE B

Army Form B 252
(See King's Regulations)

[illegible] Regt. A.D.Corps — Regiment
attached No. 1 [illegible] — Battery / Squadron / Troop or Company
C.S.R.U.

CHARGE against No. L.2717[illegible] Rank Cpl.

Name THOMS W.D.

Place London Date of Offence 7 Nov.43.

OFFENCE W.C.A.S. was A.W.L. from [illegible] until apprehended by the Can.Provost Corps at about 1945 hrs. at PICCADILLY TUBE STATION.

L.S.Grayson CAPT.
L.S. GRAYSON D.A.P.M.
LONDON AREA

Names of Witnesses :—

L/Cpl. McKINNON D. Canadian Provost Corps.

L/Cpl. [illegible]ICH D.A. Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

20188 W1.W3127/4 1961. 2,000,000 10/42. K. & H., Ltd. G657/47

Statement of **EVIDENCE** In the Case of

L.27178 Gnr. Thone W.L.

ATTACHED No. 1 ~~Sy.C.R.Sy.C.R.R.~~ C.S.R.U

Sir,

At 1945 hrs., 7 Nov.43 I was on duty in company with L/Cpl. Brice D.A.at Piccadilly Tube Station, London when I saw the a/m soldier.

I approached him and requested to see his pass. He could not produce one. He was A.W.L.

I placed him under arrest and escorted him to No. 6 Cdn.(Area) Provost Coy. Detention Room where he was handed over to the N.C.O. i/c cells to be detained.

London,
7 Nov.43

D. McPherson L/C.P.L.
L.[illegible] (D.McPHERSON)
No. 6 Cdn.(Area) Provost Company

Sir,

I have read over and corroborate the above statement.

London
7 Nov.43

D.A.Brice L/Cpl.
L.95621 (D.A.BRICE)
No. 6 Cdn.(Area) Provost Company

REMARKS

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Cove, Hants on the 31 day of August 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-27178 Gnr Thoms, W.D. (R.C.A.) No 5 Battery, Reg't'l Training Wing, No 1 Cdn Signals Reinforcement Unit.

DECLARATION

Names of President and Members

President
Lieut D.K. Smith No 1 C.S.R.U.
Members
Lieut V.L. Robbins No 1 C.S.R.U.
Lieut A.F. Johnston No 1 C.S.R.U.

Signature of Commanding Officer H.R. Tyner, Colonel

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record

(12281) WL34918/1622 75,000 10/39 A.& E.W.Ltd. Gp.458
(12413) WL45725/760 225,000 1/40
Forms/B115/58

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Cove, Hants on the 31 day of August 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-27178 Gnr Thoma, W.D. (R.C.A.) No 5 Battery, Regt'l Training Wing, No 1 Cdn Signals Reinforcement Unit.

DECLARATION.

The Court declare that L-27178 Gnr Thoma, W.D. (R.C.A.) No 5 Battery, Regt'l Training Wing, No 1 C.S.R.U. illegally absented himself without leave at 0800 hours at Morval Barracks, Cove, Hants, on the 9th day of August 1943 and that on the 31 Aug 43 he was deficient, and that he is still deficient of the following articles.

ARTICLES		VALUE	ARTICLES		VALUE	
Drawers Cell. Short	2	0-4-1 0-3-1	Blouses B.D.	1	0-0-11½	0-0-9
Gloves Woollen	1	0-2-7½ 0-1-11½	Trowsers B.D.	1	1-7-11	1-0-9½
Jersey Pullover	1	0-6-9 0-5-0	Attachments Brace	2	0-4-1	0-4-1
Brush Shaving	1	0-1-4 0-1-4	Bags ration	1	0-0-2	0-0-2
Brush Tooth	1	0-0-4½ 0-0-4½	Belts, Waist	1	0-4-7½	0-4-7½
Caps Comforter	1	0-1-1½ 0-0-8½	Bottles water	1	0-2-11	0-2-11
Combs hair	1	0-0-2 0-0-2	Braces WE	2	0-4-3	0-4-3
Forks NS Table	1	0-0-5 0-0-5	Carriers Water Btl	1	0-2-0	0-2-0
Holdall	1	0-0-9 0-0-7½	Haversack	1	0-9-7	0-9-7
Knife Table	1	0-0-9½ 0-0-9½	Straps web Sptg	2	0-1-6	0-1-6
Razor Safety	1	0-0-5½ 0-0-5½	Tins Mess Rect.	1	0-2-6½	0-2-6½
Socks Woollen	2	0-3-4 0-2-6	1 Outfit AD	1	0-0-1½	0-0-1½
Spoon NS Desert	1	0-0-4½ 0-0-4½	Eye shields AG	6	0-4-8	0-4-8
Vests Cotton Gym	1	0-1-6 0-1-1½	Boots Ankle	1	1-1-6	0-16-1
Towells Hand	1	0-0-11½ 0-0-9	Anklets Web	1	0-3-5½	0-2-7½
			Total		7-2-8½	5-16-4½

Lieut A.F. Johnston No 1 C.S.R.U.

Signature of Commanding Officer H.H. Tyner, Colonel

CERTIFIED TRUE COPY

Signature of Officer having custody of Original Record.

(12291) Wt.34518/3622 75,000 10/39 A.& E.W.Ltd. Gp.698
(13443) Wt.45723/760 220,000 1/40 " " Forms/B115/56

LIST OF WITNESSES FOR THE PROSECUTION

First Witness -- Capt. M.A. Sugden (R.C.C.S.) No. 1 Canadian Signals Reinforcement Unit.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" -- Certified true copy of A.F. B 115. Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Exhibit "B" -- A.F.B-252. Evidence of Apprehension to the Cdn Provost Corps.

Exhibit "C" -- Certificate under the Army Act, Section 163 (i) (j).

Statement by the Accused in Accordance with R.P. 14 (B)

I desire to have an officer assigned to represent me on my trial by Field General Court Martial.

I request the services of Lieut. R.G. Elliot, I.C.S.R.U.

..... if he is available.

G.B. Thomas

L-27178 Gnr Thoms, W.D. No. 1, C.S.R.U.

Officers under Instruction

Lieut A. Hodgkinson No 1 C.E.R.U.

" P.M. Mackay "

Lieut N. Golden "

Lieut R.W. Gupple No 1 C.S.R.U.

Lieut [illegible] No 1 C.E.R.U.

Lieut. [illegible] No 1, C.E.R.U.

Lieut - Jas H. Alexander No 1 C.E.R.U.

Lieut. [illegible] No 1 C.A.S.C.R.U

'A' 7

SUMMARY OF EVIDENCE

Summary of Evidence in the case of L-27178 Gunner Thoms, W.D. of No. 4/5 Battery, No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas.

The C.O. does not direct the evidence to be taken on Oath.

FIRST WITNESS for the prosecution

I am Capt. M.A. Sugden of No. 1 Canadian Signals Reinforcement Unit, Canadian Army Overseas. I am employed as adjutant of Regimental Training Wing and as such have custody of the documents below mentioned.

I produce in evidence a document (marked "Exhibit 'A'") being A.F.B. 115, Record of the Declaration of a Court of Inquiry on the Illegal Absence of a soldier, relating to the accused No. L-27178 Gunner Thoms, W.D., whom I now recognize, showing that the accused absented himself from his quarters without leave at 0800 hours 9 August 43.

I further produce in evidence a document (marked "Exhibit 'B'") being A.F. B-252, Evidence of Apprehension by the Canadian Provost Corps, which relates to the accused and shows that he was apprehended by the Canadian Provost Corps at Piccadilly Tube Station, London at approximately 1945 hours 7 November 43.

I further produce in evidence a document (marked "Exhibit 'C'") being a Certificate under Army Act, Section 163 subsection (i) and (j) which shows that the accused was arrested by the Cdn Provost Corps at Piccadily Tube Station, London at approximately 1945 hours 7 November 1943.

M.A. Sugden

.....
M.A. Sugden Capt. (R.C.C.S.) No. 1, CSRU

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused replied, "No, I do not wish to make a statement.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Taken down by me at Morval Barrracks, Cove, Hants this seventh day of November A.D. 1943.

R Davenport

.....
(R. Davenport) Lieut. No. 1, C.S.R.U.

7

7 B

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-27178	Gunner	Thoms, W.D. (RCA)	No. 1, C.S.H.U.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. SEC. 15 (1)	2	times	2	times
For A.A. SEC. 40	1	times	1	times
For		times		times
For		times		times

2. Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for - days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 Yrs ~~days~~

6. The date of his attestation specified in his attestation paper 10 Jun 40 4 mos.

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any military decoration or reward.

10.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number L-27178 Rank Gnr Unit

Name Thoms, W.D. (R.C.A.) of 4/5 Bty, No. 1, C.S.R.U.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of NOVEMBER 1943.

(J. Bagley) Capt.
Bty Capt.,
No. 1, C.S.R.U.

5 H 63

Rgn. Thoms, ND.

RECORDED AT CMHQ IN AP 1 [illegible] 5 W - 63

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.B. Connelly, CBE Comd "B" Gp CRU

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) per rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
L 27178	Rfn	William Donald	THOMS

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ENGLAND on (*date*) 24 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(*s*) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans .....

~~The Interpreter is sworn.(1)~~ Do you object to M 69158 Cpl RIMSTAR, RA as shorthand writer ? Ans NO SIR

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.L. REDMAN, VD	HQ CRU
Member	Captain	JA BOURASSA	3 Cdn Repat Dep
Member	Lieutenant	G BOILEAU	3 Cdn Repat Dep
~~Judge Advocate~~			
Prosecutor	CAPT	R.M. HENRY	2 Cdn REPAT DEP
Defending Offr	LIEUT	H. BECK	2 Cdn REPAT DEP

Questions by President: Is the Prosecutor a lawyer ? Ans NO (2) Is the Defending Offr a lawyer ? Ans NO (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (*a*) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : L 27178 Rfn THOMS W.D. 2 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To forfeit all ordinary pay for a period of sixty (60) days

(Sgd) 24 NOV 45 (Sgd)

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 26 Nov 45 (Sgd) C H Comely Brig

Commanding B Group CRE

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
W.D. Thoms	26 Nov 45	K McLeod Capt.

Published in Part II Orders No 145 of 28 Nov 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO STR (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 15 and Ex C respectively.(3)
(1. *MFB* 353 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NOTHING TO ADD, NOTE ATT (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 230, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(*l*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, L 27178 Rifleman THOMS, William, Donald, Regina Rifle Regiment, on the strength of 2 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with,

FIRST CHARGE

Section 15(1) Army Act

WHILE ON ACTIVE SERVICE, Absenting himself without leave, in that he,

In the Field, absented himself without leave from 0915 hours, 9 August 1945, until surrendering himself to the Unit Guard Room at 2130 hours on 1 November 1945.

Total Absence: 84 days, 12 hours, 15 minutes.

(W.T. Ibbott) Colonel
Commanding Officer
2 Canadian Repatriation Depot.

IN THE FIELD
6 November 1945.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Repat Units

IN THE FIELD
21 NOV 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 27178	Rfn	William Donald	THOMS	2 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 21 Nov 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D.L. REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	3 Cdn Repat Dep
Lieutenant	to be detailed by CO	3 Cdn Repat Dep

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Dat 21 Nov 45

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding Comd "B" Gp Cdn Repat Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

3 WING - 2 CANADIAN REPATRIATION DEPOT

04 Nov 45

L 27176 Rfn THOMS, M.D.
~~Trans Str-3 Wing-2 Cdn Repat Depot~~

This is to certify that I have this date examined the marginally noted soldier and found him fit to undergo trial by Court Martial.

.....
Medical Officer - 3 Wing
2 Cdn Repatriation Depot

24 Nov/45

E-3

PLEA OF MITIGATION

L-27178 Pte THOMS W.D.

Mr. President, Members of the court:

Pte THOMS is 24 years of age, single and enlisted in June 1940, coming overseas in August of the same year. He was formerly employed by a fruit Company as a stock keeper. His category is "A" and his period of service 5 years and5 months. He fought on the continent from the 10th June 1944 to March 1945 when he was wounded. He went back to his unit in May 1945 where he stayed until the end of July. You will agree that this soldier has served his country well, as a fighting man.

His record during those monotonous training years in England is marred by several offences but when he finally got a change to do what he enlisted for - to meet the enemy - no one can deny that he did his job thoroughly. The court is well aware of the monotony of those early years in England and the accused, who enlisted when he was not quite 18, has paid the penalties for those past misdemeanors and now, when he is anxious to get settled in life, as you will ~~allow~~ later, I ask that his past record be completely disregarded, in fairness to him and his future family. THOMS fought for democracy and should be treated accordingly.

While still on the continent in Feb 45, THOMS made application to his padre for permission to marry an English girl whom he had been keeping company for 2½ years. However, he was subsequently wounded in March and was taken out of the lines. On leaving hospital, he went on sick leave and visited his fiancee in England, not having seen her since May 1944. On that leave the girl became in the family way and immediately on THOMS return to his unit, he enquired about his marriage application. He was informed it had been lost. He completed another right away. Meanwhile, Germany had quit and the accused, whose point score is 179 and was due for early repatriation volunteered for the occupation forces, so he would be available for his marriage. Nevertheless he was subsequently returned to England for repatriation in July 1945, despite his objections. He had still heard nothing about his marriage application and immediately went to the Padre at the Depot wing who advised him to wait a little longer to see if anything developed from his previous applications. THOMS asked to be returned to the Occupation Forces, as he was naturally increasingly anxious to marry his fiancee before his baby was born. This request was refused although all circumstances were made known. He did the only thing left to him, according to his own reasoning - a reasoning that is followed by hundreds of soldiers who find army routine in such matters provokingly slow and complicated. He failed to return from his leave on August 9 and obtained a job in his fiancees' home town, earning 1?s. 6d. per day, 6 days a week. This was his effort to provide for his future wife, to give her all the essentials a woman in her condition requires.

requires, and to let her know that he cared for her considerably and intended to marry her as soon as the Army saw its way clear to allow him to do so. You will understand that to the girl and her family, all this army routine would appear particularly incompetent and they might even suspect that THOMS actually did not intend to marry the girl.

As soon as he felt he had made sufficient financial arrangements, he discussed with his fiancee the matter of his surrendering himself. He returned voluntarily after an absence of 84 days. The day after his surrender, he asked permission to make a voluntary assignment of $25.00, the maximum amount possible, to his fiancee. This was allowed.

THOMS is desperately anxious to marry the girl before the baby is born in January and for this reason I ask that his punishment be in the form of a pay stoppage rather than detention. Finally, please consider the various aspects of this matter. THOMS's length of service, 5 years and 5 months; his good fighting record; the fact that he has been trying to get permission to be married since February of this year; and the fact that the Army has been rather slow in this simple routine affair of granting permission for marriage. I ask, therefore, that THOMS punishment be minimized as far as possible in view of the extenuating circumstances.

A Beck Lt

SUMMARY OF EVIDENCE

Summary of Evidence in the case of L 27178 Rfn THOMS, W.D., Regina Rifle Regiment, on the Transient Strength of C Wing 2 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By the direction of the Commanding Officer the Summary of Evidence is taken on Oath.

FIRST WITNESS — Lt R.M. Yeo, Cdn Inf Corps, on strength of 2 Cdn Repat Depot, having been duly sworn states:

For the Prosecution

"I am Lt R.M. Yeo and am employed as Adjutant of C Wing 2 Cdn Repat Depot. Pursuant to Overseas R.O. 5352, I present the following documents relating to the accused, L 27178 Rfn Thoms, W.D., whom I now recognize, which have been read over and shown to the accused, and which are marked as Exhibits A, and B."

Exhibit A - Certified True extracts from HHQ Pt II Orders No 127, d/2 Nov 45.

Exhibit B - Certified True Copy of Absentee Report dated 9 Aug 45.

The accused declines to cross-examine this Witness.

(R.M. Yeo) Lt
T/Adjt - C Wing
2 Cdn Repat Depot

The foregoing has been read back to the Witness.

SECOND WITNESS — C 121353 Cpl Juby, J.A., R.C. Arm'd. C., on strength of 2 Cdn Repat Depot, having been duly sworn, states:

For the Prosecution

"I am C 121353 Cpl Juby, J.A., and am employed as Cpl RP of 2 Cdn Repat Depot, C Wing. On 1 Nov 1945, I was NCO i/c the Guard Room when L 27178 Rfn Thoms, W.D., whom I now recognize to be the accused, surrendered to me at 2130 hrs on 1 Nov 45. His pass expired 0915 hrs, 9 Aug 45. He also stated that he had been absent from 9 Aug 45. He was sober and properly dressed."

The accused declines to cross-examine this Witness.

(J.A. Juby) Corporal
C 121353
NCO i/c Gd Room-C Wing
2 Cdn Repat Depot

The foregoing has been read back to the Witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence was taken down by me in the presence and hearing of the accused, and that rules of procedure 4 (c),(d),(e),(f) and (g) have been complied with.

(F.C. Craig) Capt
Offr detailed to take Summary

EXA

Extracts from 2 Cdn Repat Depot Part II Orders.

DO # 127 d/2 Nov 45.

18. ABSENT WITHOUT LEAVE

(a) L-27178 Rfn Thoms, W.D. AWL wef 0915 hrs 9 Aug 45.

(b) L 27178 Rfn Thoms, W.D. AWL wef 0915 hrs 9 Aug 45.
Still absent 0915 hrs 17 Aug 45.
(8th day)

(c) L 27178 Rfn Thoms, W.D. AWL wef 0915 hrs 9 Aug 45.
Still absent 0915 hrs 17 Aug 45.
(21st day)

CERTIFIED TRUE EXTRACTS: 5 Nov 45

(R.M. Yeo) Lt
T/Adjt - C Wing
2 Cdn Repat Depot

ABSENTEE REPORT

9 August 1945

Squadron / Battery / Company: 292 CD - MD 12 (PM)

Regt. No.	Rank and Name	When Absent	Hour of Return	In What State	Remarks
L27178	Rfmn. THOMS, W.D.	0915 hrs 9 August 1945	Still Absent		Not reported on AM report of 9 Aug 1945, as soldier was believed to be on sick parade.
L59866	Gnr HARKNESS O.E.	0915 hrs 9 August 1945	still absent		

Certified True Copy 6 November 1945.

(R.W.Yeo) Lt.
Officer having custody of Regimental Books.

(C.W.Pellen) Capt.
O.C. CD 292 - MD 12

Orderly-Sergeant

3/60 MFD 278 AG/PAR/391 (80882)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L27178	Rfn	THOMS W.D.	2 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	AWL AA Sec 15(1) 4 times	8 times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ Army

or

~~There are no entries in the conduct sheets of the accused~~ Army

2. ~~The accused has not been previously convicted.~~ Army

Previous convictions† of the accused by a court martial ~~or a civil court, summary awards under section 47 of the Army Act, and disposition on trial under section 79 of the Army Act~~ Army, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence of~~ Army

~~beginning on the day of~~ Army

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 29 days in military custody, making a total of 29 days, of which 9 days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ Army is 24

6. The date of his ~~commission~~ Army attestation specified in his record of service ~~attestation paper~~ Army is 10 Jun 40

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ Army

8. The accused is entitled to deferred pay or gratuity in respect of 53 months service.

~~9. The accused is entitled to reckon~~ ~~service for the purpose of determining his pension, etc.~~ Army

10. The accused ~~is in possession of, or entitled to,~~ no military decoration or military award Army (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of~~ Army

~~12. (*In the case of an officer.*) The accused holds in the army the rank of~~ ~~, dated~~ Army

~~and in his regiment (or corps or department) the rank of~~ ~~dated~~ Army

(*21800) WL24826/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(38606) WL25024/1499 12,000 2/44 " "

EX B

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L 27178 Rank Riflemen Name THOMS, W.D. of 2 Cdn Repat Depot Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	Field:14 Nov 43	AA Sec 15(1) AWL from 0800 hrs 9 Aug 43 to 1945 hrs 7 Nov 43 (90days:11hrs:45mins)	Undergo 60 days Detention Forfitures: FR&I 149(1)a-91 days FR&I 149(1)c- 7 days FR&I 149(1)b-60 days Total Forf- 158 days	20 days
FGCM	Field:25 Apr 44	(1) AWL AA Sec 15(1) from 0600hrs 29 Feb 44 to 1545 hrs 14 Mar 45. (14 days 9 hrs 45 mins) (2) AA Sec 15(1) AWL from 0930hrs 16 Mar 44 to 1345 hrs 24 Mar 44. (8 days 4 hrs 15 mins) (3) AA Sec 15(1) AWL from 0600hrs 11 Apr 44 to 1700 hrs. 17 Apr 44. (6 days 11 hrs)	Undergo 60 days Detention Forfeiture FR&I 149(1)a-30 days FR&I 149(1)c-27 days FR&I 149(1)b-60 days Total Forf: 117 days	18 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of Nov 45

R Burgess Lt.
adj.

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of , years, Date of Promotion.

In the rank of , years

In the rank of , years,

(INSTRUCTION—*If any matter in any of the above fair copies cannot be distinguished from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. L.27178 Name THOMS, WD&F | Sqn, Battery, or Company | Corps RCA | Date of enlistment 6 Jun 40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 49 P&S/136 (7808)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Oct 40	Pte		AWL 2 days		2 days Pay	P II #4 d/17 Oct 40	1st LAA	
"	18 Feb 43	"		AWL 12 hours		7 days CB			
						Forf 2 days Pay			
						Total forf. 3 days Pay		1st LAA	
"	26 May 43	"		AWL 8 hrs 15 mins		Forf 7 days Pay PtII #117 d/3 Jun 43		#3CARU	
FSCM "	15 Nov 43	"		AWL 90 days 11 hrs 45 mins		60 days Det			
						F 158 days Pay			
						20 days Remiss PtII #284 d/17 Nov 43		CSRU	
FSCM "	29 Feb 44	"		(1) AWL 14 days 9 hrs 45 mins		60 days Det			
				(2) AWL 8 days 4 hrs 15 mins		Forf. 117 days Pay			
				(3) AWL 6 days 11 hrs 0 mins		18 days Remiss			
"	19 Oct 44	"		WOA3, AWL from 2200 hrs 19 Oct 44 until 2205 hrs 19 Oct 44.	Documentary	3 days Forf PAM 148 (2)	21 Oct 44	Sgd A.D. Hood Lt.Col.	
				(Absent 5 mins) AA Sec 15 (3)					

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Dec 44	Pte		AA Sec 15 (1) AWL from 0930 hrs 30 Dec 44 to 2200 hrs 4 Jan 45 Absent 5 days 12 hrs 30 mins)	Cpl Beitz Cpl Turner	6 days F.P. 6 days Pay FR'I 149 (2)	5 Jan 45	Capt R.S. Edwards (Sgd)	6 days Pay FR&I 149 (1) a
"	11 Nov 44	"		AA Sec 15 (1) AWL from 0930 hrs 44 till 2100 hrs 11 Nov 44 (11 hrs 30 mins)	11 Nov Documentary L/C Richards	Forf 14 days Pay	14 Nov 44	Lt.Col Mitchell	Auto. forf 1 days pay-Tot forf 15 days
"	16 Jan 45	Rfn		AA 15 (1) AWL 2230 hrs 16 Jan 45 hrs 17 Jan 45 (2 hours	0030 Sgt Owens	3 days F of Pay 7 days CB	18 Jan 45	Lt.Col GH Logie(CO)	
"	24 May 45	L/C		AWL from 0600 hrs 13 May 45 to 1900 hrs 23 May 45 (Absent 9 days 23 hrs) (AA 15 (1)	L154359 L/C Norberg K54481 L/Sgt Moran	Reduced to Perm Grade of Rfn Forf 10 days pay	25 May 45	Lt Col AS Gregory	

CERTIFIED TRUE EXTRACTS FROM DOCUMENTS AVAILABLE

(D Irving) Capt

Offr having custody of Regt'l Docs

LIST OF WITNESSES AND EXHIBITS in the case of L 27178 Rfn THOMS, W.D., Regina Rifle Regiment, on the Transient Strength of C Wing 2 Canadian Repatriation Depot.

First Witness for the Prosecution

Lt R.M. Yeo, Cdn Inf Corps, on strength of 2 Cdn Repat Depot.

Second Witness for the Prosecution

C 121353 Cpl JUBY, J.A., R.C.Arm'd.C., NCO i/c Gd Room, C Wing 2 Cdn Repat Depot

EXHIBIT A - Certified True extracts from DHQ Pt II Order No 127, d/2 Nov 45.

EXHIBIT B - Certified True Copy of Absentee Report dated 9 Aug 45.

NO 2 CANADIAN REPATRIATION DEPOT

Date 6 Nov 45

This is to certify that I have received free of charge the following papers in connection with my forthcoming trial by FGCM:

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Witnesses
1 List of Exhibits

W. Dr. Sheens
(Signature)

NO 2 CANADIAN REPATRIATION DEPOT

Date 6 Nov 45

I, L 27176 Rfmn THOMS W.D. desire

to have an officer to defend me at my forthcoming trial by FGCM.

I desire the services of Lt. H.L. Beck 2 Cdn Repat Depot

if he is available.

W.D. Thoms

(Signature)

Z-48 (case #2)

GNR THOMS W.M.

See C-315 for 1st case

Correspondence to be PINNED here.

Form for Assembly and
General Court Martial

PROCEE

On Active Service, this
of Feb
Whereas it appears to me,
Command of 2 Cdn Arty Gp

persons named in the annexed S
Law, have committed the offence

And whereas I am of opini
such offences should be tried
Martial; *[and that it is not
reference to a superior qualified

I hereby convene a Field
said persons, and to consist of
hereunder.

*[I am unable to appoint
*(1. From Offi
*(2. A Field

for the following reasons, nam

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

Martin Capt
15 Mar 43

Rank.
Major R.W.

Rank.
Capt J.F.
Lieut A.L.S

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.6173 Gnr Thoms, W.M. 9th Bty 11 Cdn A Fd Regt RCA	A.W.I. Sec 15 (1) AA	Guilty	Guilty 90 DAYS DETENTION DATED THIS 22 FEB 43 Edward Price Webb MEMBER J Kellert Capt MEMBER W Kelly Hayn PRESIDENT	Confirmed WK 27 Feb 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) T.S. Rutherford Brig (Signed) _____

Commanding 2 Cdn Corps Gp *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of FEBRUARY 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

~~3 *((a) The interpreter)~~
~~(b) The officers (rules, instruction)~~

were duly sworn.

Signed this 22 day of FEBRUARY 1943.

W Kelly Hayn
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ WK

Signed this 27 day of Feb 1943.

T.S. Rutherford Brig
Confirming Officer.

Promulgated and extracts taken in the case of B6173 Gnr Thoms, W.M., Part I Orders dated 28 Feb 43 - AFW 3011 dated 27 Feb 43

(*a*) (Dated) 1 Mar 43 (Signed) _____
(H.F. WRIGHT), Lieut-Col., R.C.A.
C.O. 11 Cdn A Fd Regt., R.C.A.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47792/1937 35 M. 5/41 K.J.L./3265(2) Gp. 688.3

CHARGE SHEET

The accused B6173 Cnr. WALTER McCLURE THOMS, a soldier of the 9th Bty, 11th CANADIAN ARMY FIELD REGIMENT, R.C.A., is charged with:

FIRST CHARGE
Sec 15(1)AA

WHILST ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, absented himself without leave from 1200 hrs 23 Jan 43 until 2215 hrs 10 Feb 43.
(18 days 10 hrs 15 mins)

(H. E. WRIGHT), Lieut-Col., R.C.A.
C.O. 11th Cdn Army Fd Regt, R.C.A.

In the Field
14 Feb 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

BRIGADIER
COMD 2 CDN ARTY GP
FIRST CDN ARMY

MEDICAL OFFICER'S CERTIFICATE
(K.R.(Can)para 557)

I certify that I have this morning examined

.....B6179...GNR...THOMS, W.M.....

of the 11 CANADIAN ARMY FIELD REGIMENT, R. C. A., and in my opinion he is fit/~~unfit~~ to undergo trial by Field General Court Martial.

Place. Field.....

Date. 22 Dec 43.....

.....Lt R Lucky Major RCAMC.....
Medical Officer.

PAGE 1

Accused B6173 GNR WALTER McCLURE THOMS 11th Con Army Tps RCA
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ENGLAND on 22 FEB 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	R.W. THOMPSON	1 CDN A TO REM RCA
MEMBERS:	CAPT	J.F. KIBLER	1 CDN A TO REM RCA
	LIEUT	A.L.S IRETON	1 CDN A TO REM RCA

JUDGE-ADVOCATE: (If any)

OFFICERS UNDER INSTRUCTION:

PROSECUTING OFFICER: LIEUT G.A. WOOD Lawyer? Ans No

DEFENDING OFFICER: LIEUT A.R. PETTIGREW Lawyer? Ans No

(The following procedure must be actually carried out)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Ba.I.17 (B), 18 (A)).

The President, in closed court (R.A.I.22, fn.1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.I. 106) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.I.106).

The accused is (are) brought before the Court, and at 0935 hours, the trial commences.

The Prosecuting officer produces a Medical Certificate under K.R. (Can)827 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President, and attached to the Proceedings.

President to accused: Do you object to ~~being tried by~~ as Interpreter? Ans. ~~No~~

B12041 Sgt J.P. McCULLOCH ~~being duly sworn by E. [illegible]~~

Do you object to ~~being tried by~~ as shorthand writer? Ans. No

The Shorthand writer is duly sworn. (Forms of Oath on Page 'D').

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused (R.I.110)

President to accused: Do you object to be tried by any of the officers whose names you have heard read over? Ans No

The President, Members, Judge-Advocate, Officers under Instruction are duly sworn (R.I. 26-27) (Forms of Oath on Page 'D')

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused [illegible] (has not) elected trial by court martial (A.A. 86(3)).

President to accused:

Do you wish to make any special pleas before arraignment, that is to say, before you plead guilty or not guilty? Ans No

(If special plea(s) is (are) made for separate trial on one or more charges (Rs P 62(E), 108; or as to the jurisdiction of the Court (R.P. 34); or in bar of trial (R.P. 36); or as to accused's mental fitness to stand trial (A.A. 130, R.P. 72), record such pleas and evidence (if any) on separate sheet(s) to be initialled by the President and attached to the proceedings)

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P. 112). He pleads as follows: First Charge Guilty Second Charge Third Charge Fourth Charge

Fifth Charge Sixth Charge Seventh Charge Eighth Charge

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

FORM 'A'.

(After us... when accused pleads guilty to all charges)
(All printed matter not applicable to be struck out and all alterations, insertions and additions to be initialled by the President.

1. R.P.37(B) is complied with, by the President ascertaining that accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Do you desire to make any statement of the circumstances, in reference to the charge(s)? (R.P.37(B)) Ans NO

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for the President to explain that sufficient evidence has been given in support of the charge(s) to put the accused on his defence) (R.P.37(E)).

4. President to accused:
Do you wish to make any statement in mitigation of punishment? (R.P.37(C)). Ans YES

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Do you wish to give evidence yourself or call any witnesses as to character? (R.P. 37(C)). Ans YES

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto. Witnesses are sworn)

6. NEXT GEORGE ARCHER WOOD 11 Thomas Regiment (Rank) (Christian names) (Corps) (Unit) produces Statement of Character and Service, and Field Conduct Sheet, duly certified by the officer having custody of the Regimental Books, certifying as such. The said documents are read, marked 'A', 'B', initialled by the President and attached to the proceedings. (R.P.46)

7. President to accused:
Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans NO (No cross-examination)

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R.(Can)'63 - 605, one sentence only awarded, (R.P. 48). Sentence should be dated)

The sentence is NOT announced to the accused by the Court.

(Signature of President)

B6173 Gnr. Thoms, M. C. - Field General Court Martial - 22 Feb 43

Defending Officer - Plea of Mitigation:

Gnr. Thoms joined the Army on Dec 6, 1939. He is 39 years old and in civil life ran his own grocery business. He has $20.00 a month assigned pay to his wife and in the Army was a driver until developing eye trouble. He was taken off driving and qualified as a cook and was receiving trade pay as a cook showing that he can turn his hand to anything that must be done by a soldier. He is, at present, having personal trouble but he does not wish to put this in front of the Court as it would involve other people. I would like to take this opportunity of pointing out that he has already spent twelve days in the Regimental Detention Barracks, working.

Court: Do you wish to give evidence yourself or call any witnesses as to character?

Defence: I would like to call Major Tate

Major E.C. Tate, 11th Cdn Army Field Regiment, R.C.A., having been duly sworn:

Cl You have been called to give character evidence?

Al Gnr. Thoms has been in the 9th Battery ever since the war and I have been in the 9th Bty since I have been in England except for a short period so that ever since the Battery has arrived in England I have known Gnr Thoms. During that time, he has worked as driver, batman and as a cook, lately as a cook in the officer's Mess. He has, in my estimation, a tremendous capacity for work. Frequently, of his own free will, works half the night to get a job done. When you give Thoms a job to do, you get the impression that he would rather do that job than anything else. As a driver his vehicle was always well looked after. As a batman, he served his officer very well and as a cook his kitchen was always clean and meals well prepared and served.

No Cross Examination.

I, B6173 Gunner Thoma, W.M., wish to have an Officer assigned to represent me at my trial by Court Martial.

I desire the services of Lt. Pettigrew if available.

G. M. Thoma

Summary of Evidence in the case of No B6173 Gunner Thoms WH 9th Battery 11th Canadian Army Field Regt.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

No B7031 WO II Gazelle HT 9th Battery, 11 Can Army Field Regt RCA having been duly sworn states:

I am B7031 B.S.M. Gazelle HT Gnr Thoms was to have returned from privilege leave at 1200 hours 23 Jan 43. He failed to do so and was absent from his duty and from all parades daily thereafter until he surrendered himself to the regimental guard room 10 Feb 43. In my capacity of B.S.M. I take the care for the Coy

W Gazelle WO II

Accused declines to cross-examine this witness.

2nd witness for the Prosecution

No B12126 L/Sgt Blackburn A, 9th Battery, 11 Can Army Field Regt RCA having been duly sworn states:

I am B12126 L/Sgt Blackburn A 9th Battery, 11 Can Army Field Regt. I was N.C.O. in charge of Regt Guard 10 Feb 43 when Gunner Thoms voluntarily gave himself up at 2215 hours. I asked him for his pass

B6173 Gnr. Thoms, M. C. - Field General Court Martial

Defending Officer - Plea of Mitigation:

Gnr. Thoms joined the Army on Dec 6, 1939. He is 39 years in civil life ran his own grocery business. He has $20.00 a mo assigned pay to his wife and in the Army was a driver until dev eye trouble. He was taken off driving and qualified as a cook t was receiving trade pay as a cook showing that he can turn his hand to anything that must be done by a soldier. He is, at present, having personal trouble but he does not wish to put this in front of the Court as it would involve other people. I would like to take this opportunity of pointing out that he has already spent twelve days in the Regimental Detention Barracks, working.

Court: Do you wish to give evidence yourself or call any witnesses as to character?

Defence: I would like to call Major Tate

Major E.C. Tate, 11th Cdn Army Field Regiment, R.C.A. having been duly sworn:

Q1 You have been called to give character evidence?

A1 Gnr. Thoms has been in the 9th battery ever since the war and I have been in the 9th Bty since I have been in England except for a short period so that ever since I have been in England I have known Gnr Thoms. During that time, he has worked as driver, batman and as a cook, lately as a cook in the Officer's Mess. He has, in my estimation, a tremendous capacity for work. Frequently, of his own free will, works half the night to get a job done. When you give Thoms a job to do, you get the impression that he would rather do that job than anything else. As a driver his vehicle was always well looked after. As a batman, he served his officer very well and as a cook his kitchen was always clean and meals well prepared and served.

No Cross Examination.

B6173 Gnr. Thoms, M. C. - Field General Court Martial - 22 Feb 43

Defending Officer - Plea of Mitigation:

Gnr. Thoms joined the Army on Dec 6, 1939. He is 39 years old and in civil life ran his own grocery business. He has $20.00 a month assigned pay to his wife and in the Army was a driver until developing eye trouble. He was taken off driving and qualified as a cook and was receiving trade pay as a cook showing that he can turn his hand to anything that must be done by a soldier. He is, at present, having personal trouble but he does not wish to put this in front of the Court as it would involve other people. I would like to take this opportunity of pointing out that he has already spent twelve days in the Regimental Detention Barracks, working.

Court: Do you wish to give evidence yourself or call any witnesses as to character?

Defence: I would like to call Major Tate

Major E.C. Tate, 11th Cdn Army Field Regiment, R.C.A. having been duly sworn:

Q1 You have been called to give character evidence?

A1 Gnr. Thoms has been in the 9th Battery ever since the war and I have been in the 9th Bty since I have been in England except for a short period so that ever since I have been in England I have known Gnr Thoms. During that time, he has worked as driver, batman and as a cook, lately as a cook in the Officer's Mess. He has, in my estimation, a tremendous capacity for work. Frequently, of his own free will, works half the night to get a job done. When you give Thoms a job to do, you get the impression that he would rather do that job than anything else. As a driver his vehicle was always well looked after. As a batman, he served his officer very well and as a cook his kitchen was always clean and meals well prepared and served.

No Cross Examination.

I, B6173 Gunner Thoma, W.L., wish to have an Officer assigned to represent me at my trial by Court Martial.

I desire the services of Lt. Pettigrew if available.

W. M. Thoma.



Summary of Evidence in the
case of No B6173 Gunner Thomas W.H
9th Battery 11th Canadian Army Field Regt.

By direction of the Commanding Officer
the Summary of Evidence is taken
on oath.

1st Witness
for the Prosecution

No B7031 WO II Gaydk H.T. 9th
Battery, 11th Can. Army Field Regt RCA
having been duly sworn states:
I am B7031 B.S.M. Gaydk H.T. Gnr
Thoms was to have returned from
privilege leave at 1200 hours 23 Jan
43. He failed to do so and was
absent from his duty and from
all parades daily thereafter until
he surrendered himself to the Regimental
guard room 10 Feb 43. I am my self
of B.S.M. I take the note for the Unit

H Gaydk WO II

Accused declines to cross-examine
this witness.

2nd witness
for the Prosecution:

No B12126 S/Sgt Blackburn,
9th Battery, 11th Army Field
Regt RCA having been duly
sworn states:
I am B12126 S/Sgt Blackburn A.
9th Battery, 11th Army Field Regt.
I was NCO in charge of Regt. I was
10 Feb 43 when Gunner Thoms
voluntarily gave himself up at 1225
hours. I asked him for his pass

which he gave me (Exhibit). I then placed him under close arrest and with assistance placed him in the regt guard room.

L/Sgt Blackburn F.

Accused declines to cross examine the witness.

The accused having been duly cautioned in accordance with rule of procedure 4(E) reserves his defence.

Certified that Rule of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 12th day of Feb 1943 at 1400 hours

GAM Lieut.

(Signature of officer taking the summary)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10.6.41	Gnr		(1) Woas and while AWL conduct to prejudice etc. in that he was begging on Hammersmith Bdway. Sec 40 AA.	Metro Police				
				(2) Woas AWL whilst a defaulter from 1800 hrs 3.6.41 to 2145 hrs 10.6.41 (171 hrs 45 mins) Sec 15(1) Mayer	BSM Rawlings L/C Winn	21 Days F.P. (2 charges)	12.6.41	Lt. Col C. D. Crowe	Fts 21 days pay.
Forfeits 2 days pay for				being in close arrest from 2145 hrs 10.6.41 until 1400 hrs 12.6.41. (40 hrs 15 mins)					
Bordon	10.9.41	Gnr		AWL from 0600 hrs 1. .41 until 1830 hrs 26.8.41 Absent 25 days 2 hrs 30 mins)		105 days Detn	10.9.41	FGCM	Fts 26 days pay.
Field	3.4.42	Gnr		Woas AWL from 1200 hrs 3.4.42 to 1130 hrs 20.4.42(16 days 23½ hrs)	BSM Gazell Bdr Fryer	14 days F.P. Fts 14 days pay	22.4.42	Lt Col Wright	Fts 17 days pay FRI 149

Old sheet destroyed on completion 6 months service 6.6.40.

No. B6173 Name Thoms, W. M. Sqn., Battery, or Company Corps R.C.A. Date of enlistment 6.12.39 G.C. Badges

Date of last entry in Company Conduct Sheet 30.1-40 No. and date of last drunk ---- Period not reckoning towards freedom from extra fine N/A Sheet No. Signature O.C. Company, etc. Service or Proficiency Pay N/A. Character

M.F.M. 6 (APR 1939) (1939-39) H.Q. 1772-35-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ash	15-7-40	Gnr.		Sec 15 (1) AA - AWL 0800 hrs 14-7.40 to 1230 hrs 15-7-40.(28½ hrs)	BSM Wright	4 Extra Drills	16-7-40	Major K.M. Lander	Fts 2 days pay.
Parkgate	2.8-40	Gnr		Sec 19 AA DRUNKENNESS	BSM Wright	Fined $5.00	20.9.40	Major Lander	
Banstead	19.9-40	"		Sec 19 AA DRUNKENNESS	Sgt. Black			Major K.M. Lander	
Field	2-5-41	Gnr		Sec 15 (1) AA - Woas AWL from 0830 hrs 24.11.40 to 2230 hrs 1.12.40. (182 hrs)	BSM Fisher Sgt. Black	7 days C.B.	3.12.40	Major K.M. Lander	Fts 8 days pay.
Field	2-5.41	Gnr		Sec 15 (1) AA - Woas AWL 2230 hrs 2.5.41 to 1615 hrs 12.5.41(233 hrs 45 mins)	Sgt. Black L/B. Turton	14 days C.B.	13.5.41	Major K.M. Lander	Fts 10 days pay.
Field	31.5.41	Gnr		Sec 15 (2) AA woas Failed to appear for Fire Picquet at 1900 hrs 31 May 41	L/S. Shunk	3 days C.B.	2.6.41	Major K.M. Lander.	

(P.T.O.)

M.F.M. 6

No. B6173 Name THOMS, W.M. Sqn., Battery, or Company 9 Corps 11 Cdn. Army Fd Regt. RCA Date of enlistment 6.12.39 G.C. Badges Service or Proficiency Pay M/A Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine M/A | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-9-42	Gnr		WOAS AWL from 1200 hrs 17-1-42 to 1800 hrs 22.9-42.(5 days 6 hrs)	Sgt Del Medico Docmnty	14 days FP with Forfs	28.9.42	Major F.T. McIntosh	Forfs 6 days pay.

Certified to be a true copy of Regimental Records in my custody

Lieutenant, Adjutant 11th Cdn A Tk Regt RCA

1st Feb 43

OVER

ARMY FORM B.200.

B

Statement as to Character and Particulars of Service of Accused.

Number B6173 Rank Gnr. Name. Thoms, W.M. Regiment (or as the case may be).

9th Bty 11 Canadian Army Field Regiment, R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—As a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced to court with this statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the answer is in the negative, the entries in drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15 AA	2 times	8 times.
For Sec 40 AA	0 times	1 times.
For Sec 19 AA	0 times	2 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

~~There are no entries in the conduct sheets of the accused~~ N/A

2. The accused has not been previously convicted, or N/A ~~has been previously convicted by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for imprisonment for the day of~~ No

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and eleven days in military custody, making a total of eleven days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 38

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 6.12.39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 2 months 8 days ~~nil~~ service.

9. The accused is entitled to reckon 3 years 2 months 8 days ~~nil~~ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to retain any military decoration or reward.~~ Nil

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental rank of ~~N/A~~

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of ~~N/A~~ dated and in his regiment (or corps or department) the rank of dated

(*)80,000 Wt.15882/144 125,000 6/41 A.A.E.W.Ltd Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of Feb 43

E C Tate, Major

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion
In the rank of	.....
In the rank of	.....
In the rank of	.....

(INSTRUCTION—If any matter in any of the above paragraphs cannot be dated from the regimental books the paragraphs must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs completed accordingly.)

4L-78

Pb Thoms W. M.

First base C-315
2nd " Z-48
3rd " 3L-98

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-6173 Pte Walter McClure Thoms

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 18(4) A.A.	Not Guilty	Not Guilty	
2nd	Alternative Sec 10	Not Guilty	Guilty	
3rd	Sec 19 A.A.	Guilty	Guilty	
4th				
5th		Dft		
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on ~~(date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Six (6) months

(Sgd) A McRae, Capt. — Judge-Advocate, if any.

3 Jan 45 — Date awarded.

(Sgd) T.W. Beauclerk maj. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~.(1) Nil

(1. AA 57A. Delete if not used.)

Date 6 Jan 45 (Sgd) H.W. Wilkinson Brig

Commanding COMMANDER 1 CDN ~~INFANTRY~~ ARMOURED BDE Confirming Offr

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-6173 Pte Walter McClure Thoms.	7 Jan 45	A McRae Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-78
REC'D 17 JAN 1945 D.M.O. & P.

FIELD GENERAL COURT-MARTIAL

5 Mnr A/38B

Convened by Order of Brigadier T.G. Gibson Comd 1 CDN ~~INF~~ Gp. CMF dated 29 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-6173	Pte	Walter McClure	Thoms	RCASC attd 1 Cdn Base Sup Depot

RECEIVED PROCEEDINGS REVIEWED 2 JAN 45 HEADQUARTERS OFFICE JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

~~Held~~ in the Fd in (country) Italy on (date(s)) 3 Jan 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26-8

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) RMC

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1030 hours trial commences. TWB

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~ TWB

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to...~~ as interpreter? Ans ..... TWB

~~The Interpreter is sworn.(1) Do you object to...~~ as shorthand writer? Ans TWB

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	T.W. Beauclerk	C.I.C. 2 Cdn Recdt Centre
Member	Lieut	A. Goulds	C.I.C. 2 Bn 1 C.B.R.D.
Member	Lieut	W. Schulman	R.C.E. 7 Bn 2 C.A.R.D.
Judge-Advocate	Capt.	D.W. Rose	C.I.C. HQ 1 CARGp.
Prosecutor	LIEUT	F.R. La Fleche	C.I.C. 1 Bn 1 C.B.R.D.
Defending Offr	Capt	G.E. Piercy	C.I.C. 8 Bn 2 C.I.R.D.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See DI p 33.)

A8. The accused B-6173 Pte W.M. Thoms before arraignment make(s) (no) ~~(an)~~ plea A.A.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rook and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. A.A.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried seperately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C. RMC

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M122

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 89, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court~~ considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). ~~Part I of the Schedule~~ is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (~~thrice~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, recorded per Notes.)

D2. The Prosecutor makes (~~an~~) no opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st and 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st and 2nd charge(s), ~~and allowed on the ..... charge(s), and that the accused is (are) found Not Guilty on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither?

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes on oath. Do you intend to call witnesses on your behalf? Ans. No.
Are they witnesses as to character only? Ans. No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ✓ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E 1 and Ex E 2 respectively.(3)
(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. In Defending Offr.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B.6173 Pte Walt[illegible] 1 Cdn Base School of Cookery, HQ 1 Cdn Base [illegible] of the Canadian Army Overseas, is charged with:-

First Charge
Sec 18 (4)
Army Act

When on active service, stealing property belonging to a Regimental Mess,

in that he,

In the Field in Italy on or about 20 Dec 44 stole one bottle of "Old Smuggler" whiskey, the property of the Sergeants' Mess, HQ 1 Cdn Base Rft Group.

Second Charge
(Alternative)
Sec 40
Army Act

When on active service, conduct to the prejudice of good order and military discipline,

in that he

In the Field in Italy on 20 Dec 44 was improperly in possession of one bottle of "Old Smuggler" whiskey, the property of the Sergeants' Mess, HQ 1 Cdn Base Rft Group.

Third Charge
Sec 19
Army Act

When on active service, drunkenness

in that he

In the Field in Italy on 20 Dec 44 was drunk.

R.G.M. Gammell

(R.G.M. Gammell) Major
DAA & QMG
HQ 1 Cdn Base Rft Gp
Cdn Army CMF

In the Field
In Italy
28 Dec 44

Approved for trial
under K.R. (Can) 540
W. G. Hale Capt
ADJA HQ 1 CBRSP.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
29 Dec 44

(T. G. GIBSON) Brigadier
Comd, 1 Cdn Base Rft Gp
Cdn Army-CMF

17

DMK.

CHARGE SHEET

The accused, No. B.6173 Pte Walter Maclure THOMS, RCASC, att'd 1 Cdn Base School of Cookery, HQ 1 Cdn Base Rft Group, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 18 (4)
Army Act

When on active service, stealing property belonging to a Regimental Mess,

in that he,

In the Field in Italy on or about 20 Dec 44 stole one bottle of "Old Smuggler" whiskey, the property of the Sergeants' Mess, HQ 1 Cdn Base Rft Group.

Second Charge
(Alternative)
Sec 40
Army Act

When on active service, conduct to the prejudice of good order and military disci pline,

in that he

In the Field in Italy on 20 Dec 44 was improperly in possession of one bottle of "Old Smuggler" whiskey, the property of the Sergeants' Mess, HQ 1 Cdn Base Rft Group.

Third Charge
Sec 19
Army Act

When on active service, drunkenness

in that he

In the Field in Italy on 20 Dec 44 was drunk.

R.G.M. Gammell

(R.G.M. Gammell) Major
DAA & QMG
HQ 1 Cdn Base Rft Gp
Cdn Army CMF

In the Field
In Italy
29 Dec 44

Approved for trial
under K.R. (Can) 540
W. B. Hale Capt
ADJA HQ 1 CBRSP.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
29 Dec 44

T. G. Girson

(T. G. GIRSON) Brigadier
Comd, 1 Cdn Base Rft Gp
Cdn Army CMF

The appointment of Capt D.W. Rose, an offr having legal qualifications, as Judge Advocate is hereby approved by me on behalf of the JAG, pursuant to Overseas RO 4756.

W.B. Bate

(W.B. Bate) Capt
ADJA HQ 1 CBRGp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B6173	Pte		Walter McClure	THOMS	RCASC att'd 1 Cdn Base School of Cookery HQ 1 C B R Gp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on 29 Dec 44 (*date*) endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*) T W BEAUCLERK (*Must be named. RP 106.*) (CIC) 2 Cdn Reall Centre (*Unit.*)

MEMBERS.

Capt or Lieut to be detailed by the OC 2 Bn 1 CBRD

Capt or Lieut to be detailed by the OC 7 Bn 2 CBRD (*Unit.*)
(*Rank.*) (*Named or detailed. RP 106.*)

WAITING MEMBER.

Capt or Lieut to be detailed by the OC 1 Bn 1 CBRD (*Unit.*)
(*Rank.*) (*Named or detailed, if any. RP 106.*)

JUDGE-ADVOCATE.

Capt (*Rank.*) D W ROSE (*Must be named, if any. RP 106.*) (CIC) HQ 1 C B R Gp (*Unit.*)

On Active Service in the Fd

in Italy (*Country.*)

Date 29 Dec 44

(*Signed personally. RP 105 fn 2.*)
(T. G. GIBSON)
Commanding 1 Cdn Base Rft Gp-CMF
Convening Officer. Brigadier (*Rank.*)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

4/38A CFAB5 (In lieu of AFA3)
40/F & S/1607 (4931)

MEDICAL CERTIFICATE

I hereby certify that I have this morning examined B.6173 Pte THOMS, W.M., and in my opinion he is fit to undergo trial by Court Martial.

JAN 3 1945

J.E. Cowle Capt
Medical Officer

D4.

Dent

Just Witness for prosecution } B6238 Sgt Carter, H HQ 1 C B R Gp. duly sworn is examined by the prosecutor.

I am a clerk at HQ 1 C B R Gp. At about 1700 hrs on 20 Dec 44 I arrived at the HQ 1 C B R Gp Sgts mess for supper. On my arrival I was shown a bottle of Whisky. It was a bottle of Old Smuggler Whisky - on the label it had my name on it in my own printing. The bottle shewn to me is the one I refer to - marked Ex A. - Ex A had been my October issue of liquor which I had been keeping in the bar at the Sgts Mess for Christmas. It was being kept with the surplus stock of liquor in the bar. Sometime in Nov 44, I drew another bottle of whisky out of stock in place of Ex. A. On 18 Dec 44 I noticed Ex A up for sale and made a joking remark about them putting my bottle up for sale. There were numerous bottles of whisky in the bar at the time I drew the bottle in Nov and this one, Ex A, was at the bottom and all I was interested in was a bottle.

Cross-exam

I didn't personally look for my bottle in Nov.
The barman looked.
The cabinet in which the bottles were kept was 3' x 3' and could contain, I think, about 50 bottles.
The cabinet has just the one compartment.
When I drew the bottle in Nov, the barman looked but couldn't find the bottle.
I don't know whether the contents of Ex A ~~are~~ is whiskey.
When I printed my name on it, it was a sealed bottle.
Ex A is the bottle I put my name on.
I couldn't tell whether a label could be removed.
It was customary for me to put my name on bottles as I received them.
It is possible to remove a label and replace another.
I won't say that the contents of Ex A at this moment is whiskey - I know it was when I put my name on it.

Re-exam

The barman was in a hurry when he looked for the bottle and gave me another in lieu of it.

By J/A.

I paid for Ex A.
The bottle I received in lieu of Ex A was the same price.
Ex A became the property of the Sgts mess HQ 1 C B R Gp as far as I was concerned when I received a bottle in lieu of it.
Sgt Brown was the barman.
I am a member of the Sgts mess HQ 1 C B R Gp.
It was about 18 Dec 44 when I last saw Ex A in the bar.

R.P. 83 (B) Complied with.

Second Witness for prosecution | K 68696 Cpl (A/Sgt) Brown, T.O. HQ 1 C BR Gp duly sworn is examined by the prosecutor.

I am the secretary of HQ. 1 C BR Gp Sgts' mess and keep a record of all stocks of liquor in the bar of that mess. On 20 Dec 44 I was shown a bottle of Old Smugglers Scotch Whiskey with the name Cartner written on it in ink. I identify Ex A as the bottle. I put Ex A in the bar for safekeeping on instructions from S/Sgt Latham and Q.M.S Dunn. Ex A had been put aside for Sgt Cartner on about 14 Nov 44 until such times as he could pay for it. About 10 Dec 44 Sgt Cartner asked for his bottle, Ex A, and as I could not find it at the time I sold him another bottle of whiskey. Ex A remained in stock until the present time. I last saw Ex A on mon. night 18 Dec 44 when Sgt Cartner jokingly made a remark about the bottle. The bottle was about half full when I put it away at the request of S/Sgt Latham & Q.M.S Dunn. They put their names on it. I could not state what kind of liquor was in it at that time however the label was the same as on 18 Dec 44. On that day it was full but I can't say for sure that it was sealed. I never knew of labels being changed from one bottle to another. It would be fairly difficult to do. Ex A was the property of the mess on 18 Dec 44. I had the keys to the bar and if I left it during bar hours I turned the keys over to a member of the bar committee. I recognize the accused as he came to the Sgts mess as a cook on 19 Dec 44. I saw him twice that day. The accused did not have access to the bar. The bar lock could be opened without keys as it has been opened several times by using a knife to push the latch back and by taking the hinges off the door Ex A contains whiskey

Cross-exam

The cabinet in which the whiskey is stored is about 6' high - there are 3 doors in it - each cartain has 3 shelves. There can be 6 rows on each shelf. There would be about 30 bottles on hand when I looked for the bottle at Sgt Cartners request. There were no other names on bottles except Ex A. I didn't look very thoroughly. I was rushed at the time Sgt Cartner asked for his bottle. I was present when Q.M.S Dunn put his name on the bottle.

I have been mess Secretary since 1 Nov 44. There is only 1 set of keys to the bar. The mess Committee have access to the keys. There are 16 members in the mess. There are 5 members on the committee. The bar is always locked & kept when a member of the committee is present. Only 5 members have access to the keys. I handled the cash until 23 Dec 44. I paid in cash for all purchases for the mess. I paid for Ex A in cash - I paid Sgt Nanji the mess Canteen who obtained the liquor through the D I D. I am not sure of the Bar hours - usually open from 1200 - 1300 hrs 1600 - 1700 hrs 1800 - 2300 hrs. I was not always present.

The last time I saw Ex A was on 18 Dec 44 at the Bar.
The bar was probably open at noon 19 Dec 44.
I dont remember seeing Ex A on 19 Dec.
On 10 Dec 44 when I found Ex A in the bar it was full and sealed.
It was possible but not probable that the bottle was away from the bar at the time Sgt Carlson asked for it.

Re-exam

On 10 Dec 44 Ex A was in the bottom part of the bar. I dont know whether it was hidden behind the bottles or not.
It was possible for the bar to be unattended but locked between 18-20 Dec 44 - it would be all night.
Ex A wouldnt be noticed to be missing when the bar was opened on 19 Dec 44.

No Q rcsd by Court

By D.A.

The accused was employed as a cook in the mess.
The cabinet, outside of the time it was necessary to force it open, has never been to my knowledge opened without a key.
On 20 Dec 44 there were no unusual marks on the cabinet.
The cabinet had several dints in it near the lock from the time it had had to be forced previously. The marks were in the wood.
Ex A was the property of the mess and to my knowledge had not been sold to the accused or any other person.

R.P. 23(B) Complied with.

The court adjourned at 1200 hrs. The court reassembled at 1330 hrs, the same members being present.

Third Witness for prosecution } D 96028 QMS Dann, R.L. 1 Cdn Army School of Cookery (see A) HQ 1 CBR Coy duly sworn is examined by the Prosecutor.

I am a member of the Sgts' Mess HQ 1 CBR Coy. I recognize the accused who is in court. On 19 Dec 44 at about 1100 hrs I brought the accused down to the Sgts' Mess from the Sch of Cookery to cook. On the morning of 20 Dec 44 I was told that the cook was sick and unable to perform his duties. As a result I had a Sgt Mess trained cook lunch for the mess. I returned for lunch at about 1300 hrs and then went back to the cooking School and brought a new cook down arriving at the Sgts' Mess at about 1400 hrs on 20 Dec 44. After my arrival at the Mess I went into the room where the mess cooks sleeps to get the accused. I called the accused who seemed to be asleep. After calling him about 3 times I went in and shook the accused. As I did so I smelt the smell of liquor. The accused rolled over and in doing so pulled the

blanket covering him so as to expose a whiskey bottle under his knees right in his bed. I removed the bottle and called in S/Sgt Latham and asked him if he recognized the bottle and if any was missing from the bar stock. S/Sgt Latham recognized the bottle. I put the date, time and my initials on the reverse label on the bottle and then turned it over to S/Sgt Latham. I then took the accused to Stanley Bks where I turned him over to the Camp C.S.M. The bottle I found was an Old Smuggler's Whiskey bottle with Sgt Latham's name printed in ink on the label. It was less than half full of whiskey - it was whiskey to the best of my knowledge. Ex A is the bottle I found. The accused's room in the Sgts mess was a partitioned off corner of the kitchen - it was 15 - 16 ft from the bar.

Cross-exam

I had no reason to think the accused had been drinking on the 19 Dec 44.

The accused after lunch on the 19th asked permission to go out for an haircut and returned in just about half an hour.

He did say something about not being able to get an haircut and would have to go again.

I was busy and had no cause to think he'd been drinking.

I saw him for a few minutes in the evening of 19 Dec 44.

The accused was not acquainted with the mess.

I have never had the keys to the bar.

Only the committee has the keys.

It is doubtful that any member other than the committee would have the keys.

I have known the accused since last May.

I have never known the accused to drink very much.

He has never been under the influence to my knowledge.

I knew him in the 9th Fd Amb where his work was satisfactory.

No re-exam

No Q'ests by Court.

R.P. 83(B) Complied with.

Fourth Witness for prosecution | C 96450 S/Sgt Latham E.H. HQ 1CBR Op duty sworn is examined by the prosecutor.

I recognize the accused who is in court. I am a member of HQ 1CBR Op Sgts' mess. I am a member of the sub committee for the operation of the bar in that mess. The accused was a cook at the mess - he came in around the afternoon of 19 Dec 44. I was in the bar of the Sgts' Mess on the afternoon of 20 Dec 44 as it was my day off duty and I was cleaning up the bar. At about 1430 hrs QMS Dunn entered the mess with another cook to replace the accused. QMS Dunn went into the cooks sleeping quarters in the room next to the bar and called to me to

come in and asked me if I recognized a bottle of Old Smuggler Whiskey - the accused was present. I was able to identify the bottle as one that had been in the bar stock because of the fact that it had Sgt Cartner's name printed on it. I was present when Sgt Cartner put his name on that bottle and later saw it in stock in the bar. I saw the bottle last in the bar on the night of 18 Dec 44. The bottle at that time was full but whether or not the seal was on it I am not sure. The surplus stock is kept in the bottom of the cupboard the current stock on the top shelves. The cupboard can be locked. There are 2 locks, one for the bottom one for the top door. The keys are kept by the mess secretary or by the members of the bar committee who might be working in the bar. The locks could be opened without a key by using a knife to spring the lock from the locking hole. You could remove the pins from the hinges and swing the door open. There are some scratches marks around the hinges and on the wood on the retaining side of the lock - they were there before 18 Dec 44. The liquor kept in stock belonged to the Sgts mess. The bottle Q M S Dunn handed to me on 20 Dec 44 had Sgts Cartner's name on the label and Q M S Dunn's initials, time and date on the back label of the bottle. I believe the time and date was 1430 hrs, 20/12/44. Ex A is the bottle. The contents smell like Scotch Whiskey - the contents on 20 Dec 44 when handed to me smelt of Scotch Whiskey. Ex A was not sold on 19 Dec 44 to my knowledge.

Cross-exam

The bar was opened at between 1230-1300 hrs on 20 Dec 44 either by myself or Sgt Brown.

There was nothing said about the door being tampered with on 20 Dec 44.

The door could be taken off and put back into place without any marks.

I don't suppose the door would be replaced if the door had been forced open.

I couldn't say whether the bar was open at noon 19 Dec 44.

I was at the bar on 19 Dec 44 from 21-23 hrs until I locked the bar up.

I didn't notice Ex A at that time.

Re-exam

I would have no reason to look for Ex A on 19 Dec 44.

By Court

The easiest way to get into the bar cupboard was by forcing the lock.

I wouldn't know whether it was necessary to use the key to relock the locks after forcing it in that manner.

There were on 20 Dec 44, two Italian Civilians employed by the mess.

One Italian lived in the cubicle where the

6/ DWL.

cook lived – the other Italian lived out coming in at about 0830 hrs and leaving at about 1900 hrs each day.

By J.A.

No check of stocks was made by me on 20 Dec 44. Of A ~~was~~ the property of the Sqn to mess. 1 CBR Gp.

R.P 83(B) complied with.

The prosecution is closed.

DWL

7. D4. AWL

In support of motion of no prima facie case

1. To convict on a charge of stealing the prosecution must prove conclusively where the ownership of the property in question, lay. The article here is a bottle of liquor and this bottle seems to have borne considerable handling from the moment of time it was first placed in the Sergeants mess. Mr Cartner had it at one time, when he first claims to have purchased it & it was returned to the bar, is later collected, and still later is found in the bar again. I submit the prosecution has failed to show a satisfactory chain of ownership of the bottle to satisfy English law, which demands the clear proof of ownership

2. Apart from the single statement that the bottle of liquor was found in the accused's bed the prosecution has not adduced any evidence that the accused this man here actual, ~~was~~ actually 'stole' the bottle, nor has it proven that the accused was responsible for the presence of the bottle in his bed.

3. There is a real possibility that the bottle of liquor was removed

from the bar by some person(s) who had had access to the bar, at least access that would permit the removal without discovery. He was accused is not such a person. He was a brand newcomer in the set-up of the bar, and had never been around there before, did not know the set-up of the bar, and it is highly unlikely that in the very short time that the accused was in the bar that he could formulate a plan to steal a bottle from it. The witnesses for the prosecution, Lt Brown, Lt Hamm, and Sgt Carter, who showed how, filled three cups only about 30 bottles on this particular occasion, and counted it. They did not find 30 bottles at the time he looked for it. Now 30 bottles is a very small number of bottles when spread over several shelves. The shelves are not deep. It is too much to accept in the light of reason that this bottle, so plainly marked, could not be seen readily if it were still there. Accordingly, I submit there is a strong possibility that the bottle was not in the bar at that time.

Then again the accused did not arrive in the mess until about 1100 hrs 19 Dec 44. The bottle was seen in the mess at 1500 hrs 15 Dec 44. It may have been removed after closing time on 18 Dec 44 but previous

to approx. 1100 hours 19 Dec 44 when the accused arrived because the last time it was seen in the bar was on the night of 18 Dec 44. If the bar was open at noon 19 Dec 44 it is almost certain the barman would have noticed the bottle in its usual place if it was still there, but none of the witnesses remember seeing it later than the night of 18 Dec 44. I contend there is a strong presumption that the whiskey was missing prior to 1100 hours 19 Dec 44, in which case the accused could not be implicated as he arrived at the Sgts mess for the first time at about 1100 hours 19 Dec 44.

4. On the other hand if the court finds the bottle was removed from the bar subsequent to noon 19 Dec 44 I submit that it is highly improbable the offender could have been the accused because of the facts. The bar is kept locked when not in use. There is one key and this is kept by one of the mess members. When open the bar is attended by one of the mess members. The cupboard, unless the whiskey was kept, showed no signs of having been forced, nor the locks tampered with. To say that the accused, a newcomer, contrived some ingenious means of taking the whiskey unnoticed is too much for a reasonable man to believe. I submit that if a bottle of whiskey was found in the

accused's bed it was placed there 10/ NMK
by other hands than the accused's.

5. Finally, may it please the court, I ask consideration on the bare matter of the charge itself. The accused is charged with a very serious offence, - stealing. It is a nasty charge and one for which our law provides severe penalties on conviction. But because of the seriousness of this offence the law also demands a high degree of proof to commit and has provided many safeguards to protect an accused person in these cases. Ownership must be definitely proven, intention, and a clear chain of causation connecting the accused with the offence. Here, the defence admits, there is circumstantial evidence that the accused was involved but it is only circumstantial. I submit it is insufficient evidence to shift the burden of proof to the defence and that there is such a lot of evidence pointing to a reasonable doubt that the charge of stealing should be dismissed

~~Sgd. Box 10 The Independent Lobster Co. Ltd. Shelburne, N.S. Could it be handled [illegible] Could not be [illegible] Shelburne~~

Lt. Penney Capt.
Defending Officer.

Prosecutor's address re Malicia Co II Criminal

1- bottle of liquor.

ownership has been established by Evidence of witnesses - was property of MCSS. Had not been sold or given away.

2- Possession

Defendant was found with bottle of liquor in bed. Was not his, he had no right to have it.

3- No evidence to prove that bottle left bar before 19 Dec noon, - could have, but no evidence brought that it was not there when defendant came to work.

4- Bottle was not looked for by anyone after Dec 18, because no reason to do so

4- Nothing impossible, but no evidence to prove that anyone ~~could have~~ did place bottle of liquor in defendant's bed.

5- Therefore, the bottle has been identified clearly, its ownership established, its presence in the accused's possession on Dec 20 established - accused had no right to have it in his possession. Therefore he is guilty of improper possession.

D6

19/

The D. Sending Offr makes no opening address.

First Witness for prosecution } The accused duly sworn is examined by the Defending Offr.

I have been in the Army since 1 Dec 39. I left Canada 23 Jan 40 and came to Italy in Nov 43. I was with HQ 1 Corps Ordinance as a cook at Lanciano. I was injured there and went to hospital, on my release from hospital I was att'd to 9 A Tpt Bmbr. Went through Gustav and Hitler lines and as far as Rimini with that unit. I am 3 under L for arthritis. I first had it last Spring in hospital. I didn't drink much since 1940 until the arthritis began to bother me this summer. I was in business since 1921 with my father and it was going alright when I joined the army. My father's health was alright then but in 1941 I received word that he was in hospital at Kingston suffering from cancer. I didn't worry much about it at that time as my younger brother who is a Dr. was stationed in Kingston. Recently this fall my father had to dispose of the store and as he was given 5 months to live. I began to worry about it. He was left alone he asked me in it that if anything should happen to him quick to thank Mr & Mrs Murray for their kindness to him. That together with the arthritis. I didn't seem to care what happened. I received that letter on 17 Dec 44. On Sat 16 Dec 44 I got a pass for 24 hrs - I drank all day Saturday & Sunday up until I met C/M S Dunn on Monday. I went back to cooking School with him where he told me to wait for C/Sm Neilsen who wanted to see me. I waited around until 1600 hrs then went down to a cafe. On my way to the Cafe I passed C/M S Dunn who didn't say anything. I stayed in the Cafe until late that night drinking all the time I was there. I took a few bottles back to the camp - the gd at the camp gate helped me in and up the stairs. Tues morning 19 Dec 44 I waited till after 1000 hrs for C/M S Dunn then went to the same cafe where I had a few more drinks. Sometime during the noon hour C/M S Dunn took me to the Cafe. He told him then I didn't want to go. When I arrived there the dinner was practically prepared so I left my gear there and went around the corner to the Roma Cafe where I had several more drinks I came back at just about noon hour - after dinner C/M S Dunn asked me to make some pies. That is when I told him I would like to get a haircut. I didn't get one - I went to the Roma Cafe and stayed there for I dont know how long. I made quite a few trips, to on the excuse of getting a haircut to the Roma Cafe. Between the Padres and myself we managed to get supper. I left immediately after supper was served and stayed

Prosecutor's address re Motion to Dismiss. AMC

1- bottle of liquor.

ownership has been established by testimony of witnesses - was property of Mess
Had not been sold or given away.

2- Possession

Defendant was found with bottle of liquor in bed - was not his, he had no right to have it.

3- No evidence to prove that bottle left bar before 19 Dec noon. - could have, but no evidence brought that it was not there when defendant came to work. Bottle was not looked for by anyone after Dec 18, because no reason to do so

4- Nothing impossible, but no evidence to prove that anyone did place bottle of liquor in defendant's bed.

5- Therefore, the bottle has been identified clearly. its ownership established, its presence in the accused's possession on Dec 20 established - accused had no right to have it in his possession Therefore he is guilty of improper possession.

DMC

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No evidence has been brought forth to prove that defendant was drunk before exact time that he was waked up. As matter of fact, he was discovered to be intoxicated, after the bottle was discovered - therefore, in law, he could not be guilty to have been drunk before the DMS. discovered him to be so. Therefore his future intoxication could have no bearing on this being in improper possession of a bottle of liquor not his

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DMC

D6.

19.

The Defending Offr. makes no opening address.

First Witness for prosecution. The accused duly sworn is examined by the Defending Offr.

I have been in the Army since 1 Dec 39. I left Canada 23 Jan 40 and came to Italy in Nov 43. I was with HQ 1 Corps Ordinance as a cook at Lanciano. I was injured there and went to hospital, on my release from hospital I was att'd to 9 Cdn Fd Amb. Went through Gustav and Hitler line and as far as Rimini with that unit. I am 3 under L for arthritis. I first had it last spring in hospital. I didn't drink much since 1940 until the arthritis began to bother me this summer. I was in business since 1921 with my father and it was going alright when I joined the army. My father's health was alright then but in 1941 I received word that he was in hospital at Kingston suffering from cancer. I didn't worry much about it at that time as my younger brother who is a Dr. was stationed in Kingston. Recently this fall my father had to dispose of the store and as he was left alone I began to worry about it. He was given 5 months to live. The last letter I received from him he asked me in it that if anything should happen to him quick to thank Mr & Mrs Murray for their kindness to him. That together with the arthritis, I didn't seem to care what happened. I received that letter on 17 Dec 44. On Sat 16 Dec 44 I got a pass for 24 hrs. I drank all day Saturday & Sunday up until I met C/M S Dunn On Monday morning I went back to cooking school with him when he told me to wait for C/Sm Nielsen who wanted to see me. I waited around until 1600 hrs then went down to a cafe. On my way to the Cafe I passed C/M S Dunn who didn't say anything. I stayed in the Cafe until late that night drinking all the time I was there. I took a few bottles back to the camp - the gd at the camp gate helped me up and up the stairs. Tues morning 19 Dec 44 I waited till after 1000 hrs for C/M S Dunn then went to the same cafe where I had a few more drinks. Some time during the noon hour C/M S Dunn took me to the Left Mess I told him then I didn't want to go. When I arrived there the dinner was practically prepared so I left my gear there and went around the corner to the Roma Cafe where I had several more drinks I came back at just about noon hour - after dinner C/M S Dunn asked me to make some pies. That is when I told him I would like to get a haircut. I didn't get one - I went to the Roma Cafe and stayed there for I don't know how long. I made quite a few trips, to or the excuse of getting a haircut to the Roma Cafe. Between the helpers and myself we managed to get supper. I left immediately after the supper was served and stayed

DMK.

in the Roma Cafe until sometime after the doors were closed. There was another soldier with me and I got him to buy me several bottles to take home - 2 of vermouth and one of cognac. He took me by the arm to the Sgts' mess and I went straight into my bed. Sometime during the night I must have drank me of the bottles of vermouth as I remember faintly seeing a full and one empty bottles on the floor the following morning. I remember the Italian boy waking me up by shaking me - I told him I didn't feel like getting up & something. I saw the bottles on the floor and I filled a tin cup up - I knew it wasn't vermouth - it must have been cognac. I dont remember much from there on until I awoke next morning in the Guard Room. I dont remember Q M S Dunn waking me up. I have not seen Lt A before. I dont know where the bar in the Sgts' Mess is. I am 41 yrs old. I dont remember taking a bottle to bed with me on that night. I wasn't feeling very good in the day Q M S Dunn took me to the Sgts' Mess.

Cross-exam

Q M S Dunn told me I was drunk when I was going up.

Re-exam

When I was coming off pass on the 18 Dec 44.

By Court

I had money saved up.

By J.A.

I drew 1200 lire from my pay book on 14 Dec 44
I had about 3600 lire saved up in addition.
I am married but have no children

R. P. 83(3) Complied with.

Prosecutors Summing up. 15

Evidence has been brought forth to substantiate.

1- Bottle of liquor was [illegible] of Ghana.

2- Pte. Thomas, who was not entitled to an issue of Scotch, who, did not purchase this bottle since no evidence has been brought forth to say that he did, who did not have it given him, was in possession of as A. when arrested by OMS Dunn.

3- Since no evidence has been brought forth to prove how Pte. Thomas came into possession of this bottle it can not be accepted either that he came into possession of it legally, or that it was planted on him

4- Therefore the fact remains, untouched, that he was in possession of an article, as A, on 20 Dec 44 when arrested by OMS Dunn, that this article did not belong to him, therefore, according to the evidence, he was in unlawful possession of a bottle of liquor, as A, belonging to the Govt's Chest of ICBRGP.

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5. admittedly, Pte. Thomas had a few drinks; but, we have heard testimony in this court, and no one has said Pte. Thomas was under the influence of liquor, it was not even noticed by C.M.S. Pusson.

Moreover, 4800 lire, spread over 4½ days continuous drinking, as said by the accused, is a pretty cheap price for a person to stay so drunk that he did not recall certain events, or that he would not know the difference between right and wrong, especially if some of this money were used to treat others. Therefore it cannot be admitted, on the strength of only the defendant's testimony, that he would have been so drunk as not to know whether he took the bottle, had seen it etc. Only one man has said that the accused was drunk during this time, and that is the defendant himself. Moreover, there have been no exhibits brought to this court to substantiate the statement that he had drunk bottles of vermouth, and cognac, therefore we are only going on the defendant's say so.

RMR

6 Due to the fact that charge no 1 (17)
cannot be proven, I ask that it be
dismissed ; and, for

7- alternative charge no. 2, that he,
the defendant, be found guilty, because
the fact that he was in possession
of an article not belonging to him, but
belonging to the Right Hon. of CBRC H.Q.,
that no evidence has been brought
to prove that he was in legal possession
of this bottle of liquor, therefore he was
in improper possession of it.

D.M. MacNeil Lieut.

18

Defence closing address

On the facts of the case ~~one~~ alone it is clear the accused did not at any time remove the bottle of whiskey from the bar. A ~~Bar attendant~~ mess committee member was present during bar hours, - that has been established. The accused had no access to the keys at any time. Staff/ Sgt Latham has stated that there were no visible signs that the bar door had been ~~tampered with~~ and has also stated it is quite improbable that if anyone had removed the door by the hinges it would have been found ~~not~~ by an authoritative person in its normal condition. There were no signs of it having been forced at all, no new marks whatever and it was just as it had been when locked.

On the other hand there are a great many other possibilities that could account for the presence of the bottle in the accused's bed. The bottle was not seen from the night of the 18th to noon of the 20th, when it was found in his bed. Anyone of a large number of Sgts, all of whom knew the mess and bar, and several of whom had direct access to the bar keys, could have removed the bottle and later seized upon the opportunity of hiding his guilt by placing it in a very likely place, beside a drunken man in his bed. That is not fantastic is not too unlikely. I should say that compared

NMR

to the ~~probability~~ near impossibility of the accused stealing a bottle or anything else from the bar ~~the other is~~, extremely probable.

The accused has told all the facts, ~~to this court as~~ as he knows them, to this court. If the man was not intoxicated most of Tues. afternoon and evening he was certainly under the influence, and spent a good deal of his time away from the Press altogether, in the Roma Cafe. I don't think he had the will to do anything, except drink, certainly not to contrive a plan to steal a bottle of whisky in a strange mess.

This man is not a criminal, yet stealing is a crime, and if committed it means the accused is labelled a criminal. There is ~~too~~ just a preponderance of evidence, against the likelihood of the accused having stolen the liquor, ~~that this is a case~~ showing a reasonable doubt, that it is the duty of the court to acquit.

On the alternative charge the defence has adduced evidence that the accused was drunk. He was so drunk, I submit, that he did not have, could not have an intent to commit an offence. Improper possession is an offence and although it is not necessary to prove the degree of intent that stealing demands, still it must be shown that the offence was committed wilfully. I submit again that the defence has shown a sufficient

degree of drunkenness as to make any collection or volition on his part very unlikely. He was certainly dead drunk at the time he was aroused by S.M. Dunn, when the liquor was found in his bed. There is no evidence that he was seen taking the bottle, - we have offered evidence that the taking was unlikely because of the facts. Therefore, again, there is ground to point out the existence of a reasonable doubt and I ask that the accused be acquitted of the second charge.

Edw Tierney Capt
Defending Officer.

Summing up by JA.

(A) It is a principle of English law that the accused is presumed innocent until proved guilty and that the burden of proof rests upon the prosecution.

(B) The accused must be proved guilty beyond a reasonable doubt. "Reasonable Doubt" defined. If a reasonable doubt exists in the minds of the Court as to the guilt of the accused the Court must find the accused not guilty.

(C) The Court is the sole judge of facts and must not be influenced by any expression of opinion by me on the facts. The duty of the J.A. is to advise the Court on questions of law.

(D) Secs. 18(4) and 40 analyzed and attention directed to M.M.L. P2, para 33 and P118, para 50. The doctrine of recent possession explained.

(E) Intention is not capable of proof but may only be inferred from overt acts. As a general rule a person is presumed in law to have intended the natural and probable consequences of his act.

(F) Drunkenness and its effect on the acts of a person - Reference made to M.M.L. P25, para 48 and P105 paras. 6 and 9.

(G) The court may, if it finds that the accused took the bottle but was so drunk at the time of taking that he was incapable of forming the specific intent essential to constitute the crime of theft, find the accused not guilty on the first charge. However the court must realize that intent is a wilful nature is a necessary ingredient to the second (alternative) charge.

E3.

Plea in Mitigation by Defending Offr.

I would ask the Court to consider the mans army record, his age and past conduct. he has very few entries on his conduct sheet. C.M.S. Dunn has stated that he considered that the accused in the past did satisfactory work. The accused is married but has no children and his father is seriously ill. I feel that the accused deserves a most lenient punishment.

Ex. B
DMK

Summary of Evidence

In the case of B.6173 Cpl Walter Hermann Thomas, 1 Cdn Base School of Cookery, a soldier of the Canadian Army Overseas.

By direction of the DAA&QMG. 1 Cdn. Base Rft. Sp. this evidence is taken on oath:

First Witness { B.6238 Sgt. Cartner H. HQ 1 CBRSp. duly sworn states:-

I am a member of the Sgts Mess HQ 1 CBRSp. On 20 Dec 44 around 1700 hrs when I returned to the mess from Sp. HQ. QMS Quinn showed me a bottle of Old Smuggler whisky, which I identified by my name "H.CARTNER" being printed in ink on the label. "This is the bottle in question (admitted & marked Ex. 'A'). The printing was done by me. This particular bottle was loaned to me by Sgt. Brown our Mess Secy Treas in the latter part of Oct 44. I put my name on the bottle because I wanted to have it for Christmas. In the early part of Dec 44 I obtained from the bar another bottle of whisky in substitution for the bottle of 'Old Smuggler' (Ex A) which was left in the bar stock. About 17 Dec 44 I noticed that this bottle (Ex A) was still for sale at the bar. I made some jocular remarks about it. I think Sgt. Brown was present at the time. He acts as barman.

The accused declined to cross-examine the witness

H. Cartner

Second Witness { K68696 Cpl (A/Sgt) Brown. F.O. duly sworn states:-

I recognise the accused. He was on loan to Sgts Mess HQ 1 CBRSp where he was employed as a cook. I think I saw him working in our kitchen on 19 Dec 44. I am Secy Treas of the Sgts Mess of HQ 1 CBRSp and have been since 1 Nov 44. I also act as barman. I recognise this bottle of whiskey (Ex A) by the name "H.CARTNER" printed on the label. Sgt. Cartner printed his name on it when he asked me

to put it aside for him, a little more than a month ago
I put the bottle away in the bottom part of one of the
cupboards in the bar behind some other bottles
Early in Dec. 44 Sgt. Carter asked me for his bottle
(Ex A). I was unable to locate this bottle (Ex A)
so I gave Sgt. Carter another bottle of the same brand
of whisky in substitution from our bar stock. The
bottle (Ex A) turned up later and was put back into
stock. This bottle of whisky (Ex A) I then became the
property of the Sgts. Mess HQ 1 CBRDsp. again. It had
originally been purchased by our mess from NAAFI - EF1
therefore this was Carter's. About 18 Dec 44 I
remember seeing this bottle (Ex A), in the bar, because
Sgt. Carter made some jocular remarks about it.
I put it on the top shelf for sale. It was full then.
On 20 Dec 44 Sgt. Nathan gave this bottle (Ex A)
to me to hold in the bar for safekeeping. To my
knowledge it (Ex A) has not been out of my
custody and is still the property of the Sgts. Mess.
I did not give the accused permission to take the bottle (Ex A)
from the bar or to have it in his possession.
The accused declined to cross-examine the witness

Sgt

Third Witness { D.96028 CMS. Dunn R.L. 1 Edn Army Catering Pool (Sec A), duly sworn, states.

I am a member of the Sgts. Mess HQ 1 CBRDsp.
On 19 Dec 44 I brought the accused, whom I recognise
down to our mess from 1 Edn Base School of Cookery
to be employed as a cook. On 20 Dec 44, shortly
after 1300 hrs and after I had had my lunch I went
into the accused quarters and found him in bed
apparently asleep. I left the mess after that and
returned with another cook at about 1400 hrs.
I went into the accused's quarters again to get him
up. I called him three times. The third time I went
in and shook him. He was in the top part of a
double decker bed. He turned over partly, pulling
the blanket with him. Under the accused's head
I noticed an Old Smuggler whisky bottle with
Sgt. Carter's name on the front label. This bottle (Ex A)

DM

is the bottle in question. I wrote my name and "1430 hrs 20/12/44" on the back label. I removed the bottle from the haversack and called in S/Sgt. Latham who identified it as one he had seen before in our mess stocks. I kindly roused the accused and got him out of bed. He was in such a state of drunkenness that I took him to Stanley Pike and handed him over to C.S.M. Neilson. Accused smelt of alcohol, he could hardly stand. We had to lift him into the truck. The accused did not look at all. His eyes were bulging and glassy. Prior to this incident the accused was always O.K. I had known him before. The bottle (Ex A) when I removed it from the accused's presence was as it is now. Less than half full. I am certain that it contains whisky.

The accused declined to cross-examine the witness.

A. L. Lucas. F.M.S.

Fourth Witness { C 96450 S/Sgt. Latham E.H. duly sworn states.

I recognise the accused, who was a cook at the Sgts' Mess HQ 1 C.B.R. Bde. I believe he came there on 19 Dec 44. On afternoon of 20 Dec 44 I was working in the bar of the Sgts Mess. It was my afternoon off duty and I was a member of the Bar Committee of the Mess. At about 1430 hrs QMS Quinn came into the bar. He proceeded to the kitchen which is next to the bar. In a couple of minutes he called me & I went to a part of the kitchen which is partitioned off. The accused normally sleeps there. As I went in QMS Quinn had a bottle of whisky (Ex A) in his hand. The accused was sitting on the lower part of a double decker bed. I recognised the bottle (Ex A) as one which had come from the bar as it had Sgt. Latham's name on the label. I was present when Sgt. Latham put his name on the bottle. It was quite some time ago. Accused was in the process of getting dressed at the time. In my opinion the accused was drunk. His eyes were glassy. There was a strong smell of liquor in the quarters. The accused staggered badly when he went out with QMS Quinn. At times I work in our bar as a barkeeper. I recall

seeing the bottle of whisky (Pr. A) with the bar stock as recently as the evg of 18 Dec 44. I was working there at this time. The bar stock was kept in a glass fronted cabinet: the keys to which were kept by the mess Secy or a member of the Bar Committee. I had the keys of night of 19/20 Dec 44. The locks was not a sturdy one. I examined the cabinet after the incident with QMS Dunn and the accused. It showed no signs of having been tampered with. I did not give the accused permission to take the bottle (Pr. A) from the bar.

The accused declined to cross examine the witness.

E. Wilson S/Sgt.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Accused: "I have nothing to say. I know nothing about it."

Certified that RP 4(c)(d)(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused the 22nd and 23rd days of December 1944

In the Field
In Italy

W. R. Bale Capt
Offr detailed to take the Summary of Evidence.

E1 AAR.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.6173	Pte	Walter McLure THOMS	att 1 CBRGp School of Cookery, HQ 1 CBRGp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 40	3 times	3 times.
For AA 19	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

~~or~~

~~There are no entries in the conduct sheets of the accused~~ Ltn

2. ~~The accused has not been previously convicted~~ Ltn

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence to~~ Ltn

~~beginning on the~~ Ltn ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~14~~ days in military custody, making a total of ~~14~~ days, of which ~~Nil~~ days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 40 yrs 6 mos (18 Jun 1904) Ltn

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 7 Dec 44 Ltn

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ Ltn

8. ~~The accused is entitled to deferred pay or gratuity in respect of service~~ Ltn

9. ~~The accused is entitled to reckon service for the purpose of determining his pension or~~ Ltn

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)~~ GVSM and Clasp Ltn

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer last held the regimental rank of~~ N/A Ltn

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ N/A dated Ltn

~~and in his regiment (or corps or department) the rank of~~ ~~dated~~ Ltn

(*20847) Wt.31708/1977 10,000 10/42 A.& E.W.Ltd. Gp.698
(*21431) Wt.12227/481 80,000 5/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.6173 Rank Pte Name Walter McLure THOMS of School of Cookery Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
FGCM	In the Field 3 Jun 44 Army Act Sec 40		30 days FP, total forf of 106 days pay	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of December 1944

STAFF CAPT
CDN BASE RFT GROUP

13. The accused has served as a non-commissioned officer continuously without reduction to the present date.

In the rank of _____ Date of Promotion.

In the rank of _____ years, _____ M _____ years _____

In the rank of _____ A _____ years _____

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MFM 6
(AFB 122)
40/PAS/136 (3438)

No 5173 Name THOMS, W.Mc. Sqn, Battery, or Company — Corps RCASC Date of enlistment 6 Dec 39 GC Badges E2 Service or Proficiency Pay DR Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		FOCM:(1) AA40, guilty (2)AA 40 Not Guilty (3) AA22 Not guilty		30 days F.L.	3 Jun 44	total forf 106 days pay	
							21 Jul 44	W.E.Mace,Lt Col	
Field	27 Jun 44	Pte	1	AA Sec Drunkenness-while under Medical treatment was drunk	Sgt Nugent Pte McBride				
Field	27 Jun 44	Pte		AA Sec 40 WCAS, neglect to the prejudice of good Order etc: Leaving Camp Area without permission and returning drunk at 1930 hrs.	Pte Waldrose Sgt Nugent	7 days CB	21 Jul 44	W.E. Mace, Lt Col	
Field	13 Sep 44	Pte		AA Sec 40: Conduct to the prejudice etc Unfit to carry out his duties as cook due to previous Indulgence in Alcoholic beverages.	Maj.W.R. Magarth Sgt S. Slyan	Forf 28 days pay PRAI 142 (2)	28 Sep 44	J.H. Sturdy Lt Col	

(PTO)

STAFF CAPT (I) HQ
1 CDN BASE RFT DEPOT

I request the Convening Officer to appoint. Pte. A. Johnson.

to defend me at my forthcoming trial by Field General Court Martial.

Date. Dec. 22. 43 (Sgd) D. M. Thomas.

I hereby acknowledge having received a copy of the Charge Sheet and Summary of Evidence in connection with my forthcoming trial by Field General Court Martial.

Date. Dec. 22/43. (Sgd) D. M. Thomas.

LLL-98 PTE THOMS W.M.

LLL-99 PTE DICKIE G.F.

6 (C67) RECORDED ACCORD IN AB 160 a LLL-99 s(1/17)

Army Book, 160. Whether elected Trial Case No.

5238 PMEM—300 Bks.—5-43

Regt.	No.	Rank and Name	Description of Court-Martial	Date and Place of Trial
21 Cdn Corps R t Coy RCASC Att 1 Base Sorps Fort Ord.	B-85046	Pte. Dickie, G.F.	F.G.C.M.	Italy 19 44 3 Jan

CHARGES See also certified copy AB 160 kept by 1 CBRGp.-

1. AA 6(3)(e)
2. AA 19(alt)
3. AA 6(2)(f)
4. AA 40

President and Members of Court	Pleaded	Finding
Major J.E. Builder Capt W.S. Anderson Capt H.I. Wainman JA - Capt G.M. Morrison	1. Not Guilty 2. " " 3. " " 4. " "	1. Not Guilty 2. " " 3. Guilty 4. "

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

Character	Decorations, Honours and Rewards	Age	Service

SENTENCE AND MINUTE OF CONFIRMATION

60 days F.P. & 60 days pay.
Findings & sentence confirmed by CMASC 5 Cdn Armd Div - 8 Jan 44

Transmitted for Promulgation When and where Promulgated 17 Jan 44 31 Cdn Corps R t Coy, RCASC Court dissolved 19

Date of Receipt	To whom sent	Date sent	Purport
25 Jan 44	Certified True Copy R Lindsay Capt (R. Cordeau)		
J.M.J.			

(1/16)

(CHECKED AND FOUND AT CMHQ IN AB 160 777-98)

Army Book, 160. Whether elected Trial Case No.

Regt.	No.	Rank and Name	Description of Court-Martial	Date and Place of Trial
1 Cdn Corps Ord Fd Pk RCOC	B-6173	Pte. Thoms, W.M.	F.G.C.M.	Italy 3 Jan 1944

CHARGES See also certified copy AB 160 kept by 1 CBRGp.-

1. AA 40
2. AA 40
3. AA 22

President and Members of Court	Pleaded	Finding
Major J.E. Builder Capt W.S. Anderson Capt W.S. Wainman JA - Capt G.M. Morrison	1. Not Guilty 2. " " 3. " "	1. Not Guilty 2. " " 3. Guilty

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

Character	Decorations, Honours and Rewards	Age	Service

SENTENCE AND MINUTE OF CONFIRMATION

30 days F.P. & to forf 30 days pay.
Confirmed by CMCASC 5 Cdn Armd Div 8 Jan 44

Transmitted for Promulgation		When and where Promulgated	6 Jan 44 1 Cdn Corps Ord Fd Pk RCOC	Court dissolved	19
Date of Receipt	To whom sent	Date sent	Purport		
25 Jan 44			certified True Copy R Cordeau Capt. (R Cordeau)		

J M J

RECORDED AT CMHQ IN AB 160 244-98

C.66

Regt	No	Rank and Name	Description of Court Martial	Date and Place of Trial
1 Cdn Corps Ord Fd Pk RCOC	B.6173	Pte Thoms, W.M.	F.G.C.M.	Italy 3 Jan 44

CHARGES

(1) AA 40 WCAS, Conduct...etc 16 Nov 43 improperly in possession of a tin containing bars of chocolate, WD property (rations).
(2) AA 40 WCAS Conduct etc 16 Nov 43 at FLORIDIA became unfit for duty because of previous indulgence in alcoholic stimulants
(3) AA 22 WCAS, When in lawful custody, escaping, 18 Nov 43.

President and Members of Court	Plea	Finding
Maj J.E. Builder 5 LAA Regt RCA Capt W.S. Anderson, 9 Armd Regt RCD Capt W.I. Wainman, Perth R J.A. Capt G.M. Morrison HQ 5 Cdn Armd Div	1(2(Not Guilty 3(	1(Not Guilty 2(3 - Guilty

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

SENTENCE AND REMITTAL OR CONFIRMATION

30 days FP and 30 days pay.

Confirmed by Lt-Col J.L. Sparling CRASC, 5 Cdn Armd Div 8 Jan 44.

Transmitted for Promulgation	When and Where Promulgated	Italy 16 Jan 44	Court dissolved	19

Forwarded to CMHQ 2 Feb 44

Certified correct

Date..2 Feb 44.....

Signature...W.B. Bets.....
Capt ADJA 1 CDRGp

Rank and Appt.....

CERTIFIED TRUE COPY

W.B. Bets

(W.B. Bets) Capt
ADJA 1 CDRGp

RECORDED AT CMHQ IN AB 160 2 LLL-99

C.67

Regt	No	Rank and Name	Description of Court Martial	Date and Place of Trial
1 Cdn Corps Port Coy	B.65046	Pte Dickie, C.F.	FGCM	Italy 3 Jan 44

CHARGES

(1) AA 6(2) WOAS, acting as a sentinel, drunk on his post 2200 hrs 6 Dec 43 at MONOPLI.
(2) AA 19 (Alternative) WOAS, Drunkenness, 6 Dec 43 when on duty as a sentry was drunk.
(3) AA 6 (2)(f) WOAS without orders, leaving his post - 6 Dec 43.
(4) AA 40 WOAS, conduct....etc 6 Dec 43 at about 2230 hrs without orders or cause discharged his TSMG in a place where such action might endanger lives.

President and Members of Court	Plea	Finding
Maj J.E. Builder 5 LAA Regt RCA	1 (	1(Not Guilty
Capt W.S. Anderson 9 Armd Regt(BCD)	2 (- Not Guilty	2(
Capt H.F.Wainman, Perth R J.A.	3 (	3(Guilty
Capt G.M. Morrsion, HQ 5 Cdn Armd Div	4 (	4(

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

SENTENCE AND REMITTE OF CONFIRMATION

60 days FP and 60 days pay

Confirmed by Lt-Col J.L.S. Sperling CRASC 5 Cdn Armd Div 8 Jan 44

Transmitted for Promulgation	When and where Promulgated	Court dissolved
	17 Jan 44 Italy	19

Forwarded to CMHQ 2 Feb 44

Certified correct

Date 2 Feb 44

Signature W.B. Bate
Capt ADJA 1 CBRDp

Rank and Appt

CERTIFIED TRUE COPY

W.B. Bate

(W.B. Bate) Capt
ADJA 1 CBRDp

315 C. Low Pikes. W. M.

5-4-2

B-6173 Gnr. Thome, W.M.
No.1 Cdn Arty Hldg Unit

Correspondence to be PINNED here.

Army Form A.3.

RECEIVED
23 SEP 1941
H.Q.
1st Cdn. Bde.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

Order convening the Court.

On Active Service, this 3rd day of September, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1. [redacted]

*(2. [redacted]

*(3. [redacted] service.)

[redacted]

President.

Rank.	Name.	Regiment.
Major	G.R. Matthews	No.1 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	W. Harshaw	No.1 Cdn Eng Hldg Unit
Lieutenant	B.J. Guimond	No.2 Cdn Inf Hldg Unit
Lieutenant	P.M. Webster	No.1 Cdn Gen Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-6173 GNR. THOMS, W.M. No.1 Cdn Arty Hldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty TO UNDERGO DETENTION FOR ONE HUNDRED & FIVE (105) DAYS.	Confirmed D.M. Mahon Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) D.M. Mahon Brigadier (Signed) G.W. Mackenzie Major
Commanding Cdn Base Units, Cdn Army. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Tenth day of September, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ The shorthand writer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this Tenth day of September, 1941.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~[illegible] confirmed.~~

~~Signed this day of~~

~~Brigadier,~~
~~*Confirming Officer.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~[illegible]~~

Signed this 16th day of ~~Sept~~ 19 41.

D.M. Mahon Brigadier,
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 19 SEPT. 1941. (Signed) G.F. Colquhoun Lieut
D.O. 212. DATED 19-9-41

~~Promulgated and extracts taken in the case of~~

~~(Dated) (Signed)~~

~~Promulgated and extracts taken in the case of~~

~~(Dated) (Signed)~~

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42758) Wt. 40115—893 500 m 1/40 P. St. G. Ltd.

CHARGE SHEET

The accused, B-6173 Gunner Thoms, W.M., Royal Canadian Artillery, on the strength of No. 1 Canadian Artillery Holding Unit, a soldier of the Canadian Army (Overseas), is charged with:

FIRST CHARGE, ARMY ACT SEC. 15 (1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he at St. Lucia Barracks, Bordon, Hants., absented himself without leave from No. 1 Canadian Artillery Holding Unit, from 0600 hours 1 August 41, until apprehended by the Canadian Provost Corps at London, at 1830 hours, 26 August 1941.
(Absent 25 days, 12 hours, 30 minutes).

Dated at Bordon Hants.,
this 29th day of August
1941.

R S Hallett Maj

(R.S. HALLETT) Major,
Officer Commanding,
No. 1 Canadian Artillery Holding Unit.

D M Ratcliff Capt

To be tried by Field General Court Martial

F.R. Phelan

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Bordon, Hants
This 3rd day of Sept 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT BORDON, ON THE 10th DAY OF SEP 41.

TRIAL OF:- No. B6173, Gnr W.M. THOMS

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt.R.M. Evans (Unit) No. 1 CAHU.

Defending Officer:- (Name) Lt. C.W. Truscott (Unit) No. 1 CAHU.

At 1000 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1.-

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. [illegible]

A2.- [illegible]

[illegible] sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.- Yes, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.-No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Accused, sworn, stated he enlisted 7 Dec 39: came o/s Feb 40. Worked hard, complimented on his zealousness. No complaints until Jul 40, when 1 hr 10 mins late. Then became driver, enjoyed work. Last fall laid off for the winter; disliked inactivity; asked for work to be kept busy, without success. Has brother Major in Dental Corps expected in England shortly. Accused was charged with begging in streets in London; claims he was innocent victim of civilian police. Went AWL to see relative to explain matters prior to his brother's arrival. Applied for week-end leave prior to going AWL but could not get it.

Prosecutor, sworn, produced AF B896 and MFM 6.

Defending Officer claims only had two days notice of trial coming up. No time produce character witnesses. Asks for leniency, and feels convinced will in future be good soldier.

[signature]

President of Court Martial

Summary of Evidence in the case of, B-6173 GUNNER THOMS, W.N., Royal Canadian Artillery, on the strength of No. 1 Canadian Artillery Holding Unit, a soldier of the Canadian Army (Overseas).

Statement of 1st Witness: B-9190 L/BOMBADIER BOOTHROYD, W., Royal Canadian Artillery, having been duly sworn, deposed as follows:

I am B-9190 L/Bombadier Boothroyd, W., of No. 1 Canadian Artillery Holding Unit, located at St. Lucia Barracks, Bordon, Hants. I am permanent block N.C.O. I took the roll call on the morning of August 1st., 1941, and found that the accused was absent. After searching thoroughly I could not find Gunner Thoms. I turned his name in to the Orderly Sergeant each day. Since then Gunner Thoms has failed to answer roll and has been turned in on Tattoo and Reveille roll calls as being absent without leave. From the time of his absence to the time of his apprehension I have not seen or heard of the accused.

The accused declined to cross examine this witness.

W Boothroyd

Statement of 2nd Witness: LIEUTENANT T.J. MARRION, Royal Canadian Artillery, having been duly sworn, deposed as follows:

I am Lieut. T.J. Marrion, Officer i/c Records of No. 1 Canadian Artillery Holding Unit, and as such I have custody of the document which I intend to produce.

I produce in evidence a document concerning the accused, being A.F.B. 252, which purports to be signed on its face by Captain V. Harris Good, D.A.P.M., Canadian Military Police. This document shows that the accused, B-6173, Gunner Thoms, W.N., was apprehended by Cpl. Elder, at approximately 1830 hours, 26 August, 1941, in Dean Street, London.

The accused declined to cross examine this witness.

T.J. Marrion Lieut R.C.A.

The accused having been duly cautioned in accordance with R.F. 4 (e) declined to make a statement.

Certified that R.P. 4 (c) (d) & (e) have been complied with

Taken down at Bordon, Hants
in the presence and hearing of
the accused, this 29th day
of August, 1941.

R.H. Evans Lt.
(R.H. EVANS) Lieut. R.C.A.

10 Sept. 1941

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that B-6173 Gnr. Thoms, W.H. No. 1 Cdn. Artillery Holding Unit is FIT to undergo trial by Court-Martial.

C.W. McCormack
Capt RCAMC

Medical Officer,
No. 1 Cdn. Artillery Holding Unit.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

Gunner Thoms, W.M. of the No. 1 Cdn. Artillery Hldg. Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935

	*Within last 12 months.	*Since Enlistment.
For Absent Without Leave	3 times	4 times.
For Drunkenness	1 times	2 times.
For Begging (A.A.40)	1 times	1 times.
For Failed to appear for Fire picquet	1 times	1 times.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct.

or,

~~Have there been no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

or,

~~The previous convictions† of the accused by a court martial or civil court, summary awards under Section 47 of the Army Act, and cases dealt with and under Section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

W1. 42646/001 50,000 2/40 W. S. Ltd. 51—6004

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Sept. 1941

T.J. Marrion

(T.J. MARRION) Lieut. R.C.A.
Officer i/c Records,
No. 1 Cdn. Artillery Holding Unit.
Canadian Army (Overseas).

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~
~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for NIL days in Civil Custody,

and 15 days in Military Custody.

Total 15 days.

~~Of which~~ ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 36

6. The date of his ~~attestation~~ attestation specified in his ~~service~~ attestation paper is 6 Dec. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 year 8 months

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 8 months ~~years'~~ service.

9. The accused is entitled to reckon 1 years 8 months years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward ~~[or is in possession of or entitled to]~~.

11. ~~[If the accused is a warrant officer.]~~ The accused before he was made a warrant officer last held the regimental rank of]

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously without reduction, to the present date,

	Date of Promotion.
In the rank of ,	years,
In the rank of ,	years,
~~In the rank of~~	~~years,~~

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-6173 Gunner Thomas, W.E. of the No. 1 Canadian Artillery Holding Unit

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(Continued overleaf.

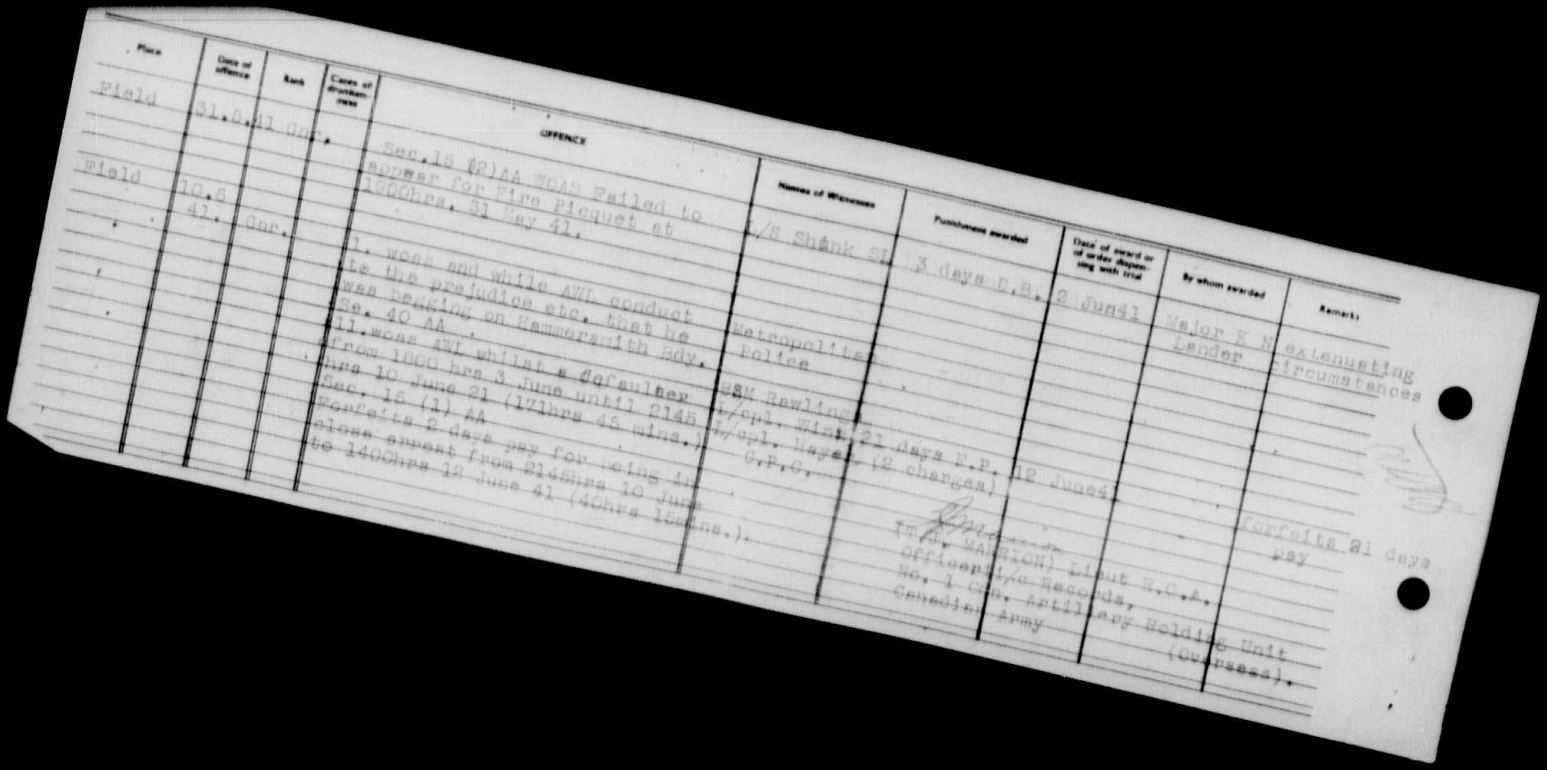
No B- 6173 Name THOMS, W.M. Sqn., Battery, or Company B/15 Corps 11th C.A.T.R. Date of enlistment 5.12.39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500Pr. 8/39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | R.C.A. | Sheet No | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 6 June 40 this soldier completed six months service and in accordance with R.O. 71 CARP (Overseas) previous sheet destroyed									
Ash 15.7.		Gnr.		Sec 15(1)AA-AWL 0800 hrs 14.7.40 to 1230 hrs 18.7.40 (28Shrs)	BSM Wright	4 Extra drill	16.7.40	Major K N Lander	fts. 2days pay
Parkgate 2.8.		Gnr	1	Sec. 19AA- Drunkenness	BSM Wright			Major K N Lander	
Banstead 19.9.		Gnr	2	Sec. 19AA- Drunkenness	BSM Wright	Fine £.00	20.9.40		
Newlands 24Nov		"		Sec. 15AA- AWL from 0830hrs 24 Nov.40 to 2230hrs 1 Dec.40 (182hours)	Sgt Balck BSM FISHER Sgt. Black	7 days C.B.	3 Dec.40	Major K N Lander	fts. 8 days pay
Wield 2.5.41		"		Sec. 15,(1)AA AWL 2230hrs. 2.5.41. until 1615hrs 12 May41 (233 hours, 45 mins.).	Sgt. Black L/B Turton	14 days C.B.	13 May41	Major K N Lander	fts.10days pay

(P.T.O.)



Place	Date of offence	Rank	Corps of Number-ation	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31.5.41	Gnr.		Sec.15 (2)AA ACAB Failed to appear for Fire Picquet at 1600hrs. 31 May 41.	S/S Shank St.	3 days C.B.	2 Jun41	Major K W Lender	Extenuating circumstances
Field	10.6.41.	Gnr.		1. wons and while AWL conduct to the prejudice etc. that he was begging on Hammersmith Bdy. Sec. 40 AA. 2. was AWL whilst a defaulter from 1000 hrs 3 June until 2145 hrs 10 June 41 (171hrs 45 mins.) Sec. 15 (1) AA	Metropolitan Police PC W Rawlings. L/Cpl. Wint. L/Cpl. Hayes. G.P.O.	21 days F.P. (2 charges)	12 June41		Forfeits 21 days pay
				Forfeits 2 days pay for being in close arrest from 2145hrs 10 June to 1400hrs 12 June 41 (42hrs 15mins.).					

(W. MATHISON) Lieut R.C.A.
Officer i/c Records,
No. 1 Can. Artillery Holding Unit
Canadian Army
(overseas).

OB-23
TPR THOMSETT G.S.

00-23

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Thirteenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

* A.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable, by delay, the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Or if not applicable.

*~~I am unable to appoint~~

*~~(a) Three Officers to form the Court.~~

*~~(b) A Field Officer as President.~~

*~~(c) Three Officers having~~ more than ~~one year's service.~~)

~~The following are hereby~~

33 4773 D. Goodbody Maj

President.

Rank.	Name.	Regiment.
Major	R. Buckner	32 Cdn Corps Tps Coy RCASC

Members.

Rank.	Name.	Regiment.
Capt.	E. S. McKay Jones	1 A.A. Regt RCA
A Captain to be detailed by CC 1 Cdn Lt AA Regt RCA		
A Lieutenant to be detailed by CC 3 Cdn Inf Div Sub Pk RCOC		
Lieut	W.A. Irons	32 Cdn Tp/Hav Coy RCASC

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed F. A. McCusker (E.A. McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

Commanding *Convening Officer.*

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-76325 Trooper George Stevens THOMSETT 32 Can Recce Regt (M&R)	First Charge Section 18 (4) Army Act.	Guilty	Guilty	19 Aug 43. I confirm the findings and the sentence of this Court. E. A. McCusker Brigadier D.D.M.S., 1 Can Corps.
	Second Charge Section 18 (4) Army Act.	Not Guilty	not Guilty	
	Third Charge Section 15 (1) Army Act.	Guilty	Guilty	
	Fourth Charge Section 15 (1) Army Act.	Guilty	Guilty	
	Fifth Charge Section 24 (2) Army Act.	Guilty	Guilty	
	Sixth Charge Section 40 Army Act.	Guilty	Guilty	
	(For particulars of the above charges see charge sheet attached)			

Evidence and Charge Sheets (if necessary) to be PINNED here.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) E. A. McCusker (Signed) K. Buchanan Maj

(E.A. McCusker) Brigadier
Commanding D.D.M.S. 1 Cdn Corps. *President.*
Convening Officer (*c*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16 day of August 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 16 day of August 1943.

K. Buchanan Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 19 day of Aug 1943

E. A. McCusker
Confirming Officer.
D.D.M.S. 1 Cdn Corps.

Promulgated and extracts taken in the case of D-76325 Tpr Stevens G. 32 Can Recce Regt (M&R)

(*a*) (Dated) 23 Aug 43 (Signed) W. McLeod Capt A/Adjt 32 Can Recce Regt (M&R)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

D76325 Tpr George Stevens THOMSETT, 32 Cdn Recce Regt (RMR), a soldier of the Canadian Army Overseas, is charged with, while on active service,

FIRST CHARGE A.A. 18(4) Embezzling property belonging to persons subject to military law,

in that he,

in the field, on 23 Jan 43, while acting as Company Clerk, did fraudulently embezzle the sum of £6.19.2 from C Coy, Royal Montreal Regt (MG) being money which had been collected by them for a dance

SECOND CHARGE A.A. 18(4) Embezzling property belonging to persons subject to military law,

in that he,

in the field, on 23 Jan 43, while acting as Company Clerk, did fraudulently embezzle the sum of £1.5.0 from C Coy, Royal Montreal Regt (MG) being money which had been collected by them to pay for laundry.

THIRD CHARGE A.A. 15(1) Absenting himself without leave,

in that he,

in the field, absented himself without leave from 0830 hrs 23 Jan 43 until apprehended by Civilian Police in Northampton at 1140 hrs 31 May 43, involving escort expenses of £1.8.10

FOURTH CHARGE A.A. 15(1) Absenting himself without leave,

in that he,

in the field, absented himself without leave, while under close arrest, from 1030 hrs 18 Jun 43 until apprehended by Military Police in London at 0715 hrs 22 Jul 43 involving escort expenses of £0.9.2

FIFTH CHARGE A.A. 24(2) Losing by neglect his equipment, clothing and regimental necessaries,

in that he,

in the field, on or about 23 Jul 43 was deficient the following articles, total value £9.17.8

		100%	75%
Battle Dress, complete	1	2 - 15 - 7	2 - 1 - 0
Boots, ankle, prs	1	1 - 11 - 6	1 - 7 - 0
Shirts, angola	2	0 - 18 - 4	0 - 13 - 9
Great Coat	1	3 - 17 - 0½	2 - 17 - 9½
Respirator, complete	1	1 - 2 - 4	0 - 17 - 7
Towel, hand	1	0 - 0 - 11½	0 - 0 - 9
Cap, R.T.C.	1	0 - 3 - 10	0 - 2 - 9
Badge, cap	1	0 - 0 - 5½	0 - 0 - 4
Socks, worsted, prs	2	0 - 3 - 4	0 - 2 - 6
Housewife, filled	1	0 - 1 - 3	0 - 0 - 11½
Holdall	1	0 - 0 - 9	0 - 0 - 6
Vests, cotton, gym	2	0 - 3 - 0	0 - 2 - 3
Knife, clasp	1	0 - 5 - 2½	0 - 3 - 8
Drawers, cellular, prs	1	0 - 2 - 0½	0 - 1 - 6½
Belt, waist, web	1	0 - 5 - 8½	0 - 4 - 2
Brush, shaving	1	0 - 1 - 4	0 - 1 - 0
Brush, tooth	1	0 - 0 - 4½	0 - 0 - 3
Brush, boot, polish	1	0 - 0 - 6½	0 - 0 - 6

Brush, boot, & blacking	1	0	-	0	-	8	0	- 0 - 6
Vest, woolen	1	0	-	5	-	1	0	- 3 - 10
Cape, A/Gas	1	0	-	19	-	11½	0	- 15 - 0½
		£12	-	19	-	6	£9	- 17 - 8

SIXTH CHARGE Conduct to the prejudice of good order and military discipline,

in that he,

in the field, on 31 May 43 was improperly in possession of five blank pass forms, the property of C Coy, Royal Montreal Regt (MG)

(T.C.Lewis) A/Lt.-col.
Comd 32 Cdn Recce Regt (R&R)

In the Field
5 Aug 43

To be tried by Field General Court Martial.

(E.A. McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.

In the Field
13 Aug 1943.

32 CDN RECCE REGT (RMR)

16 Aug 43

I have this day examined D76325 Tpr. Thomsett G.F. and find him ~~unfit~~ fit to undergo trial by court martial.

A/M.O.
32 CDN RECCE REGT (RMR)

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held, should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at Field on the 16th day of August 19 43 by order of E. A. Mc Auley Brigadier D. D. M. S. 1 Corps. Commanding dated the 13th day of August 19 43

President.

Major R Bunbury.

Members.

Capt C. S Mc Kay Fenn
Lieut W. A. Irwin

, Judge Advocate.

Trial of* D 76325 Tpr Thornell A. 32 Coln Reme Regt R.M.P.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting ~~member takes his~~ place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut R. H Brown 32 Coln Reme Regt R.M.P

~~Counsel for~~ defending officer† Lieut D. H Rodgers 32 Coln Reme Regt R.M.P.

At 1530 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W1683/78. 25,000 sets. 6/40. K. & H., Ltd. 0457/11. Forms A 9/55.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty *Answer.*

The accused having pleaded Guilty to and charges, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

Fifth charge

Guilty

Quarter

Answer

Sixth Charge

Guilty

Answer

Answer

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No sir

~~The prosecutor makes an opening address (hands in a written address which is read, marked _____, signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. see statement attached

being duly sworn, is examined by the prosecutor.

over the men for the
Before I left the office on the evening of the
22nd of January I checked the cash in the box
in which there was £1.5.0 Laundry money
On the morning of the 23rd of Jan. as soon as
I left that the amount had been reported A.W.L.
I went to the strong box & found it empty
the box was not damaged or did the lock
appear to be forced to my knowledge Cooper
Hewett and myself were the only one in possession
of keys

Cross by Defence Officer

I Q. When was it proof of the account date to Cashier
of money collected by C Coy RMR
(a) Yes

II Q. Was any record made of the fact & just before
you left that there had been the amount
(a) Yes C O M R informed me that he had found money
over to the amount & book should collection of card.

III Q Do you know that the keys in question were
ever placed in strong box
(a) Yes I carried many on box on the evening after
the C O M R left me he had given it to the amount
(Q) What was the amount handed over to cashier
(a) £1.5.0 Laundry money

IV Q. Was the strong box used for the safekeeping of funds
of the members of the garden
(a) Orders were issued that it was not be used for the
safekeeping of members of the company

V

First Witness for Prosecution

(1)

D76053. S/Q.M.S. Talbert T.L. having been duly
sworn states

I am Q.M.S of C. regt R.M.R. of which account
was company clerk. I gave the accused money
totaling £1.5.0. which was laundry money I received
from the men to be put in strong box of company office.
On 23rd Jan. 1943 Capt Ward informed me that
said amount was missing from strong box.

Cross-examined by Defence Officer

I Q. When gave money to accused can you explain circumstances
(a) We were moving so I entrusted accused with the
money to be put in strong box

II Q Were you in the habit of giving accused money
(a) Yes sir It was first time

III Q. Have you ever made small loan to accused
(a) Yes sir

IV (Q) Was it made clear to accused the nature of money
(a) Yes sir

Second Witness for Prosecution

Capt. E. W. Ward - 32 in Coh Pioneer Coy R.M.R. sworn

Jan 1943 I was 2/c C coy R.M.R. The accused was
company clerk In the company office there was a steel
box the keys to which were held by myself
the accused. ~~for a week or so prior to~~
~~3rd of Jan. the company box has been called by~~

D

The prosecution is closed.

RP 40 fn 2 complied with.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. yes

Question. Do you intend to call any other witness in your defence?

Answer. no

~~*Question.* To be a witness as to character only?~~ *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Accused given examination after being duly sworn
states.

during W.C. of 23rd of Jan. I borrowed the sum
of £100 from the C.O.M.S. There was no
question of this money being other than a
personal loan during my term as company clerk.
the money collected by the C.M. for payment
of laundry bills was never kept in the
safe box in the company office. The book
was kept in the company office. The book
for this of her own to take care of the matter.
I know that no orders were ever issued against putting
money for safekeeping in Co office. I kept my
money and other things in there for safekeeping.
The money was not checked on the evening of Friday
Jan 22nd 1943. The money was not there so it could
not have been checked.

Cross by Pte Alt

I Q. How many keys were for the box
A. Only 1.

II Q. Did you check the box on night of Jan 22
A. No.

III

C. O. M. D. Faulkner was recalled by court
and following question a
I (Q1) claim that he was around 2.0.0.

Recalled Capt Faulkner - stated he carried money
5 - 6 o'clock

Defense then summed up charge

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charges to which he has pleaded "Guilty" read to him again.]

The accused D76325 Pte Kennett G.S.
is found guilty of Charges 1, 3, 4, 5, 6.

†The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says :—

(See attd statement)

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

Summary of Evidence.
7325 Tpr Channell GS.

LIST OF EXHIBITS

LETTER	SUBJECT	PRESENTED BY
A	EXTRACT MB 68.	SQMS FAUBERT.
B.	AFO. 1618.	SQMS FAUBERT.
C.	CMHQ 1000:55 (6-8-42)	SQMS FAUBERT.
D	EXTRACT MB 68.	SQMS. FAUBERT.
E	AFO. 1618.	SQMS. FAUBERT.
F.	CMHQ 1000:55 (6-9-42)	SQMS. FAUBERT.
G.	FALSE PASSES.	SQMS. FAUBERT.
G2	LIST OF KIT DEFICIENCIES.	SQMS FAUBERT.
H.	~~AUTHENTIC SIGNATURE CAPTAINS - CAPT E W WAUD~~	
I	LIST OF LEAVE PERSONNEL ~~DETAIL HQ (A) WARRANT 219244~~	CAPT E W WAUD
J.	WARRANT 219245.	CAPT E W WAUD.
K.	WARRANT 219246.	CAPT E W WAUD.
L.	WARRANT 219247.	CAPT E W WAUD.

J M Stevens Capt
32 Canadian Regt (Kmd)

RECORD of the Declaration of a Court of Inquiry assembled at [redacted]e Camp on the 14th day of February 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.D76325 Tpr Thomsett,G.S.

DECLARATION

The Court declare, that D76325 Tpr Thomsett,G.S. absented himself without leave while stationed at Tilgate Camp from approx 0830 hrs 23 Jan 43, that he was absent without leave 21 clear days on 14 Feb 43, and that he is still absent without leave.

Certified extract from entry in MB 68

(B.W.Stevens) Capt & Adjt.
32 Cdn Recce Regt (RMR)
in whose custody MB68 is kept.

This is extract from MB 68 mentioned by
sons Lambert.
B.W. Stevens Capt

S C Lambert.

'B'

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

This AFO 1618 referred to in statement of evidence of Thomas Gaughan
Jno Stevens Capt.

S C Daniel.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the

Police in connection with the apprehension of and are

payable to

(Superintendent or Officer i/c Police Station at

Date

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster is hereby authorised to pay to being the person recommended by the Committing Magistrate, a reward of for the apprehension of

(O.C. Unit)
Officer Commanding.

Date

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

DESCRIPTIVE RETURN OF § D46325 Tpr THOMSETT George Edward who was apprehended at 11-40 AM (hour) on the 31st day of May 1943, and was committed to confinement at Northampton on the 1st day of June 1943, as a Deserter (or Absentee without leave) from the Rft of the 32 Reception Regiment Royal Armoured Regiment of

Age	31 years	Height	5 feet 9½ inches
Complexion	Fresh	Hair	Brown. Eyes Brown.
Marks		In uniform or plain clothes	Uniform.
Probable date and place of attestation			1939 Montreal Canada.
Probable date of desertion or beginning of absence and from what place			31st January 1943. Seaford Sussex
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured			William Robert Allison Sgt.

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* At 11-40 am on Thursday the 31st day of May 1943 I Sgt Allison arrested in Northampton D46325 Tpr THOMSETT on a charge of Stealing a bicycle belonging to Mrs [illegible] Hartington Road Northampton I then asked him to accompany me to the Police Station to be dealt with for the offence he had committed when he had been absent from the unit since the 23rd January 1943. I take formally charged him with this above from the date he was first taken into custody he replied "I do not contest"

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an absentee without leave from the before-mentioned Corps.

J. Thurston Harris J.P. — Signature
Town House — Residence
Northampton — Post Town
4th June 1943. — Date of Signature
[signature] — Signature of Prisoner
William R. Allison Sgt. — Signature of Informant

} of Committing Magistrate.

Or where the Prisoner confessed and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the ____ day of ____ for the purpose of obtaining such evidence.

Signature
Residence
Post Town
Date of Signature

} of Magistrate.

§ Care should be taken to insert Army No. and Rank.
† Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
"as" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

PART II. Army Form O 1618.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____
Regiment at ____ on ____ by ____
who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

{ Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

C

...ense Voucher Re—: Ref: K.R. & O. (Can) 539

...76325 Rank Pte. Name Thoissett, C.H. Unit R.M.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Northampton

Date	Particulars	Amount		
11 June 43	Escorts return fare from LONDON To Northampton		10	1
	Prisoners single fare to LONDON From Northampton		5	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares			
	Total £		15	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

These are Cmd 1000.55 mentioned in statement of evidence of S.S.M. Jenners

R.N. Stevens Capt.

W. FERN) D.A.P.M. CAPT. LONDON AREA.

Capt.

Officer Issuing Railway Warrant and Expending Monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

...pense Voucher Re—:

Ref: K.R. & O. (Can) 539

No. [illegible]6315 Rank T/pt Name Thomsett W S Unit RMC

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
12 Jun 41	Escorts return fare from LONDON To Seaford		9	4
	Prisoners single fare to LONDON From Seaford			
	Prisoners fare from London To Seaford		4	7
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		13	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

(W. [illegible]) CAPT.
D.A.P.M.
LONDON AREA.

Officer Issuing Railway Warrant and Expense monies ..... Capt.
No. 6 Provost Company, Canadian Provost Corps, London.

G.M.H.Q. 1000-35
40/P & O. 183

D

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 11th day of July 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D76325 Tpr. Thomsett,G.S.

DECLARATION

The Court declare, that D76325 Tpr. Thomsett,G.S. absented himself without leave while stationed in Seaford Sx., at 1130 hrs 18 Jun 43, that he is absent without leave 21 clear days on 10 Jul 43, that he is still A.W.L.

Certified extract from entry in MB68

(B.W.Stevens) Capt & Adjt
32 Cdn Recce Regt (RMR)

in whose custody MB68 is kept.

This is extract of MB68 mentioned in statement of evidence of S QMS Sawbert.
B.W. Stevens Capt.

E

...VE RETURN OF § George Stevens Thomett D76325 who was apprehended at Hyde Park (hour) 7-15 a.m. on 22 day of July, 1943, and was committed to confinement in the 1 Bar. D.S.H. Scots on the 22nd day of July 1943 as a Deserter or Absentee without leave) from the ...in the Royal Montreal Regiment of the Canadian Army.

Age	31	Height	5' feet ... inches
Complexion	Fresh	Hair	Brown Eyes Brown
Marks	-	In uniform or plain clothes.	
Probable date and place of attestation		17th September 1939 Montreal	
Probable date of desertion or beginning of absence and from what place.		21st June, 1943 Seaford Sussex	
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured		Joan O'Hara. No. P. C. 166 "A" Metropolitan Police	

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* Who on oath stated: - At 7.15 a.m. on today I saw prisoner in the Andrew Ann Hotel at Seaford. He was asked & spoke to me & I realised he spoke with an Canadian accent. I stopped him & he had no pass or pay book - has been absent - he was told to [illegible]

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an absentee the before-mentioned Corps.

Signature
Residence
Post Town
Date of Signature
Signature of Prisoner
Signature of Informant

Committing Magistrate

Dated the Magistrates of the Police Courts of the Metropolis

2/- POLICE COURTS

‡ Where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then given.

I HEREBY CERTIFY that the above-named ... confessed to the circumstances stated, but that evidence of the truth ... hood of such confession is not forthcoming, and that the case was adjourned until ... day of ... for the purpose of obtaining such evidence.

This is statement AFO 68 mentioned in evidence in statement of Sgt MS Jaubert Mr Stewart Sgt.

Residence
Post Town
Date of Signature

Magistrate.

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs" or "does not belong to," as the case may be

C Jaubert.

PART II. Army Form C 3038

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. D 76325 George Steven Thomett, Royal Montreal Regt.

at London on 22/7/43 by Joan O'Hara, W/P.C.

who was committed as a Deserter (or Absentee without leave) on the 22-7-43

RECOMMENDATION FOR REWARD.

I RECOMMEND* Joan O'Hara, P.C. 166 "A"

Address Hyde Park Police Station

for a reward of 5/-

Signature of Magistrate

22.7.43

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

ing Statement of expenses (if any) incurred by the Police and chargeable nds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____

Police in connection with the apprehension of _____

_____ and are

payable to _____

_____ (Superintendent or Officer i/c Police Station at

Date _____ _____

AUTHORITY for the PAYMENT of a REWARD. (*For Army use only.*)

The Command Paymaster _____ is hereby authorised to

pay to _____ being the person recommended by the

Committing Magistrate, a reward of _____ for the apprehension

of _____

Date _____ _____ (O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE. Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*17930) Wt.11513/244. 50,000 5/41 A.& E.W.Ltd. Gp.498 Forms/O.1618/32

(G 1)

These are passes
mentioned in statement
of Jas S Faulent.
Per Steamer Capt.

G L Faulent.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... *Regiment* .....

PASS

Army Form B 205
(In pads of 100)

No. ..... *(Rank)* ..... *(Name)* .....

has permission to be absent from his †quarters/duty, from

..... *to* .....

*for the purpose of proceeding to** .....

(Station) .....

(Date) .....

..... *Commanding*

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced rate.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

Wt. 29121/999. 350m. 10/40. D.P.W. 51-7553.

In the event of the calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... *Regiment*.....

PASS

Army Form B295
(As pass at 1939)

No.....(*Rank*).....(*Name*).....

has permission to be absent from his †quarters/duty, from

..... *to* .....

*for the purpose of proceeding to** .....

(*Station*).....

(*Date*).....

Commanding

(P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

Form 1040. D.P.W. 51-7053

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No.....Regiment.....

PASS

Army Form 1098
(In pads of 100)

No.....(Rank).....(Name).....

has permission to be absent from his †quarters/duty, from

.....to.....

for the purpose of proceeding to .....*

(Station).....

(Date).....

.....
Commanding .....

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

Forms 1098, P.W. 51-7503.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

Name..... *Regiment*.....

PASS

Army Form B2265
(In pads of 100)

No..... *(Rank)*..... *(Name)*.....

has permission to be absent from his †quarters/duty, from

..... *to* .....

*for the purpose of proceeding to** .....

(Station).....

(Date)..... .....

Commanding

P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

W. 2951/69. 500m. 10/44. D.T.W. 51/7951

If a [redacted] of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment ..... Army Form B295 (In pads of 100)

PASS

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from

..... to .....

for the purpose of proceeding to* .....

(Station) ....

(Date) ..... Commanding

[P.T.O.

W. 39/1369. 250m. 10-40. D.P.W. 51/7954

* Declaration not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

Deficiencies of kit - Tpr Thomsett D76325

		100%			75%		
Battle dress complete	1	2 - 15	-	7	2 - 1	-	0
Boots ankle prs.	1	1 - 11	-	6	1 - 7	-	0
Shirt angola	2	0 - 18	-	4	0 - 13	-	9
Great coat	1	3 - 17	-	0½	2 - 17	-	9½
Respirator complete	1	1 - 2	-	4	0 - 17	-	7
Towel hand	1	0 - 0	-	11½	0 - 0	-	9
Cap R.T.C.	1	0 - 3	-	10	0 - 2	-	9
Badge Cap	1	0 - 0	-	5½	0 - 0	-	4
Socks worsted prs.	2	0 - 3	-	4	0 - 2	-	6
Housewife filled	1	0 - 1	-	3	0 - 0	-	11½
Holdall	1	0 - 0	-	9	0 - 0	-	6
Vests cotton gymn	2	0 - 3	-	0	0 - 2	-	3
Knife clasp	1	0 - 5	-	2½	0 - 3	-	8
Drawer cellular prs.	1	0 - 2	-	0½	0 - 1	-	6½
Belt waist web	1	0 - 5	-	8½	0 - 4	-	2
Brush shaving	1	0 - 1	-	4	0 - 1	-	0
Brush tooth	1	0 - 0	-	4½	0 - 0	-	3
Brush Boot polish	1	0 - 0	-	9	0 - 0	-	6
Brush boot blacking	1	0 - 0	-	8	0 - 0	-	6
Vest woolen	1	0 - 5	-	1	0 - 3	-	10
Cape A/Gas	1	0 - 19	-	11½	0 - 15	-	0½
TOTAL		£12 - 19	-	6	£9 - 17	-	8

Names of President and Members.

Major G.B. Logie - 32 Cdn Recce Regt (RHR)
Capt B.W. Stevens - 32 Cdn Recce Regt (RHR)
D76000 R.S.M. (WOI) Mitchell J.A. - 32 Cdn Recce Regt (RHR)

(T.C.Lewis) A/Lt.-Col
Comd 32 Cdn Recce Regt (RHR)

CERTIFIED TRUE COPY.....
(B.W.Stevens) Capt & Adjt
Signature of Officer having
custody of the Original Record.

This is list of deficiencies and prices mentioned in my statement
& evidence.

SQMS. ~~Thomsett~~
FAUBERT T.L.

Summary of Evidence in the Case of
076325 Tpr. Hancock G.S. 32 Recce Regt (RMR).

By direction of the Commanding Officer this summary is taken on oath.

First Witness for the Prosecution. 076053 SSM [illegible] Sgt. T.L.
Having been duly sworn states:
I present extract from entry in MB 68 relative to the accused in evidence that he absented himself without leave 0830 hrs 23 June 43.
(Marked "A").
I also present AFO 1618 in evidence that the accused was arrested in Northampton 1140 hrs 31 May 43.
(marked "B").
I also present certified forms 1000:55 detailing escort expenses of 15/2 and 13/8 totaling £1-8-10.
(marked "C").
I also present extract of MB 68 relative to the accused in evidence that he absented himself without leave 1130 hrs 18 June 43. The accused was under close arrest at the time.
(marked "D")
I also present AFO 1618 relative to accused in evidence that the accused was arrested in Lundon 0715 hrs 22 July 43.
(marked "E").
I also present forms certified 1000:55 detailing escort expenses of 9/2.
(marked "F").
I also present 5 sent passes appearing to bear the Orderly Room stamp of the Loyal Montreal Regt (MG) and C Coy The Loyal Montreal Regt (MG) found on the accused at the time of his arrest 31 May 43.
(marked "G").

I ~~am~~ was CQMS. of Coy. The Loyal Montreal Regt (MG) of which the accused was Company Clerk. I gave the accused monies totalling £1-5-0 which I had collected from the men for their laundry to be kept in the strong box in the Coy office. On examining the Coy box with Capt Ward on 28 Jan ~~I~~ informed me £1-5-0 was not there.

Acting in my capacity as SQMS. on 23 Jan I checked the kit of the accused and found him deficient of the articles on attached list which I have priced at Ordnance Local prices and 75% of O.V prices. totalling £12-19-6 and £17-8 respectively (marked "A" & "B" G2).

D/6th SQMS. FAUBERT. T.L.

The accused declines to cross examine this witness.

Second Witness for the Prosecution. Capt E.W. Ward having been duly sworn states:

In January 1943 I was acting as Coy ~~Comd~~ 2/C of Coy The Loyal Montreal Regt (MG). The accused was Coy clerk at that time. In the Coy office there was a steel strong box, the keys to which were held by myself and by the accused. For the week or ten days prior to 23 Jan the Coy had been collecting funds from the men for a dance which was to be held. Before I left the Coy office in the evening of 22 Jan 43 I checked the cash in strong box. There was £1-5-0 laundry money and £6-19-2 which had been collected for the dance. On the morning of the 23rd of January as soon as I heard that ~~[illegible]~~ had been reported sick I ~~again~~ went to the strong box and found all the money had been taken out. The box was undamaged

in any way and the lock did not appear to have been forced. To my knowledge Spr Thornett and myself were the only ones in possession of a key. At the end of January when I was checking the railway warrant before making a return to RHQ, Pte Peacock who had taken over as sqn clerk pointed out that warrant numbers 219245, 219246, 219247 were missing from the warrant book. The counterfoils were also missing. I present in evidence a list of names of personnel dispatched on leave on 20 Jan 43 (month) and who took tickets were issued on railway warrant 219244. No one was dispatched on leave until 27 January and it was approximately at this time when the above warrants to mentioned above were found to be missing. The warrant book was kept in a trunk in the coy office, keys to which only Spr Thornett had. The trunk was

Delete from Summary

always kept padlocked

I present a slip of paper which bears the genuine signature of Capt J. M. Laing (MARKED H)

I also present three railway warrants numbered 219245 (marked J) 219246 (marked K) and 219247 (marked L) These warrants were sent to 32 Edn Lowe Regt (R&R) by Canadian Military Headquarters. They had been exchanged by the London and North Eastern Rly, the London Midland and Scottish Rly and the Southern Rly respectively, for tickets valued £1.12.4 7 shillings 2 pence and £6.15.6 respectively. They bear signatures purporting to be those of Capt J. M. Laing. I have compared the signatures appearing on these warrants with the genuine signature of Capt Laing and in my opinion the signatures on the warrants are not genuine.

delete Padlocked Capt.

E.W. Ward Capt
E.W. WARD CAPT.

The accused declines to cross examine the witness

The accused having been cautioned in accordance with K.R. & O. elects to reserve his defence.

Taken down by me in the presence and hearing of the accused, this 6th day of July 43.
Certified that K.R. & O. have been complied with.

W. Stevens Capt
32 Cdn Recce Regt (C.M.R.).

Statement & Request for Defending Officer.
I wish to have an officer defend me at my trial and am satisfied to have one appointed by O.C. 32 Cdn Recce Regt (C.M.R.).

List of Witnesses - Summary of Evidence

D76[illegible]325 Tpr Thornett. G.

D76053 Lt. [illegible] 32 Cdn Recce Regt (C.M.R.).
Capt Lewis Ward 32 Cdn Recce Regt (C.M.R.).
~~D76300 Tpr Hope Peacock. 32 Cdn Recce Regt (C.M.R.)~~

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Rank Spr. Name Thomsett, F.S. Unit 32 Ecca Regt.

The expenses were incurred in apprehending and returning the M/N Soldier to his London

Date	Particulars	Amount		
23 June 43	Escorts return fare from LONDON To Seaford		4	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Seaford		4	7
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is C.M.H.Q. 1000.55 mentioned in statement & evidence of S.Q.M.S. Faubert.
A.M. Stevens Capt.

..... Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000.55
40/P & S/483

F.L. Faubert.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused D76325 Tpr. Thumath George Warren guilty of Chgs 1, 3, 4, 5, 6 but Not Guilty of Chg 2., which finding is communicated to accused in Court.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction before Sentence.

~~The Court being re-opened, the accused is again brought before it.~~

Lieut R H Brown is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Produced M.C.B. 343 and duly copy of AB 76 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes.

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any additional punishment to, or other than that to be awarded by the Court, the prisoner must be informed of the effect of the finding of the Court in this respect, and the Court shall inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* no

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused

The accused elected to make a statement in connection with the other five charges.

(1) Did not borrow money from A. W. L. Mackenzie King Co. for he had been getting in debt during and early 23rd January. I had to repay debt. I used this money & the profit borrowed for this purpose.

I thought I could have money to replace same by 1st 23rd of Jan. When I knew money would be allotted because the claim was to be held that evening. By the 23rd of January I found it impossible to repay this money to the A. W. L.

Defending Officer offers the following statement in mitigation of sentence & the charges he asked the accused plead guilty:

We have a case of manslaughter - about not want for - got into scrapes - has funds enough until - eventually to must - could not make defence. Could not take it - must A.W.L. - took blank pass - could not be used - Went away in fear of consequences. Now willing to pay for crimes by pleading guilty

P. O. grants army for M.F.M. 6. also MFB 355

Relates as to character & services.

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2965)

No. D76325 Name Thomsett, G.B. | Sqn., Battery, or Company "C" | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shoreham	10 Feb 41	Pte		Breaking out of quarters A.A.10 (4) whilst C.B.Absent 18 hrs 15 Min.	Sgt D'Arcy.	28 days Det.	12 Feb 41	Major P.H. Barre	
At the end of two years service, a new conduct sheet was made out. There were the above regimental entries on the old conduct sheet.									
In the field	3 Jan 42	Pte		A.W.L. A.A.15(1) 24 hrs.	L/Cpl Moncrieff	7 days C.B.	5 Jan 42	Major J.M.Laing	Forf 1 days Pay.
Northampton	31 May 43	Tpr		Civil Offence - Stealing Radio		Fined £5-0-0	4 Jun 43	Petty Sessions.	

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(B.W.Stevens) Capt & Adjt 32 Cdn Recce Regt (RMR) P.T.O.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
J/16325	Tpr	Lamarche G.R.	3rd Ch Rec Regt (Rocky)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Breaking out of barrack (10/41) times	1 times
For	AWL (5/41) times	1 times
For	times	times
~~For~~	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~,

~~There are no entries in the conduct sheets of the accused~~.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~,

Previous convictions of the accused by a ~~court-martial or a~~ civil court, ~~of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73~~ ~~Air Force Act~~ A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 25 days in military ~~Air Force~~ custody, making a total of 25 days in custody, of which N/L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31 Years 3.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is Sept 39

~~7. The service which the accused is allowed to reckon towards discharge is .....~~

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force ~~military~~ decoration, or air force ~~military~~ reward (or is in possession of or entitled to). State any air force ~~military~~ decoration or reward.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~ ~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Petty Sessions	Southampton Jan 43.	Stealing radio.	Fined £5-0-0	N.L.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of August. 1943 R. Stevens Capt. 32 Canadian Light A.A. Bat.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

000-41

RFW THOMSON A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-72274 Rfn Andrew THOMSON, 2 Kings R., 9 CSR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	aa sec 15 (1)	Guilty	guilty	
2nd	15 Dec 43 to 25 Mar 44			
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lots of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for sixty days

3 June 44 (Sgd) H G Clements Lt Col
Date awarded. President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Lt Col
(1. AA 57A. Delete if not used.)

(Sgd) ..... (G. Francoeur) Brig
Date 5 Jun 44 Comd 2 Can Base Rft Gp
Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D72274 Rfn Andrews Thomson	6 Jun 44	H G Clements Lt Col 9 CSR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2 CORPS Vol I p 33

AT CMHQ IN AB 160 800-44

CPAM (To issue of AFA31) 40 F & B 1898 (10/61)

FIELD GENERAL COURT-MARTIAL 4/388

RECEIVED 15 JUN 44 JAG BRANCH G.M.H.Q.

PROCEEDINGS REVIEWED Date 3 JUN 44 Gen Sec G H Q 2 Echelon 21 Army Gp

Convened by Order of Brig G Francoeur Comd 2 CORPS dated 3 June 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.
D-72274	Rfn	Andrew	THOMSON

PROCEEDINGS REVIEWED

J. Ridgewell Capt. 15 June 44

PROCEEDINGS OF TRIAL.

(REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.)

Held in the Fd in (country) ..... on (date(s)) 3 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 7/107

A1. The President, Members, ~~waiting Member, JA if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1335 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (1)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn (1). Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	M G CLEMENTS West N S R 11 CSR Bn
Member	Capt	J A Macdonald Halifax Rifles 9 CSR Bn
Member	Capt	R M Hanston 27 Lincoln and Welland Regt 9 CSR Bn
Judge-Advocate		
Prosecutor	Lieut	W K Wardroper Can Scottish 9 CSR Bn
Defending Offr	Lieut	G P Chant R. Winnipeg Rifles 9 CSR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D 72274 Rfn Thomson A ~~(s)~~ before arraignment make(s) (no) ~~(an)~~ objn. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 82(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made or support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(1) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 29(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ? Ans No (I intend Hans to answer any questions by the Court)

(*1. If evidence has already been given by accused or his witnesses as to character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes. (On deposition file)(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should not permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~(2).

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Page 1
rgc

9 Bn., 2 C.B.R.Q.,
3 Jun 44.

President of the Court,
Worthy Members,

In the case of D 72274 Rfn. Thomson H.

There are four points which are worthy of consideration by the court before passing sentence on this man.

1. He has been a soldier for almost three years now, having served more than two years with the Victoria Rifles and now being a member of our unit, the Royal Winnipeg Rifles.
He was a medical orderely most of the time in Canada but has been an infantry soldier since arriving in England.
2. He has been a good soldier which is shown by his field conduct sheet.
3. He arrived in England in the fall of 1943 and since then has had only three short leaves. All his applications for privilege leave were cancelled.
4. While absent without leave Thomson's behaviour was good.

Sir,

Respectfully submitte

G. R. P. Chart, 2

CHARGE SHEET

The accused, D-78274, Rfn. Andrew THOMSON, Royal Winnipeg Rifles, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself from 9 Bn, 2 C.B.R.Gp., from 0745 hours, 15 May 44, until surrendering himself to the Civil Police at Richmond, Surrey, at 1120 hours, 30 May 44. Total time absent 15 days, 3 hours, 35 minutes. Cost of apprehension and return to unit, £0.13.5.

(H.W. Rick), Lt.-Col.
Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field

1 Jun 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Can Base Rft Gp

In the Field
2 JUN 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-72214	Rfn		Andrew	THOMSON	R Wpg R, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 JUN 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	M G CLEMENET	West N S R, 11 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 9 CBR Bn	9 CBR Bn
Lieut	to be detailed by OC 9 CBR Bn	9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 9 CBR Bn	9 CBR Bn

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 2 JUN 44

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

296

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D-92274 (No.)

TFN (Rank) THOMSON A. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD

Date. JUNE 3. 1944

(Sgd)
Medical Officer
(unit) 9 SV A.D.S. CBRG

Exhibit A

SUMMARY OF EVIDENCE

In the case of .

D-72374, Rfn. Thomson, A., Royal Winnipeg Rifles, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

(1) When on active service, absenting himself without leave.

The Commanding officer directs that the evidence be taken on oath.

FIRST WITNESS for Prosecution — H-16432, Cpl. Davey, G.W., R.W.R., on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am H-16432, Cpl. Davey, G.W., R.W.R. I was acting as Platoon Sgt of No. 4 platoon, R.W.Rs. and I called the roll at 0745 hours, 16 May 44. Rfn Thomson A, was absent from parade."

The accused declines to cross-examine the witness.

G.W. Davey

H-16432, Cpl. Davey, G.W.

SECOND WITNESS for Prosecution — Documentary. Army Form C. 1617 (Certificate of surrender to the Civil Police). This form has been shown to the accused, marked by me as Exhibit "A" for the prosecution and attached to the Summary of Evidence.

H.A. Dyson

(H.A. Dyson), Lieutenant, Officer detailed to take the Summary of Evidence.

THIRD WITNESS for Prosecution — Documentary. Expense Voucher, CMH 1000:55. This voucher has been shown to the accused, marked by me as Exhibit "B" for the prosecution, and attached to the Summary of Evidence.

H.A. Dyson

(H.A. Dyson), Lieutenant, Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

H.A. Dyson

(H.A. Dyson), Lieutenant, Officer detailed to take the Summary of Evidence.

In the Field

1 Jun 44

Exhibit "A" 13

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 122 Niles at Richmond at (hour) 11.20 Am on the 30th day of May 1941 as being No. D/42241 (Rank and Name) Private Andrew Thomson 4th Batt. Royal Winnipeg Rifles 2 C.B.R.G. a deserter (or absentee without leave) from and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 25 Height 5 Feet 10½ Inches
Complexion fresh Hair Brown
Eyes grey
Marks
In uniform or plain clothes Uniform

Probable Date and Place of Attestation: 16th May 1940 Micheldever Hants Canada

Probable Date of Desertion or beginning of absence, and from what place: 4/9/41

Signature of Officer of Police in charge of Station.

RICHMOND "V" DIVISION

30/5/41
Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.
who surrendered to the Police at on
Payable to

Home

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

Exhibit "C" ref.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H 72274 Rank Rfmn. Name Thompson, A Unit 9 Bn 2 C B R C

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
	Escorts return fare from LONDON To Micheldever		8	11
31 May 44	Prisoners single fare to LONDON From			
	Prisoners fare from London To Micheldever		4	6
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		13	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. E. Birch LIEUT.

Officer Issuing Railway Warrant and Expense Voucher.
No. 6 Provost Company, Canadian Provost Corps.

W. E. BIRCH,
ADMIN. OFFICER D.P.M's BR.
C. M. H. Q.

C.M.H.Q. 1000-55
40/P & S/483

Exhibit E

MFM 6
AFB 122
40/PAM/136 (3458)

No P-72274 Name THOMSON, A. Sqn, Battery, or Company | Corps C.I.C. Date of enlistment 4-Sept-42 Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc E.L. DODD Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Nil entries on completion of Two years service		E.L.D.			
Field	2-May-44	Rfn		A.A.Sec.15(1)A.W.L. from 1315hrs 2-May-44 to 2230hrs 2-May-44. (Absent 9hrs, 15 min.)	Sgt.Calmain W.H.	Ded. 1 days pay A.A. 46 2(d)	10 May 44	Lt-Col. H.W. Rick, C.L.N.	Forf 1 days pay for absence.FR&I 149(1) a

CERTIFIED TRUE COPY TAKEN FROM REGIMENTAL BOOK IN MY CUSTODY

.....
(C.L.NELSON)Capt.
Adjt. 9Bn, 2 C.B.R.Group.

(PTO)

Exhibit D MK

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-72274	Rfn	Thomson, A.	9 Bn, 2 C.B.W.Gp.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. A.A. Sec.15(1) — One — times.
For _____ — _____ times.
For _____ — _____ times.
For _____ — _____ times.

Date of first entry in Field Conduct Sheet 2 May 44

Date of last entry in Field Conduct Sheet 2 May 44

~~2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 4 days in military custody, *i.e.*, Nil days in open arrest, 4 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24

6. The date of his ~~enlisting up for military service~~ attestation is 4 Sept 41

7. The service which the accused is allowed to reckon is 2 years, 9 months

8. The accused is in possession of †C.V.S.M. and clasp

~~9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously without reduction, to the present date:—~~

~~Date of Promotion.~~

~~In the substantive rank of _____~~

~~By the war substantive rank of _____~~

~~In the acting rank of _____~~

†State the military decoration (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.6070.686 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22459) W.L.20256.1873 60,000 9/42 "

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

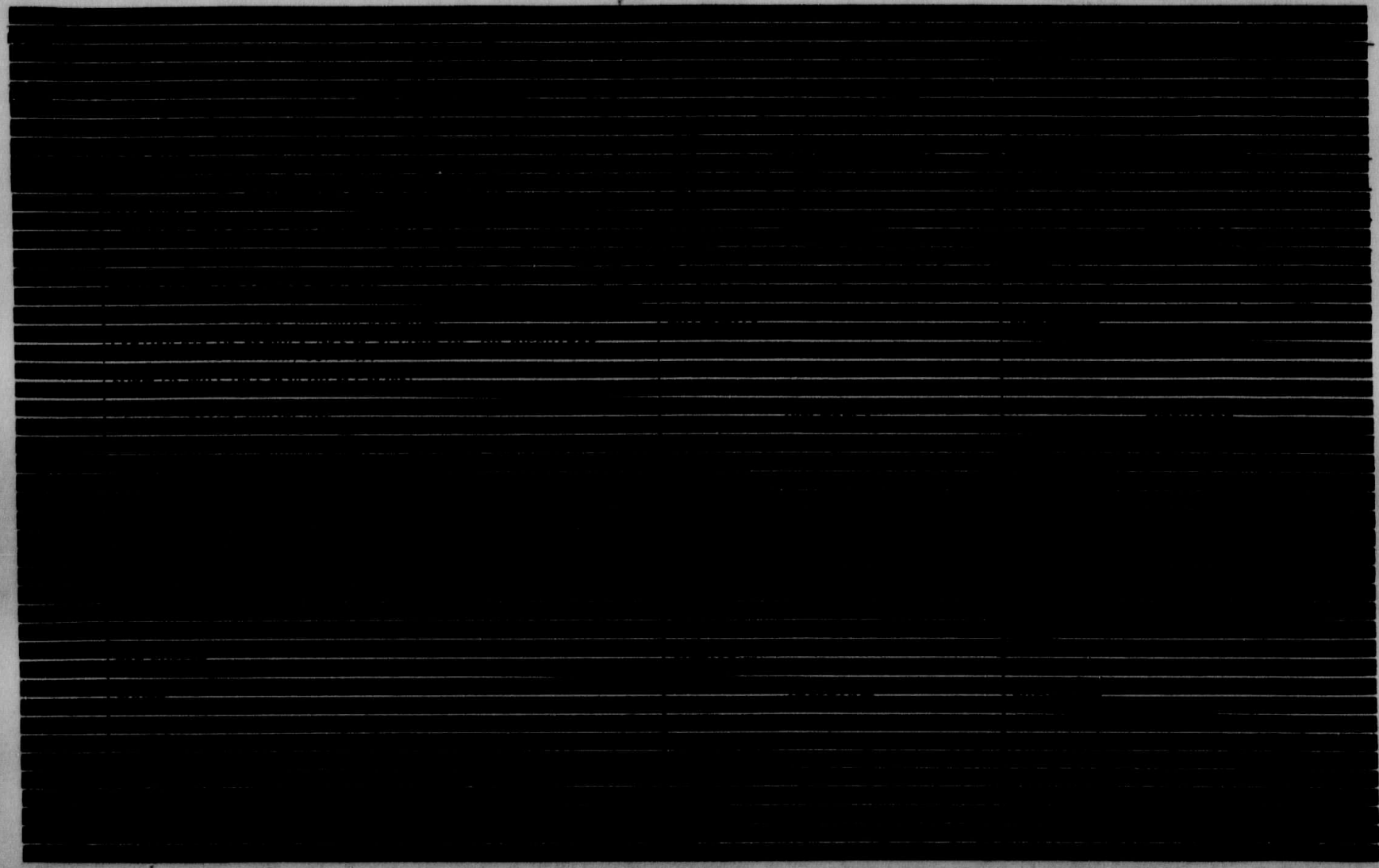
Signed this 13th day of June, 1944

(C.L.NELSON) Capt.,
Adjt. 9Bn, 2 C.B.R.Gp.

OFFICER ATTENDING FOR INSTRUCTION

LIEUT. H.A. DYSON - RWR - 9BN, 2CBRGP

5Z-63 Thomson L. & Missing



Z-75 (case #2)

PTE THOMSON D.N.

See E-169 for 1st case

B-76356 Pte THOMSON, David Norman
Toronto Scottish Regiment (MG)
4 Cdn Inf Rft Unit

2-75

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this fifth day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ Nil.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[I am unable to appoint:-~~ Nil
~~(1. Three officers] from the Court.)~~ Nil
~~(2. A Field Officer as President.)~~ Nil
~~for the following reasons, namely:-]~~ Nil

* Omit if not applicable.

17 Mar 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-Col	D.L. Redman	Calg Highrs

Members.

Rank.	Name.	Regiment.
A Major	from	1 C.I.R.U.
A Captain	from	3 C.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed, J.G. McIntosh Colonel
a/ Commanding "D" Group, Cdn Rft Units
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-76356 Private THOMSON, David Norman Tor Scot R (MG) 4 C.I.R.U.	First Charge --- A.A. Sec 15 (1) See Charge Sheet attached.	Guilty 6th Mar 1943	Guilty Sentence To undergo detention for a period of Ninety (90) Days and to be subject to stoppages of pay until his has made good the sum of $71-19-6 the expense of his apprehension and return	I confirm the finding and sentence of the Court. J.G. McIntosh Col. Comd. D Group

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on a separate sheet if necessary*):—

(Signed) J.G. McIntosh Colonel (Signed) [illegible]
Commanding "D" Group, C.R.U.
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~) * Omit if not applicable.
4. The officers under instruction)

were duly sworn.

Signed this 6th day of March 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ N.A.D.

Signed this 8 day of March 1943.

J.G. McIntosh Col.
Confirming Officer.

Promulgated and extracts taken in the case of B76356 Pte. Thomson D.N.

(*a*) (Dated) 9 March 43 (Signed) A/Maj. Cowgill Asst. A/Comdt. 4 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated)..... (Signed).....

Promulgated and extracts taken in the case of

(Dated)..... (Signed).....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.L. 47797/1937 35 M. 5/41 KJL/526(2) Gp. 698.3

6 Mar. 1943.

Convening Officer
Headquarters "D" group.
Canadian Reinforcement Units.

Re: F.G.C.M. B/6356 Pte Thompson D.N. T. Sect. R. (M.G.) 4 C.I.R.U.

1. I respectfully suggest that you read the statement made by the accused and the plea made by the Defending Officer, as well as the copy of the letter produced by the accused, from his wife. This soldier has been in the Canadian Army since November 1939. He informed me that he was the first Canadian to be married in England. His record before his marriage was quite good. His trouble lately appears to be troubles with his wife and I suggest that there is enough evidence to indicate that the Dependants' Allowance Board officials in England should be asked to make a full investigation respecting the wife's conduct and condition. The accused has not sufficient money to get a divorce, and he is extremely anxious to have the Dependants allowance and the assigned pay cancelled, and if the facts are as indicated, he appears to be fully justified in taking that attitude. There is a good probability that if this were effected that this man would become a useful soldier.

Lt.-Col.
(J. L. REDMAN, V.D.)
PRESIDENT.

CHARGE SHEET

The accused, B 76356 Pte. DAVID NORMAN THOMSON, of the Toronto Scottish Regiment (MG), on the strength of 4 Canadian Infantry Reinforcement Unit, an active unit of the Canadian Army Overseas, is charged with:-

FIRST CHARGE

A.A. SEC 15(1)

WHILE ON ACTIVE SERVICE, Absenting himself without leave
in that he
at Leipzic Barrack, Ewshot, Hants., absented himself without leave from 1800 hours, 15 November 1942, until he was apprehended by the C.M.P. at 1400 hours, 1 January 1943, at Porthill; thereby incurring expenses to himself and escort, in the sum of £1-19-6d.
(Total time absent: 46 days and 20 hours)

(D.J. McDougall) Major,
A/Officer Commanding,
4 Canadian Infantry Rein: Unit,
C.A.O.

IN THE FIELD
5 MARCH 1943

To be tried by Field General Court Martial.

(J.A. McIntosh) Colonel
A/Commander
"D" Group, Cdn Rft Units

In the Field
5 Mar 43

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B-763576.....

Pte. THOMSON D. of T.S.R. 4 C.I.R.V.

and in my opinion, he is fit ~~unfit~~ to undergo trial by Court Martial.

Station.....

Date 6-3-43 (Sgd.) [illegible] (Medical Officer)

(Cancelled [illegible] Routine Order No. 3, para 27, d/6 Jan 42)

.....194..

I, No.....(Rank).....(Name).....,wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of.....
if he is available.

(Sgd).....

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT WATERLOO BARRACKS, ALDERSHOT, HANTS.,
ON THE 6th DAY OF MARCH 1943

The accused R7b736 Pte. THOMSON. D.W. ..... Unit T. ROY. R.(MG) B. CIRU

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L. HEDMAN. V.D. ..Unit..H.Q.. C.M.U. .....

Members MAJOR. S. W. Watson .....Unit..A.C.I.C.U. .....

.CAPTAIN. G. A. Hodson .....Unit..3.C.I.C.U. .....

The officers under instruction are duly sworn:-

.Lieut. M.L. Harder .....Unit..C.M.P. C.M.U.

.Lieut. O.W. Christianson ..Unit.....

Prosecutor. Lieut. W.H. Jamieson ..Unit C.M.P. C.M.U.

Defending officer. Capt. A.S. MacPherson Unit 2nd M.G.Bn. M.G.B.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(P) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor ~~is sworn and~~ produces MFB 355 and MFM 6. ~~ACB 296~~
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment.
(b) ~~calls witnesses as to character.~~
(c) ~~calls witnesses in mitigation of punishment.~~
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by the Accused

I went A.W.L. because there was trouble at home, and I wanted to get home to see if I could get it straightened out. I have a wife in England. I was the first Canadian in England to be married. I learned that my wife was unfaithful. I returned to Camp and explained it to the Colonel, and got 28 days F.P. I went to the hospital and found that I had syphilis. I was in hospital for 28 days, and was pronounced cured intensive treatment. The colonel advised me that

only way I could have her allowance stopped was to start divorce proceedings, which would cost me at least $40 to start with. So then I went AWL to have her money stopped. I thought I was cured of syphilis. Later I broke out in a rash, and as I had started syphilis while in hospital, I found that this rash was secondary syphilis. I went to see my wife, and asked her to get a divorce, as I could not afford it. I intended to give myself up, but the people next door phoned the C.M.P.'s and they came and picked me up. I then went to hospital, again, and am still on treatment for syphilis.

Plea in mitigation of sentence by Defending Officer and a copy of letter attached hereto.

Plea of Mitigation Made on Behalf of 6 Mar.43

B-76356 Pte. Thomson D.N. By Capt. A.F.

MacPherson, Defending Officer.

1. Pte Thomson arrived in England 17 Dec 39 with the Toronto Scottish Regiment. He met and became engaged to his future wife shortly after his arrival and was married with permission 16 Feb 40. He was the first Canadian soldier to marry in England.

2. Thomson enjoyed a happy married life until June 42 when he began to suspect unfaithfulness on the part of his wife. He spent his priviledge leave with her in Sept. 42 and became aware that she was undergoing medical treatment, but was unaware of the nature of the treatment.

3. In Oct. 42 he was medically examined and was found to be suffering from V.D.S. which he clames could only have been contracted through his wife. He proceeded to hospital where he did not respond to the new quick treatment.

4. He endeavoured to have his wife's allowance and assigned pay stopped but did not gain any satisfactory answer as to how this could be effected. He also made enquiries as to how he might obtain a divorce but was told that this would require a considerable outlay of money. He has no means.

5. Five days after his discharge from hospital he went A.W.L. for the alleged purpose of thereby causing his wife's allowance to be stopped.

6. I would draw to the attention of the Court the mental state of this soldier at the time of his release from hospital and of his absenting himself, arising from the foregoing circumstances and would ask the Court to take these circumstances under consideration when passing sentence.

7. May the soldier's good record until recently be also taken into consideration.

8. Pte. Thomson has been under close arrest sixty-five (65) days and under stoppage of pay for this period.

9. I would also request the court to recommend to the convening Officer that the matter of stoppage of his wife's allowance and assigned pay be given immediate consideration and action be taken to implement these stoppages.

10. Extracts from a letter from Thomson's wife is attached.

.....Capt.
(A.F.MacPherson)
#4 C.I.R.U. Defending Officer

SUMMARY OF EVIDENCE.

SUMMARY OF EVIDENCE in the case of B-76356 PTE.THOMSON,D.N. "TOR.SCOT. R.", on strength of 4 Cdn.Inf. Reinf. Unit; a soldier of the Canadian Army, overseas.

BY DIRECTION OF THE OFFICER COMMANDING:THIS SUMMARY OF EVIDENCE IS NOT TAKEN ON OATH.

First Witness for the Prosecution. A-34085 A/CPL.WYNGEART,F.G.,Tor. Scot. R., on strength of 4 Cdn. Inf. Reinf. Unit,a soldier of the Canadian Army overseas,
STATES:-
" At Ewesnott,Hants, on 15th Nov.42,I was acting Company Sgt. orderly Sgt. of Admin.Wing,1 Cdn.M.G.Reinf. Unit.As such I have knowledge that the accussed,B-76356 Pte. Thomson,D.N. was in possession of a 48 hour pass,which expired at 1600 hours,15th Nov. 42. The accussed was reported to me as absent at tattoo roll call,15th,Nov.42.So I checked his quarters and he was not there.I called every roll call after 15 Nov.42. and Pte. Thomson did not answer his name on any of these,nor did I see him again until the morning of 4 March 43 at Company office,Admin.Wing,4 Cdn. Inf.Reinf. Unit.

F.G.Wyngaert C/S
.....
(A-34085 CRL.Wyngaert F.G.)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

Second Witness for the Prosecution L/CPL CRIDDLE,C.,Corps of Military Police,STOKE-ON-Trent, A written statement of this witness EVIDENCE,purported to be signed by him has been read over to the accused and is included in this SUMMARY of Evidence marked EXHIBIT "A". Having regard to the exigencies of the service,the attendance of this witness cannot,in my opinion be readily procured.

H.W.Long
.....
(H.W. LONG)Capt.,

THE ACCUSED DOES NOTDEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS/EXAMINATION.

Third Witness for the Prosecution. L/CPL. KING,N.,Corps of Military Police,STOKE-)N-TRENT, A written statement of this witness's evidence,purported to be signed by him has been read over to the accused and is included in this SUMMARY of evidence,at the foot of EXHIBIT "A". Having regard to the exigencies of the service the attendance of this witness cannot,in my opinion,be readily procured.

H.W.Long
.....
(H.W.LONG)Capt.,

THE ACCUSED DOES NOT DEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS-EXAMINATION.

Fourth Witness For the Prosecution. LT. GERMEN,T.F.,6 Prov. Coy,Cdn. Provost Corps,LONDON. COST of APPREHENSION totalling ONE POUND,NINETEEN SHILLINGS and SIX-PENCE(£1.19.6) is submitted,purported to be signed by this witness,is attached marked EXHIBIT "B". Having regard to the exigencies of the service the attendance of this witness cannot,in my opinion,be readily procured.

H.W.Long
.....
(H.W.LONG)Capt.,

SUMMARY OF EVIDENCE

Fourth Witness for the Prosecution (continued)

THE ACCUSED DOES NOT DEMAND THE ATTENDANCE OF THIS WITNESS FOR CROSS-EXAMINATION.

CERTIFICATE OF APPREHENSION IN ACCORDANCE WITH A.A.SEC. 163 (1),(JJ) IS ATTACHED, MARKED EXHIBIT "C".

H.W.Long
(H.W.LONG) Capt.,

The Accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath?
You are not obliged to say, anything or to give evidence unless you wish to do so, but whatever you say orany evidence you give will be taken down in writing and may be given in evidence.

THE ACCUSED DECLINES TO MAKE A STATEMENT OR TO GIVE EVIDENCE ON OATH.

I Certify, that the foregoing SUMMARY of Evidence, consisting of 2 pages was taken down by me in the presence and hearing of the accused and that Rules of Proceedure. 4(c) (d) (e) (f) &(g) have been complied with.

H.W.Long
(H.W.LONG) Capt.,

ALDERSHOT, Hants,
5 March, 1943.

Extracts from a

Letter written to [redacted] 6356 Pte Thomson D.N. by his wife Jean Thomson.

Saturday Jan 3/42

My Dearest Dave,

I seem to want to say so much and yet I don't know what to say and we really couldn't say much this afternoon with others there, that's why I'm writing this, you know what I said this afternoon dear, that I couldn't ask you to forgive me and I couldn't ask you to forget about all that has happened I know that's impossible, but is it impossible for you to give me another chance. I know I don't deserve it, Dave but I swear that you will never regret it if you do.

Oh David why did I do it why. I wouldn't blame you if you hated me, but I know you don't I know that you love me I know that you have loved me all along.

I'm tellin g you the truth Dave when I say I hate Smart, I never xxxx want to even think of him again, oh what a fool I've been dear. I've not been with anyone else since and don't intend to. I've been to dances with Jane and I've danced with some of the boys but that's been all. Jane and I have always come home ourselves.

(Jean)

Signed .....

Note that the date Jan 3/42 is an obvious error and should read Jan 3/43.

EXHIBIT C

...TIFICATE in accordance with the Army Act, Section 163 (1) (JJ).

I, ...certify that No. 6/10 3770 Rank: Pte.
Name: Thomson D. Unit: Toronto Scottish Regt.
was arrested at: Perth at 1400 hrs. on 1 Jan 43.
and at the time of his arrest he was wearing military uniform.

Signature of Provost Marshall, A.P.M., other officer into whose custody the above-named person was taken on arrest.) Lieutenant

Stoke-on-Trent.
2 Jan/43.

Exhibit "B" Affidavit Capt

Expense Voucher Re—: Ref: W.R. & O. (Can) 539

Reg. No. B7256 Rank Pte. Name Thomson, W. Unit 1 M.P.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Stoke-on-Trent

Date	Particulars	Amount		
6 Jan 43	Escorts return fare from LONDON To Stoke-on-Trent	1	2	4
	Prisoners single fare to LONDON From Stoke-on-Trent		11	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		6	0
	Total £	1	19	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

..... Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

LIST OF EXHIBITS

EXHIBIT "A" - A.F.B. 252 - Original Charge Sheet.

EXHIBIT "B" - C.M.H.Q. 1000:55 - Expense Voucher

EXHIBIT "C" - Certificate in accordance with the A.A. Sec. 163(1)(jj)

LIST OF WITNESSES

FOR THE PROSECUTION:

First Witness :	A 74085 A/Cpl. Wyngeart, F.G.	- 4 C.I.R.U.
Second Witness :	L/Cpl. Criddle, C. - C.M.P.	- Stoke-on-Trent
Third Witness :	L/Cpl. King, N. - C.M.P.	- Stoke-on-Trent
Fourth Witness:	Lieut. Germen, T.F. - 6 Cdn. Prov. Coy., London	

FOR THE DEFENSE: N I L

#1 CANADIAN (MG) REINFORCEMENT UNIT, C.A.O.

5 March 194.3

I, No. B 76356 Pte (Rank) Thomson, D.N. (Name), wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Maj. Merriam C.A.O.C. if he is available.

(Sgd) Pte. D.N. Thomson

OLD SHEET DESTROYED 26/11/41

No. B76356 Name Thomson, D.N. Sqn., Battery, or Company Corps T.S.R.(MG) Date of enlistment 24 Nov 39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Chipstead	19/10/40	Pte		AWL (13 hrs.) A.A.Sec.15(1)	L/C.Keefer	14 days C.B. 1 days pay	21/10/40	Major Johnson	
Bordon, Hants.	4/5/41	"		AWL (15 days 21 hrs. 30 Mins. A.A.Sec.15(1)		Forf.16 days pay.Fined 5 days pay			
Bordon, Hants.	7/8/41	"		AWL Total absence 7 days 15 hrs 55 mins. A.A.Sec.15(1)	Cpl.Maloney Cpl.Harris	14 days det'n.	8/8/41	Lt.-Col. C.W.Devey	
Bordon, Hants.	1/12/41	"		Charge:A.A.Sec.29: Guilty (False Evidence)	Documentary	9 mos. det'n.	9/12/41	Commandant CRU.FGCM	Forf.pay FR&I(1/10/40) 274 days FR&I(4/11/40) 8 days Total 282 days

(P.T.O.)

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						RELEASED from the DETENTION BARRACK Headley Down on 16/6/42. SENTENCE HAVING EXPIRED, Remission earned under "Rules for Detention" "Barracks and Military Prisons" 62 days. COMMANDANTS Initials			
Ewsnat	27/9/42	Pte.		A.A.Sec.15(1)AWL from 2200 hrs 27/9/42 to 1800 hrs 16/10/42 (16 days 20 hrs.)	Sgt.Holmes Cpl.Vallint	28 days F.F. 28 days pay	16/10/42	Lt.-Col. JH.Christie	FOFF.19 days FR.1 149(1)(a)

CERTIFIED TRUE COPY

Captain Adjutant
4 Con Tng Bn

M.F.B. 355
40/F & B/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 76356	Private	Thomson, D.N.	(TSR) 4 C.I.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Squadron Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec. 15(1)	1 times	FOUR times
For	times	times
For	times	times
For	times	times

[illegible]

2. [illegible]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for [illegible] days in civil custody, and 65 days in military custody, making a total of 65 days in custody, of which 56 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 years

6. The date of his birth specified in his attestation paper is 24 November 1939

7. [illegible]

8. [illegible]

9. [illegible]

10. [illegible]

11. ~~If the case of an officer~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force

~~in the~~ ~~dated~~ ~~, and in his present (or last) rank~~ ~~dated~~

12. The accused has served as a non-commissioned officer continuously without reduction, as the present rate:—

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

~~In the rank of~~ ~~years.~~

Date of promotion.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number R76350 Rank Private

Name Thomson, D.N. of (Tor Scot Regt) 4 C.I.R.U. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	9 Dec. 41 Bordon, Hants.	A.A. Sec. 29	9 months det'nt.	82 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Dec 1941 [illegible] Captain Adjutant, 4 Can Inf Unit.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ~~signed by the president, and annexed to the proceedings.~~

[illegible]

169 E. Ile Thomson D. 97

O. H. M. S.

M. F. B. 270

B-76356 Pte. Thomson, D.N.
Cdn Training School.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 4th day of December, 1941.

Order convening the Court

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*[illegible]—

*(1. [illegible])

*(2. [illegible])

*(3. [illegible] service)

[illegible]

PROCEEDINGS REVIEWED.

23/1/42

Re re trial of [illegible]

President.

Rank.	Name.	Regiment.
Major	W.J. Stewart	No.1 Cdn A.S.C. Reinf Unit

Members.

Rank.	Name.	Regiment.
Captain	A.C. Evans	No.2 Cdn Div Inf Reinf Unit
Lieutenant	F.F. Strathy	No.1 Cdn Gen Hldg Unit
Lieutenant	V. Wilson-Smith	No.2 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed D.V. McLean Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-76356 PTE. THOMSON, D.N. Cdn Training School	First Charge A.A. sec 29	Not Guilty	Guilty.	
	See charge sheet attached.		To undergo detention for a period of nine months.	Confirmed W.H. Nelson Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.H. Nelson Brigadier (Signed) W.J. Stewart Major

Commanding Cdn Reinforcement Units, 1 C.A.S.C. R.U. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of December 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~ Shorthand writer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 9th day of December 1941.

W.J. Stewart Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 15th day of December 1941.

W.H. Nelson Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of B76356 - PTE. THOMSON, D.N.

(*a*) (Dated) DEC 18 1941 (Signed) Dan Dunn Lt.-Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41752) Wt. 40113—893 200 M 1/40 P. St. G. 6/40

CHARGE SHEET

The accused, B.76356 - Pte. Thomson, D.N., Toronto Scottish Regiment (M.G.), posted to the Canadian Training School, a soldier of the Canadian Army (Overseas) is charged with, when on active service

First Charge
A. A. Sec. 29

Wilfully giving false evidence when examined on oath before an officer authorized by the Army Act to administer an oath

in that he

at Bordon, Hants. on or about 25 Nov. 41 before Capt. E.C. Peckham, who was taking a summary of evidence and had placed the accused under oath, stated that Private Hoskins was in his, the witness's, company in Pte. Hoskins' barrack room at Havannah Barracks about 2200 hours on the night of 19 Nov. 41, well knowing such statement to be false.

(C.W. Devey) Lt-Col., L.S.H. (RC),
Commandant, Canadian Training School.

Bordon, Hants.
3 December, 1941.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 4th day of Dec 41.

PTE. THOMSON, D.N.

Toronto Scottish Regiment (M.G.), posted to the Canadian Training School, tried by Field General Court Martial at Havannah Barracks, BORDON, Hants, on the 9th December, 1941.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor Lieut. W.A. Dalrymple - Essex Scot. Rgt.
Defending Officer, Lieut. H.G. Boyd - Tor. Scot. Rgt. attd.CTS.

At 1730 hours the trial commences.

The order convening the Court is read, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1. No sir.

The President, members are duly sworn.

Q2. Do you object to No. D-92722, Cpl. V. Petrelli, C.M.S.C. acting as shorthand writer?
A2. No sir.

The shorthand writer is duly sworn.

The accused is arraigned upon the charge in the above mentioned charge sheet.

Q3. Are you guilty or not guilty of the charge against you, which you have heard read?
A3. Not guilty.
Q4. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A4. No sir.

1st Witness for Prosecution — Captain, E.C. Peckham, Adjutant, Canadian Training School, having been previously sworn is examined by the Prosecutor.

Q5. You took the Summary of evidence in the case of Pte. Hoskins?
A5. I did, sir.
Q6. Will you tell the Court what happened on that occasion regarding the accused?
A6. I took the summary of evidence in the case of Pte. Hoskins, and the accused, Pte. Thomson appeared before me as a witness at that time, and made a statement, stating:"On 19 Nov 41 at about 2140 hours I returned from leave and turned my pass into the Guard room. I went up to B.H. 39 to get rid of my equipment, said "Hello" to everybody in the room and remember asking Hoskins if he'd cut my hair in the morning. I talked for ten or fifteen minutes and during that time Pte. Hoskins was in bed. I left just before lights out, about 2200 hours when I found two civilian policemen and a C.M.P. L/Cpl. in B.H. 39." Pte. Crain had previously testified that Pte. Hoskins had left the barracks in his car before 2130 hours. On the next day, the accused signed the typed statement he had made. Subsequently, Constable Timmins of the Hampshire Constabulary came to Havannah Barracks. Six or seven men were lined up, among them the accused, Pte. Thomson. R.S.M. Tuck asked the Constable if he could identify

the man who allegedly was with Pte. Hoskins on the night of ~~19th~~ 19th November, 1941 at Whitehill at approximately 2200 hours or words to that effect. Constable Timmins, without hesitation picked Pte. Thomson from the group. I then ordered Pte. Thomson to be placed under arrest for having made a false statement"

Q7. You were President at the Court of Inquiry for Pte. Hoskins?
A7. Yes, sir, I was.
Q8. Did Pte. Thomson give evidence on that occasion?
A8. Yes, sir he did.
Q9. Did you hear the accused answer the question as to the moves of Pte. Hoskins around 2200 hours on the 19th November, 1941, to the Court?
A9. I did.

2nd Witness for Prosecution) John James Timmins, Hamshire Constabulary, having been previously sworn is examined by the Defending Officer.

Q10. You were on duty at Whitehill Chase around 2200 hours on the night of 19th November, 1941?
A10. Correct.
Q11. Will you tell the Court what took place in connection with this case?
A11. At 9.56 o'clock, I was on duty opposite the Prince of Wales Public House. A private motorcar, No. U.W. 2460 driven by a soldier accompanied by another soldier as a passenger pulled up outside the Public House and both soldiers got out of the car and entered the Public House. At 2203 hours, these two soldiers came out of the Public House, got into the car and did not move off. As I was keeping observation, the side lights and rear light of the car were extinguished. I went to the driver and asked him why he had turned his lights off. He said that although they were working a few minutes before, they would not go on now. I tested the lights and engine switch and satisfied myself that there was something wrong with the car. Then with the assistance of two or three other soldiers, I pushed the car off the road into a side turning and I advised the occupants to immobilize it and collect it in the morning. They said they would do this and I left them about 1017 hours and they were still trying to get the car to function.
Q12. Later on the 1st December, 1941, I believe you were asked to come at Havannah Barracks for an identification parade?
A12. Yes sir.
Q13. At that time, did you identify who you said was with Pte. Hoskins on the night of 19th November, 1941.
A13. I picked the man from the identification parade.
Q14. Was the accused the man you picked up at that time.
A14. Yes, that is the man, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q15. Did you speak to the accused at that time?
A15. I spoke to both the occupants in the car. I assisted them to start the engine to function. I switched on my light and was with them for about 20 minutes.
Q16. Had you seen Pte. Thomson, or did you know him previous to that night?
A16. No sir.
Q17. Is is not possible as previously pointed out in another case, that due to the darkness of the night that there might be some doubt as to the identification of the accused on that case, would not that apply to the accused in this case.
A17. I did not say that, sir. I am quite positive as to my identification as I had my light on for over 10 minutes and there cannot be any doubt whatsoever as to the men being there. The only doubt I expressed is that when it was suggested that the two men coming out of the Public House might not have been the same as the men who had got out of the car and gone into the Public House.

3rd Witness for Prosecution) No. B-75500 R.S.M. Tuck, H.E. Toronto Scottish Regt. (M.G. having been previously sworn is examined by the Prosecutor.

Q18. Will you tell the Court in your own words the substance of the statement made by the accused at the Court of Inquiry regarding the case of Pte. Hoskins?

A18. The accused made a statement under oath to the effect that the accused, Pte. Hoskins was in his Barrack room at approximately 2200 hours on 19th November, 1941.

Q19. Were you also present on the afternoon of 19th November, 1941 when an identification parade took place?

A19. I was sir.

Q20. Did constable Timmins identify the person he had said was with Pte. Hoskins at that time?

A20. I was, yes.

Q21. Who did he identify as being that person?

A21. He identified Pte. Thomson, the accused, as being the man with Pte. Hoskins at Whitehill on the night of 19th November, 1941 at approximately 2200 hours.

CROSS-EXAMINED BY THE DEFENCE.

Q22. Did the constable mention the time as approximately 2200 hours?

A22. I believe so, sir.

4th Witness for Prosecution) No. G-17851 Pte. Crain, F.L. Carlt. & York Regt. having been previously sworn is examined by the prosecutor.

Q23. You were on duty at the Havannah Barracks' main gate between 2000 and 2200 hours on the night of 19th November, 1941? A23. Yes Sir.

Q24. Will you tell the Court all you know concerning this case that happened during that time you were on duty?

A24. During that time I was on sentry duty at the main gate, a civilian car came in, stayed in for about 5 minutes and went out again. I recognized the driver on both occasions as Pte. Hoskins.

Q25. Are you sure that you did not see any civilian car leaving the Havannah Barracks between 2145 hours and 2200 hours when you came off duty?

A25. Yes sir, I am sure.

Q26. You are sure of the time?

A26. Yes sir, I am.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q27. You say you recognized Pte. Hoskins when the car drove into barracks.

A27. That is right.

Q28. You did not see the car going out again?

A28. Yes sir, the car drove out again about 5 minutes after it came in.

Q29. On the last occasion leaving barracks you identified Pte. Hoskins?

A29. Yes sir, I did.

Q30. Did you identify anyone else in the car?

A30. No sir.

Q31. You stated in previous evidence that you used your flashlight, is that correct?

A31. Yes sir.

Q32. On which side di you flash your light?

A32. On the driver's side.

The Prosecution is closed.

Q33. Do you apply to give evidence yourself as a witness?

A33. Yes sir.

Q34. Do you intend to call any other witness in your defence?

A34. Yes sir.

Q35. Is he a witness as to character only?

A35. Yes sir.

(R.P. 40 & 41 are here complied with by the Court)

The accused in his defence says: "I got off the London train stabout 7.30 o'clock. In inquiring about the last bus, I was informed it was at about 9 o'clock. I checked my baggage at the bus station and went to the Pub and had a few drinks. I went back to the bus station at 8.45 o'clock and got my baggage. A few minutes later I took the bus to Bordon and I met the Paymaster to whom I talked. At 9.40 o'clock I got to the barrack room, threw my stuff on the bed and talked a few minutes with the boys. I remember talking to Hoskins and asked him if he would cut my hair in the morning. I stayed in the room for

about 5 minutes and left the room. When I came back the civilian police was in taking Pte. Hoskins away.

Upon completion of closing addresses by the Defending Officer and Prosecutor, the Court is closed for consideration of the finding

The Court being re-opened, the accused is again brought before it.

Captain E.C. Peckham, Adjutant, Canadian Training School, being duly sworn, is examined by the Court.

Q36. Have you any evidence to produce as to the character and particulars of service of the accused?
A36. Yes sir.
Q37. I produce AF B296 and copy of MPM 6 for the accused.

The above statement is read, signed by the President, and annexed to the proceedings.
Q38. Is the accused the person named in the statement which you have read?
A38. Yes sir.
Q39. Have you compared the contents of the above statement with the regimental books.
A39. Yes sir.
Q40. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheet a fair and true summary of those entries.
A40. Yes sir.

I might add sir that to my own personal knowledge of the accused for the period he served with the Canadian Training School, that his conduct has been very satisfactory, and you will find by his Conduct sheet that the only charges shown are of minor nature.

The Defence calls R.S.M. Tuck who has been previously sworn in this case to testify as to the character of the accused:

Q41. Will you tell the Court what you know as to the character of the accused.
A41. The accused was employed as a cook in the Sgts' mess. He was an excellent cook and we had no trouble at all with him as far as his conduct was concerned

Q42. Do you wish to address the Court in mitigation pf punishment?
A42. DEFENCE: If the Court find the accused guilty in any degree, I would like to ask for leniency in view of the fact that he has been married in this country, that he is young, his family was bombed out of their home at Stoke on Trent, and also in view of the fact that he conduct has always been good as stated by the two previous witnesses.

The Court is closed for consideration of the sentence.

SUMMARY OF EVIDENCE

in the case of B.76356 Pte. Thomson, D.N., Toronto Scottish Regt. (M.G.), posted to Cdn. Training School, taken before Lieut W.A. Dalrymple at Bordon Camp, Hants.

3 Dec. 1941.

1st Witness

Captain E.C. Peckham, L. & W. Regt., posted to Cdn. Training School, having been duly sworn states:-

"On 25 Nov. 1941 I was taking a summary of evidence in connection with the case against Pte. Hoskins, N.S. The accused appeared before me as a witness, was placed under oath and made the following statement:-

'On 19 Nov. 41 at about 2140 hours I returned from leave and turned my pass into the Guard Room. I went up to B.R. 39 to get rid of my equipment, said, "Hello" to everybody in the room and remember asking Hoskins if he'd cut my hair in the morning.

'I talked for ten or fifteen minutes and during this time Pte. Hoskins was in bed. I left just before lights out, about 2200 hours, and did not return until about 2220 hours when I found two civilian policemen and a C.M.P. L/Cpl in B.R. 39.'

"I recorded this statement, had it typed and on 26 Nov. 41 it was signed by the accused.

"Pte. Crain had previously testified that Pte. Hoskins had left the barracks previous to 2130 hours on 19 Nov. 41. On 1st Dec. 41 Constable Timmins of the Hampshire Constabulary came to Havannah Barracks. Six or seven men were lined up outside the Administrative "ing. Among them Pte. Thomson, R.S.M. Tuck and I took the constable to a spot near the lineup and I heard Mr. Tuck say 'Constable, can you identify any man here as a man who was with Pte. Hoskins at Whitehill on the night of 19 Nov. 41 at approximately 2200 hrs.' or words to that effect.'"

"Constable Timmins without hesitation selected Pte. Thomson from the group. I then ordered Pte. Thomson placed in close arrest for having given me a false statement during the taking of the summary in the case of Pte. Hoskins."

The accused declines to question the witness.

E.C. Peckham

(E.C. Peckham) Captain.

2nd Witness

Timmins, John James, Hampshire Constabulary, having been duly sworn states:-

"At 2156 hours on Wednesday, 19 Nov. 41 I was on duty on the Farnham - Petersfield road at Whitehill opposite the Prince of Wales Public House. A private motor car, No. U.W. 2460, driven by a soldier who had another soldier as a passenger with him pulled up outside the public house and both soldiers got out of the car and entered the public house. At 2203 hrs. these two soldiers came out of the public house, got into the car but did not move off. As I was keeping observation the side lights and rear light of the car were extinguished. I went up to the driver and asked him why he had turned his lights off. He replied: 'I'm sorry they were allright a minute ago but they will not come on now.' I tested the lights and the engine switches but something

2nd Witness (Continued)

"was faulty. With the assistance of two or three soldiers, I pushed the car off the road into a side turning and I advised the occupants of the car to immobilize it and collect it the following morning. They said they would do this. I left them at 2217 hrs. still trying to get the engine and lights to function. I have since identified Pte. Hoskins as being one of the two soldiers who was with the car continuously from 2156 hrs. to 2217 hrs. on Wednesday 19 Nov. 41.

"At approximately 1530 hrs. 1 Dec. 41 I was present at an identification parade held at Havannah Barracks, Bordon, Hants. I identified the accused as being one of the occupants of the car and the companion of Hoskins continuously from 2156 hrs. until 2217 hrs. on Wednesday 19 Nov. 41."

Question by accused: "How many identification parades have you been on?"

Answer "This was my first."

The accused declines to question the witness further.

(J.J. Timmins) Constable.

3rd Witness

B75500 R.S.M. Tuck, H.E., Toronto Scottish Regt., (M.G.), posted to Cdn. Training School, having been duly sworn states:-

"I was present when Pte. Thomson was put on oath by Captain E.C. Peckham, to whom he then made a statement to the effect that Pte. Hoskins was present in his barrack room on the night of the 19 Nov. 41 at approximately 2200 hrs.

"I was also present on the afternoon of 1 Dec. 41 when Constable Timmins identified Pte. Thomson as having been at Whitehill at approximately 2200 hrs. 19 Nov. 41 Pte. Thomson was paraded with a number of other soldiers for the identification parade."

The accused declines to question the witness.

H.E. Tuck RSM

4th Witness

G.17851 Pte. Crain, F.L., Carlt. & York Regt., attached to Cdn. Training School, having been duly sworn states:-

"On the night of the 19 Nov. 41 I was on duty at the main gate of Havannah Barracks between 2100 and 2130 hrs. and a civilian car came in and I recognized the driver, whom I now know as Pte. Hoskins. He was in the barracks about five minutes and then went out again."

Question by accused: "What was the exact time that the civilian car came through the barrack gate?"

Answer "I am not sure."

Question by accused: "How many were in the car when it went out through the barrack gate?"

Answer "There were two people in the car."

The accused declines to question the witness further.

F.L. Crain

(F.L. Crain) Pte.

The accused declines to make a statement.

I certify that R.P. 4 (c) and (d) have been complied with and that the accused was warned in accordance with R.P. 4 (e) before being asked if he wished to make a statement. Taken down by me at Havannah Barracks, Bordon Camp, Hants. this 2nd day of December, 1941 and in the presence of the accused.

Lieut.

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that No. B.76356 - Pte. Thomson, D.N.,
Toronto Scottish Regiment is ..... to undergo

trial by Court Martial.

Bordon, Hants,
9 December, 1941.

(G.Long)Capt., RCAMC,
M.O., Cdn. Trng. School.

No. B.7635[illegible] Name Thomson, D.N. [illegible] or Company C Corps Tor. Scots. (MG) C.A.S.F. Date of enlistment 26-11-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tournay	25-3-40	Pte	-	A.W.L. A.A. Sec 15(1)	Sgt. Clarke, C.H.	Admonished 1 days pay	26-3-40	E.G.Johnson Capt.	
Brock Farm	25-7-40	Pte.	-	P.C.O. & M.D. A.A. Sec. 40	L/C. Noah Pte Heath Pte. Evans	Admonished	25-7-40	E.G.Johnson Capt.	
Chipstead	19-10-40	Pte	-	A.W.L. (13 hrs) A.A. Sec. 15(1)	L/C Keefer	14 days C.B. 1 days pay	21-10-40	Johnson Major	
Bordon Hants	4-5-41	Pte.		A.W.L. (15 days 21 hrs 30 mins) A.A. Sec.15(1)		Forfeits 16 days pay fined 5 days pay			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Hants	7-8-41	Pte.	-	A.W.L. Total Absence 7 days 15 hrs 55 mins A.A. Sec. 15	Cpl. Maloney,A. Cpl. Harris,F.H.	14 days Detn.	8-8-41	Lt. Col. C.W.Devey	

CERTIFIED A TRUE COPY

E C Peckham

CAPT. & ADJUTANT
CANADIAN
TRAINING SCHOOL

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B.76356 - Pte. Thomson, D.N. of the Toronto Scottish Regt. (MG) posted to the Canadian Training School.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R. 1935.

	*Within last 12 months.		*Since Enlistment.	
For Absence without leave	2	times	4	times.
For Conduct to the prejudice of good order & military discipline	0 Nil	times	1	times.
For		times		times.
For		times		times.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct.

NIL

M.

[redacted]

2. The accused has not been previously convicted.

M.

[redacted]

W1 42618.664 50,000 2/40 W. S. Ltd. 51—6004

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~3rd~~ 9th day of Dec. 41

E. C. Peckham

CAPT. & ADJUTANT
CANADIAN
TRAINING SCHOOL

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence of [illegible]
dating on the day of

4. The accused has been in confinement, awaiting trial on the present charges

for no days in Civil Custody,

and 8 days in Military Custody.

Total 8 days.

Of which no days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years 10 months

6. The date of his attestation specified in his attestation paper is 24 Nov.1939.

7. [illegible]

8. The accused is entitled to deferred pay or gratuity in respect of two years' service.

9. The accused is entitled [illegible]

10. The accused is in possession of, or entitled to, no military decoration or military reward [illegible]

11. [illegible]

12. [illegible]

13. [illegible]

[illegible]

[illegible]

[illegible]

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

of the

Army Number, Rank and Name

Note.—*A verbatim extract from the regimental books, stating date convictions and dispensations with trial, must be inserted*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted.

(Continued overleaf.)

VV 126 (case #2)
PTE THOMSON G.L.
See EE 50 for 1st case

(211) W-126

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-47716 Private George Leonard THOMSON, Westmr Regt - 1 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 61 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 120 days

(Sgd) ..... 24 Nov. 43 (Sgd) ..... President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 25 Nov 43 (Sgd) J. Stewart Lough

Commanding COMMANDING "G" Gp Con. Regt Units

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K-47716 Pte THOMSON G.L.	26 Nov 43.	H. Sharp Col. (H. Sharp) Commander 1 Cdn Inf Reinf Unit

Promulgated in 1 CIRU Part II Order No.235 dated 27 Nov 43.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFAA46 (In lieu of AFA3) 40/P.A.C./1608 (2004)

Convened by Order of Brig J.R. Stewart Lough DSO, MC, VD. Comd "G" Gp CRU dated 22 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-47716	Pte.	George Leonard	THOMSON	Westmr R. 1 CIRU

PROCEEDINGS OF TRIAL.

Held in the field in (country) England on (date(s)) 24 Nov. 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	F.D. Smeaton	Can's Regt
Member	Capt.	A.H.R. Howell	5 CIRU.
Member	Lieut	W.G. McLean	5 CIRU.
Judge-Advocate			
Prosecutor	Lieut	J. Cambridge	1 CIRU
Defending Offr	Lieut	C. Greenhalgh	1 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment makes(s) (no) ~~(a)~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in MS rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is cleared and)~~ considers the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form B 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding[s] of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 76(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

KL 7716 Pte Thompson G. L.

1 C I R U

Remarks	Date
Trial in (Country) Eng.	24 Nov
Charges See 15(.)	
Sentence 120 days detn	24 Nov 43
Rec'd from CR at JAG Branch	7 Dec
To Rev 3 for (~~pre~~)(post) rev	7 Dec
Recommendations by Blt	
(1) Pass and record.	
(2) ~~Ltr on irregularities.~~	
(3) ~~Quash~~ charge(s).	
(4)	
Ret'd to JAG Rev 1 by Lt. [illegible]	7 Dec
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record & file Sharp	
	7 Dec 43
Instrs completed by	

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-47716	Pte.		George Leonard	THOMSON	Westmr R 1 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 22 Nov 43 endorsed by me, [illegible] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT-COLONEL	F.D. TWEEDIE	CARLT & YORK

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	To be detailed by O.C.	5 C.I.R.U.
A Lieut.	To be detailed by O.C.	5 C.I.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 (n-2).)

Date 22 Nov 43

Brigadier
(Rank.)
(J.R. Stewart Lough)
Commanding HQ "G" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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CHARGE SHEET

The accused, No. K-47716 Private George Leonard THOMSON of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
SEC 15 (1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at No. 1 Canadian Infantry Reinforcement Unit on the 10th day of September 1943, after being warned for draft, absented himself without leave from 0800 hours on the 10th day of September 1943 until surrendering himself at No. 1 Canadian Infantry Reinforcement Unit at 0700 hours on the 22nd day of September 1943.

Total Absence: 11 days 23 hours.

H. Sharp Colonel
(H. Sharp) Commander,
1 Cdn. Inf. Reinf. Unit.

Barrosa Barracks,
Aldershot, Hants.

22nd day of November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J.R. Stewart Lough
(J.R. Stewart Lough) Brigadier,
Commander "G" Group,
CANADIAN REINFORCEMENT UNITS.
Convening Officer.

22 Nov 43

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Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. Y-47716 Pte.
Thomson, G.L. and in my opinion he is fit to undergo
trial by Court Martial.

Station 1 C.I.R.U.

Date 24 November, 1943.

(Medical Officer)

SUMMARY OF EVIDENCE

In the case of K-47716 Pte. Thomson, G.L., Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

K-52080 Cpl. Ball, G.A., of the Seaforth Highlanders of Canada, "C" Company Orderly Sergeant, No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows:-
At Albuhera Barracks at 0800 hours on the 10th of September 1943, the accused, whom I now recognize was reported by C.S.M. James to be A.W.L. from Company parade. I immediately checked to see if the accused was in billets but I could not find him. He did not appear on any subsequent Company parade until he reported to me at 0700 hours on the 22nd day of September 1943. When he reported to me, he was correctly dressed, clean shaven and sober.

The accused declines to cross-examine the witness.

G. A. Ball
K52080 Cpl. Ball, G.A.

SECOND WITNESS for the PROSECUTION

K-57134 Sgt. Smith, J.A.B., 1 C. Scot. R., in charge of "E" Company draft for scheme "Airedale", of No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows:-
At Albuhera Barracks at 1530 hours on the 24th August 1943, Lt. McLelland warned the draft that they were going on exercise "Airedale" and that they would be paraded at a time to be specified prior to departure, and that absence from the latter parade would lay them open to a charge of desertion. I was witness to this warning being read to the draft and the accused, whom I now recognize, was present and was warned. I submit a nominal roll (Exhibit "A") duly initialled by me for purposes of identification which was called at this parade and to which the accused answered when his name was called.

Cross-examined by the accused.
Question 1. Are you in "C" Company?
Answer 1. No, I am in "E" Company.

Question 2. Could you recognize me by sight as being on the parade you mention?
Answer 2. Yes, I would recognize you as being on that parade.

Question 3. Was I present at the time of my transfer to "C" Company?
Answer 3. All I know is that you were present on the "Airedale" draft parade which was warned as I mentioned.

Exh A
J.A.B.

Jas Smith Sgt
K57134 Sgt. Smith, J.A.B.

SUMMARY OF EVIDENCE

In the case of K-47716 Pte. Thomson, G.L., Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

THIRD WITNESS for the PROSECUTION

Lt. V.S. Allan, P.P.C.L.I., on the strength of No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows:-
I was in charge of #6 Platoon of the draft "Airedale" of which, Pte. Thomson was a member. Prior to date of departure of draft "Airedale", all men were warned that anyone absent from this parade would be charged with desertion. Pte. Thomson was absent from my platoon at the time of this parade and had to be replaced by another man. He was not present when the draft left.

The accused declines to cross-examine this witness.

V.S. Allan Lieut
(V.S. Allan) Lt.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

C.B. Irwin Capt.
(C.B. Irwin)
Officer detailed to take the Summary of Evidence.

Albuhera Barracks,
Aldershot, Hants.

23rd day of September 1943.

Arthur S. Pettapiece Major

181.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Normandy Barracks, Aldershot, HANTS, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, HANTS,
this 22 day of
Nov 1943

J.S. Thomson

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut Greenough
if he is available.

J.S.T.

NOMINAL ROLL Ex "A"

Drivers i/c (W)

K-47716 Pte Thomson G.L.

The a/m personnel were paraded at 1 C.I.R.U. at 1630 hrs 24 Aug 43 and warned that they would proceed on draft to "Exercise Airedale" and that they would again be paraded prior to departure at a specified time and that absence from that parade would lay them open to a charge of desertion. The warning was given by Lieut. H.A. McLelland, 1 C. Scot. R. and witnessed by Sgt. J.A.B. Smith, K-57413, 1 C. Scot. R.

(Sgd) H.A. McLelland Lieut.

(Sgd) J.A.B. Smith Sgt.

CERTIFIED TRUE EXTRACT:

(W.W. Turner) Capt.
Adjutant,
1 Can. Inf. Reinf. Unit.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-47716	Private	George Leonard THOMPSON,	Westmr R.,1 C.I.RU

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 15(1)	1 times	AA Sec 15(1)	7 times
For	AA Sec 40	2 times	AA Sec 40	5 times
For		times	AA Sec 10(4)	2 times
For		times		times

Number of instances of gallantry or distinguished conduct mentioned in dispatches ~~or~~ NIL

~~2. There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 57 days in ~~Air Force~~ military custody, making a total of 57 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to ~~his record of service is~~ attestation paper is 25 Years

6. The date of ~~his commission specified in his record of service is~~ attestation ~~attestation paper~~ 6 July 1940

7. The service which the accused is allowed to reckon towards discharge is 3 Years 34 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~no air force~~ decoration, ~~or air force~~ reward ~~(or is in possession of or entitled to). State any air force decoration or reward~~ military military military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

2 B
1 DT.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K47716 Rank Private Unit

Name THOMSON G.L. of Westmr R., #1 C.I.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	6 May 1943 Field	AA Sec 15(1)	120 days Detention	Remission 30 Days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 Nov 43 day of 1943 H.F. Atkinson Capt. (H.F. Atkinson)

The above statement (with the schedule of convictions and in cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F. B.122)
40/P.& P./6136 (2965)

No. K47716 Name THOMSON G.L. | Sqn., Battery, or Company | Corps Can Inf Corps | Date of enlistment 6-7-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra line | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order (Appeals with trial	By whom awarded	Remarks
				Original Sheet destroyed 7 Jan 41.					
Vancouver Bks.	18-3-41	Pte.		AA Sec 15(1) AWL from 2300 hrs 18-3-41 till 0810 hrs 19-3-41	CSM Hogg, W	7 days C.B.	20-3-41	Major G.R. Burrows	1 days pay FR&I 149 1(a)
Vancouver Bks	31-3-41	Pte		AA Sec 15(1) AWL from 2200 hrs 31-3-41 till 0630 hrs 1-4-41	Sgt Johnson, T.O.	7 days C.B.	1-4-41	Major G.R Burrows	1 days pay FR&I 149 1(a)
Vancouver Bks	1-4-41	Pte		AA Sec 10(4) Breaking out of Bks AA Sec 15(2) AWL from 1800 hrs 1-4-41 till 0845 hrs 4-4-41 AA Sec 40 Conduct to the Prej.etc.	Sgt Greenhough Cpl Foster.	14 days Detention	4-4-41	Capt. G.C Corbould	3 days pay FR&I 149 1(a)
Vancouver Bks	1-5-41	Pte		AA Sec 15(1) AWL from 2300 hrs 1-5-41 till 0025 hrs 2-5-41	Cpl Hartley	Fined 2 days Pay	2-5-41	Major G.R. Burrows	
Field	16-3-42	Pte		AA Sec 15(1) AWL from 1330 hrs 16-3-42 till 1340 hrs 16-3-42	Sgt Johnson	3 days C.B.	16-3-42	Major G.C. Corbould	
Field	27-3-42	Pte		AA Sec 40 Conduct to the Prej. etc.	Cpl. Quinn E.	96 hrs Detn. 4 days pay	28-3-42	Major W.T Ibbott.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-5-42	Pte		AA Sec 15(1) AWL from 1800 hrs 20-5-42 till 1800 hrs 21-5-42	Sgt Greenhough	7 days C.B. Fined 4 days Pay	22-5-42	Lt.Col J.E Sager,	1 days pay FR&I 149 1(a)
Field	2-7-42	Pte		AA Sec 10(4) Breaking out of Bks	Pte Smith, G.M.	Fined 5 days Pay	3-7-42	Major W.T. Ibbott	
Field	28-8-42	Pte		AA Sec 40 Conduct to the Prej. etc.	CSM Hogg Cpl. Peel	Fined 2 days Pay.	26-8-42	Lt. Col J. Sager,	
Field	5-1-43	Pte		AA Sec 40 Neglect to the Prej.	Lt A Walter	5 days C.B.	6-1-43	Capt R.F Grinsted	
Field	19-3-43	Pte		AA Sec 15(1) AWL 41 days 11 hrs	Documentary	120 days Detn Forf 6 days pay	6-5-43	F.G.C.M.	total forf-96 days pay. Remitted 30 days awaiting trial.
Field	22-8-43	Pte		AA Sec 40 Conduct to the prej. etc. - Failed to report for fatigues	CSM North	3 days C.B.	24-8-43	Capt W.G. Roxburgh	

No. K47716 Name THOMSON G.L. Sqn., Battery, or Company: Corps Cdn Inf Corps Date of enlistment: 6-7-40 G.C. Badges: Service or Proficiency Pay: M.F.M. 6 (A.F.B. 122) 40/P.S./8138 (2905)

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 1 Signature O.C. Company, etc.: Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3-9 43	Pte		AA Sec 15(1) AWL from 0800 hrs 3 Sep 43 to 1000 hrs 3 Sep 43	CSM James.	5 days C.B.	3 Sep 43	Major W.B McQueen	

Certified True Copy Consisting of TWO pages
Dated.....
H.F. Atkinson Capt.
(H.F. Atkinson)
Officer having custody of original documents.

(P.T.O.)

On the 6th of July 1940 P/O
Thomson volunteered for Active
service and was posted to
the Westminster Regt. He
remained with the Regt, coming
overseas with their advance party
in Nov 1941, until 'Spartan'
when he
and as a result was posted to
No 1 C.I.R.U

While stationed in Aldershot
early in 1942 he met & became very
friendly with Mrs Violet Stahl
whose husband was reported
missing from 8th Army.

Early in 1943 the husband
was reported as presumed killed
in action & Mrs Stahl & Thomson
decided to get married, Thomson
having obtained permission & leave
from his C.O.

DOT.

Just previous to this Mrs Stahl had informed Thomson that she was about to become a mother and that he was the father of her child. Due to unforseen circumstances the child was prematurely born and Thomson arrived on leave to find Mrs Stahl in hospital and had to return off leave without being married.

Shortly after this Mrs Stahl received a report that her husband was alive. She applied for a divorce which her husband did not contest and she was, at the time of P/O Thomson's absence, waiting for the divorce decree to come through. Her husbands assignment of pay was stopped and P/O Thomson signed over

an allowance to her
The reason of Lt Thomsons
absence being that he did
not want to get posted until
he had married Miss Stahl
and given his name to his son &
secondly he wanted to be
posted back to his own regt
that he had been with since
July 1940.

P.S.T.

EE-50

PTE THOMSON G.L.

K-47716 Pte. George Leonard THOMSON
Westminster Regt. - 1 C.I.R.U.

EE-50

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 5th day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, C.A.(O)., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior military officer]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint —
*(1. Three Officers to form the Court)
*(2. A Field Officer as President)
to the following person(s) namely:—]

for A.E. Ingalls

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lieut.-Col.	D.L. REDMAN, V.D.	H.q. C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain from		1 C.A.S.C.R.U.
A Lieut. from		1 C.S.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.C. Lewis Maj.-Gen.
Commanding Canadian Reinforcement Units,
Convening Officer. C.A.(O).

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-47716 Pte. George Leonard THOMSON Westminster Regt. 1 C.I.R.U.	First Charge A.A. Sec. 15(1) SEE CHARGE SHEET ATTACHED	Guilty	Guilty Sentence To undergo detention for a period of One Hundred and Twenty (120) Days. 6th May 1943 WM	Confirmed, but remit thirty (30) days detention J.H.R.

"I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (before this Court Martial."

WM
(President)

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.H. Roberts — (Signed) WM
Major-General,
Commanding Canadian Reinforcement Units,
Convening Officer (*c*) C.A.(O). — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of May 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

Signed this 6th day of May 1943

WM
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

WM
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

J.H.R.

Signed this 7 day of May 1943.

J.H. Roberts
Confirming Officer.
J. H. ROBERTS, Maj-Gen.,
Comd. Can. Rfr. Units.

Promulgated and extracts taken in the case of K-47716 Pte. Thomson, G.L.
(*a*) (Dated) Promulgated in Part II D.O. 79 dated 18 May 43. (Signed) [illegible] Lt.-Col. for A.A.G., C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.46179/500 50,000 2-43 A.& E.W.Ltd. Gp.498

CHARGE SHEET

The accused, R47716 Private George Leonard [illegible], Westminster Regiment, on the strength of no. 1 Canadian Infantry Reinforcement Unit as a Reinforcement, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
Section 15 (1)
ARMY ACT

When on Active Service, Absenting Himself Without leave

in that he

at No. 1 Canadian Infantry Reinforcement Unit, Albuhera Barracks absented himself without leave from 2200 hours the 19th day of March 1943 until surrendering himself to the Orderly Sergeant of "A" Company, No. 1 Canadian Infantry Reinforcement Unit at 0900 hours 30 April 1943.

Total Absence 41 days 11 hours.

Colonel.
(C. F. Dewey) Commander,
1 Can Inf Reinf Unit.

Albuhera Barracks,
Aldershot, Hants.
1 May 1943.

To be tried by Field General Court Martial

(J.H.Roberts) Major-General,
Commanding,
Canadian Reinforcement Units,
C.A.(O).

5 May 43

Convening Officer.

MEDICAL CERTIFICATE CERTIFICATE

K.R. (CAN) PARA 537

I certify that I have this morning examined

No. K 47716 Pte. Thomson G. T.

Cr. Unit R. T.C.I.R.U. and in my opinion he is

fit

~~unfit~~ to undergo Trial by Court Martial.

Station. Field

Date. 6 - May - 43.

B Murphy Capt.

Medical Officer

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT DELVILLE BARRACKS CAMP HAMS
ON THE 6TH DAY OF MAY 1943

The accused. KH.17.14. PTE. THOMPSON, G.L. Unit. WESTERN R. ONT. REGT

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT. COL. W.A. REDMAN. Unit. W.O.R.C.R.H.

Members CAPT. R.F. PERKINS. Unit. CANADA

MAJ. D.C. CRAIG. Unit. C.O.R.H.

The officers under instruction are duly sworn:-
LIEUT. J. VAN DOORNICK. ICERU
LIEUT. [illegible]. Unit. ICERU

A/CAPT. G.G. PARKER. Unit. ICASF.R.H.

Prosecutor CAPT. A.H. PAYNE. Unit. ICA.R.H.

Defending Officer CAPT. J.M. McARTHUR Unit. ICA.R.H.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read. AFB 296
The Prosecutor produces MFB 355 and MFM 6.
The Court complies with R.P. 46(B). ~~AFB 296~~

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~Makes a statement in mitigation of punishment.~~
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.
R.P.O. 322 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea by Defending Officer

I would just like to point out to the court one thing, that is that as far as the accused record is concerned this is the first serious offence that the accused has been charged with, and I think that should be taken into consideration. The accused is from

N.B.

6 MAY 43

Convening Officer,
Headquarters,
Canadian Reinforcement Unit

Re: F.G.C.M. K47716 PTE. THOMSON, G.L. 1 CIRU

1. You will note from the plea in mitigation that the accused has been a welder in civilian life for over two years. He states that he would like to be transferred so that he can be employed at that trade.

2. He is of reasonably good appearance and outside of the offence for which he was tried today, his conduct sheet is not bad, having regard to the length of time he has been in the Army.

(D.L. REDMAN, V.D.) LT.-COL.
PRESIDENT

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT DELVILLE BARRACKS COOK HOSPITAL
ON THE 1ST DAY OF MAY 1943

The accused. K.14716 PTE. THOMPSON, G.L. Unit. WEST. AR. R. (SIRV)

before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The order convening the Court and charge sheet are laid to the president having been sezed, stated that he had no objection and the accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President.
The Court is duly sworn.
The accused is brought before the Court.

The following constitute the Court:-

President: Lt. Col. A.E. REDMAN ..... Unit. N.Z.A.S.C. .....

Members: Capt. R.E. PERKINS ..... Unit. 1 CCS .....
Lieut. J.C. CRAIG ..... Unit. 1 CCS .....
Lieut. H. VAN ZOMEREN ..... Unit. 1 CCS .....

The officers under instruction are duly sworn:-

Lieut. J.C. PARKER ..... Unit. 1 CCS .....
Lieut. S.H. PLAYLE ..... Unit. 1 CCS .....

Prosecutor: Lieut. M. McARTHUR ..... Unit. 1 CCS .....

Defending Officer: Lieut. S.H. PLAYLE ..... Unit. 1 CCS .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B). AF B294a
The Summary of Evidence is read. MFB 355 and MFX 6.
The prosecutor produces ~~Evidence~~
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~Makes statement in mitigation of punishment.~~
(b) ~~Calls witnesses in mitigation of punishment.~~
(c) Calls witnesses as to character.
(d) Addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND AD
OF ACCUSED OR HIS DEFENDING OFFICER

Pleading Defending Officer

I submit first that to grant me to th
on them, that is that as far as the ac
record is concerned there is the first
offence that the accused has been ch
with, and I think that should
its consideration. The accused

Vancouver, is not married. In civilian life he was a welder. He would like to become a welder again. He was interviewed in Canada about a transfer, but nothing came of it.

N.B.

Convening Officer,
Headquarters,
Canadian Reinforcement Unit

6 May 43

Re: F.C.M. KA7716 PTE THOMSON, G.L. 1 CIRU

1. You will note from the plea in mitigation that the accused has been a welder in civilian life for over two years. He states that he would like to be transferred so that he can be employed at that trade.

2. He is of reasonably good appearance and outside of the offence for which he was tried today, his conduct sheet is not bad, having regard to the length of time he has been in the Army.

(D.L. REDMAN, V.D.) LT. COL.
PRESIDENT

Exhibit A. C.O.M.

RECORD of the Declaration of a Court of Inquiry assembled at 1 C.I.R.U.

on the 13th day of April 19 43

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. K.47716 Pte. Thompson G.L. A. Coy

DECLARATION

The Court declare, That K.47716 Pte. Thompson G.L. did illegally absent himself without permission from 2200 hrs 19 March 1943 and is still so absent; that on the 23rd. March 1943 was deficient articles of kit (listed on Appendix A) amounting to £ 9-6-3 and is still so deficient.

APPENDIX A.

		Vocabulary Price £	s	d.	Appraised Value £	s	d
						2	6
Anklets web prs.	1		3	5½			
Blouses ser S &	2	2	15	4	2	2	0
Trousers serge	2	2	15	10	2	2	0
Badges cap	1			5½			3
Bags kit	1		5	3		4	0
Braces	1		1	3½		1	0
Brasses button	2			2			1½
Brushes boot blacking	1			8			6
Brushes boot polishing	1		2	1		1	7
Brushes button	1			8			6
Brushes shaving	1		1	4		1	0
Brushes tooth	1			4½			3
Caps F.S.	1		3	8		2	6
Greatcoat	1	3	17	2½	2	17	9
Comb	1			2			1
Drawers Woolen	1		5	3		3	11
Dressings is t.Fd.	1		1	1			10
Gloves woolen prs.	1		2	7½		2	0
Holdalls	1			3			2
Razors	1		1	10½		½	6
Vests Woolen	1		5	1		3	10
Shoes canvas prs.	1		3	6		2	8
Drawers coll.prs.	1		2	2½		1	6
Outfits A.D.	1			3			2
Ointment A.G.	2		1	6		1	1½
Eyeshields A.G.	6		1	6		1	1½
Caps A.G.	1		12	3		9	3
	£	12	10	7	£	9	6 3

Names of President and Members:

Captain L.K. Reed C.I.C. President
Lieut. H.A.McClelland C.I.C. Member
Lieut. P.H. Claxton C.I.C. Member

Signature of Commanding Officer C.W. Devoy Colonel.

Certified true copy

Signature of Officer keeping custody of original Capt.
RECORDS OFFICER C. I.R.U.

M.F.P. 23.

SUMMARY OF EVIDENCE

In the case of K47716 Private George Leonard THOMSON of the Westminister Regiment on the strength of No. 1 Canadian Infantry Reinforcement Unit as a Reinforcement for the Canadian Army (Overseas)

By direction of the Commanding Officer this summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

Lieut. C.S. Munro, Calgary Highlanders, on the strength of 1 C.I.R.U. having been duly sworn states:

"I am Lieut. C.S. Munro of the Calgary Highlanders on the strength of No. 1 C.I.R.U. I produce a Declaration of the Court of Inquiry held on K47716 Pte Thomson G.L. whom I recognize as the accused. This Declaration is attached by me and marked Exhibit "A".

C.S. Munro Lieut.
(C.S. Munro)

The accused declines to cross-examine the witness.

SECOND WITNESS for the PROSECUTION

K62297 Sgt Atkins, R.C., Canadian Scottish Regt. on the strength of No. 1 C.I.R.U. having been duly sworn states:

"I am K62297 Sgt Atkins R.C. of the Canadian Scottish Regiment on the strength of No. 1 C.I.R.U. On the 30th day of April 1943 I was Orderly Sgt. for "A" Coy; No. 1 C.I.R.U.; at 0900 hours on that date the accused Pte Thomson G.L. whom I recognize surrendered himself to me at "A" Coy Orderly Room, No. 1 C.I.R.U.

R C Atkins Sgt.
K62297 Sgt Atkins R.C.

The accused declines to cross-examine this witness.

The accused having been duly warned and cautioned in accordance with Rule of Procedure 4 (e) reserves his Defence.

I certify that the foregoing Summary of Evidence consisting of One page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

W Rorke. Capt.
(W. Rorke)
Officer detailed to take the Summary.

Albuhera Barracks,
Aldershot Hants,

3rd day of May 1943

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Albuhera Barracks, Aldershot, Hants. preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, Hants,

3rd day of May 1943. J. L. Thomson

N. A. N. A.

N. A.

3rd day of May 1943.

I hereby request that the Convening Officer appoint as officer to represent me at my trial.

J. L. Thomson

I desire the services of

if he is available.

Old sheet destroyed 7-1-41 Entries - one

No. E47716 Name THOMSOB G.L. Sqn., Battery, or Company — Corps Regt(Motor) — Date of enlistment 6-7-40 — G.C. Badges — Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 152) 17554 7-41 (1216-20) H.Q. 1175-39-1668

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk NIL — Period not reckoning towards freedom from extra fine N/A — Sheet No. 2 — Signature O.C. Company, etc. G.C. Corbould Capt — Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Van. Barracks	16-3-41	Pte		Sec 15(1) A.A. A.W.L. from 2300 hr 16-3-41 till 0810 hr 19-3-41	Sgt C.S.M. M.Ec.W.	7 days C.B.	20-3-41	G.R. Burrows Major	Forfeits 1 days pay (PR&I 149-1a
"	31-3-41	Pte		Sec 15(1) AA AWL from 2200 hr 31-3-41 till 0630 hr 1-4-41	Sgt Johnson T.M.	7 days C.B.	1-4-41	G.R.Burrows Major	Forft 1 day pay PR&I 149-1
"	1-4-41	Pte		Sec 10(4) Breaking out of Bks	Sgt Greenhough	14 days det.	4-4-41	G.C.Corbould Capt	Forfeits 3 dy pay PR&I 149-1-a
				Sec. 15(1) AA AWL from 1800 hr 1-5-41 till 0845 hr 4-5-41	Cpl Foster	R. Forf. 14 days pay			
				Sec 40 AA Conduct to prejudice		A.A. 40-2(d)			
"	1-5-41	Pte		Sec 15-1 AA - AWL from 2300 hr 1-5-41 till 0025 hr 2-5-41	Cpl Hartley	Awarded 2 days pay-PR&I 149-1-b	2-5-41	G.R. Burrows Major	
Field	16-3-42	Pte		Sec 15(1) AA AWL from 1330 hr 16-3-42 till 1360 hr 16-3-42 (OB 830)	Sgt Johnson	3 days C.B.	16-3-42		

FTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	27-3-42	Pte		Sec 40 AA Conduct to the prej.	Cpl Quinn A	96 hr det Forf. 4 days pay FEEI 149-1-(h)	26-3-42	W.T. Abbott Major	
FIELD	20-5-42	Pte		Sec 15(1) AA - A.W.L. from 1800 hr 20-5-42 till 1800 hr 21-5-42 24 hours	Sgt Greenhough Cpl Gibson	2 days pay AA 46-2(d) 7 days C.B.			
FIELD	2-7-42	Pte		Sec 10(4) Breaking out of Barracks	Pte Smith C.N.	Forf. 5 days pay AA 46-2(d) 5 days C.B.	3-7-42	W.T. Abbott Major	
FIELD	25-8-42	Pte		Sec 40 A.A. - conduct to the prejudice	CSM H ee Cpl Peel	Forf. 2 days pay AA 46-2(d)	26-8-42	J. B. Sager. Lt.-Col	
FIELD	5 Jan 43	Pte		Sec 40 AA Neglect to prejudice	Lieut A Walton	5 days C.B.	6 Jan 43	R.F.Cruickshank Capt	

CERTIFIED TRUE COPY

(Officer having custody of original document)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
2477[illegible]6	Private	Thomas, G.L.	Wesleyester Regt., 1 CTRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 25 (2)	2 times	4 times.
For A.A. 40	3 times	4 times.
For A.A. 20 (2)	1 times	2 times.
For	times	times.
For	times	times.

~~*Number of instances of gallantry or distinguished conduct.~~ NIL

or

~~*There are no entries in the conduct sheets of the accused~~ NIL

2. The accused has not been previously convicted, *or*

~~*Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~ NIL

*3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ NIL

~~beginning on the day of~~ NIL

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 46 days in military custody, making a total of 46 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 years 2 months.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 6 July 40.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 0 mths 28 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 28days service.

9. The accused is entitled to reckon 2 yrs 0 mth 28 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to (state any military decoration or reward).~~ NIL

*11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of NIL

12. (*In the case of an officer.*) ~~The~~ accused holds in the army the rank of , dated , ~~and~~ in his regiment (*or* corps *or* department) the rank of dated

(*16568) WT.30246/805 75,000 12/40 A.& E.W. Ltd. Gp.499
(17033) WT.48491/1095 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 647716 Rank Private Name Thomson, G.L. of Wessex Regt 2 CTC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of May 1943

Capt.
RECORDS OFFICER I C. I.R.U.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly).

DDD-13 (Case #4)

PTE THOMSON GL

- See EE-53 for 1st case
" VV-126 " 2nd "
" XX-142 " 3rd "

(156)

K.47716 Pte George Leonard THOMSON
Westminster Regiment - 1 C.I.R.U.

10028-13

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

PROCEEDINGS REVIEWED

1 Mar 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	C.H. of C.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by O.C.,	1 C.I.R.U.
A Lieutenant	to be detailed by O.C.,	1 C.I.R.U.

*Must be signed personally by the Officer actually in Command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed R.Stewart Brigadier

Commanding "G" Group, C.R.U.

Convening Officer.

Arthur S. Pettapiece Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K.47716 Pte George Leonard THOMSON Westminster Regiment 1 C.I.R.U.	First Charge A.A. Sec 12(1)(a)	Guilty as charged except that my absence did not commence until 0800 hrs on 10 Sept 43	Guilty SEE CHARGE SHEET ATTACHED	I confirm the finding of the Court but reserve confirmation of sentence for superior authority I reserve confirmation of the finding + sentence of the Court for superior authority

I do not confirm the above finding and sentence

(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters

*Question to be asked of accused, if he pleads not guilty (R. of P. 29(1)(a)): Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been put at a real disadvantage thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

(*) Answer (to be recorded on separate sheet if necessary).

(Signed) [illegible] (Signed) Arthur A. Cottingham, Major

Brigadier
"G" Group C.R.U.

Commanding Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K.47716 Private George Leonard THOMSON, Westmr R., 1 C.I.R.U.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for eighteen (18) months

(Sgd) ..... Judge-Advocate, if any. 14 Dec 43. Date awarded. (Sgd) F.D. Tweedie Lt Col. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence but remit nine (9) months detention

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 16 Dec 43 (Sgd) J.R. Stewart Lough BRIGADIER Commanding ..... COMMANDING "G" GP. CDN. ROY. UNITS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr
K-47716 Pte. Thomson, G.L. Westmr R - 1 C.I.R.U.	17 Dec 43	K Sharp Col (H. Sharp) Commander, 1 Cdn. Inf. Reinf. Unit.

Promulgated in Part II D.O. 254 dated 20 Dec 43.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

(232) XX-142

CFA96 (In lieu of AF A33) 40-P.S.-1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.R.Stewart Lough, DSO, MC, VD Comd "G" Gp C.R.U. dated 13 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K.47716	Private		George Leonard	THOMSON	Westmr R. 1 C.I.R.U.

Proceedings Reviewed
F.D. Tweedie Lt Col
20 Dec 43
Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 14 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col.	F.D. Tweedie	Cameronians
Member	Capt.	K.B. Harrison	1 C.I.R.U.
Member	Lieut	P.E. Medel-	1 C.I.R.U.
Judge-Advocate			
Prosecutor	Lieut	J.H. Jackson	1 C.I.R.U.
Defending Offr	Lieut	M.P. Finnerty	1 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1) Not
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B2F

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (2)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~.....~~ 707 ~~.....~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s)~~ his (their) plea(s) on ~~.....~~ charge(s). ~~Part I of the Schedule is amended accordingly~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)
707.

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A 2 initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)~~
(*1. RP 37(A) (E).*)
707

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused~~ having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. ~~President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)
707.

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 137(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)
707

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes - address (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 710
(*1. When several accused tried separately see RP 34(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Normon Barracks, Aldershot, Hants, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, Hants,
this 27th day of
September 1943.

.....A.L. Thomson.....

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lt. J.S. Moore
if he is available.

CHARGE SHEET

The Accused, No. K-47716, Private George Leonard THOMSON, of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Albuhera Barracks, No. 1 Canadian Infantry Reinforcement Unit, absented himself without leave, whilst a soldier under sentence, from 1325 hours on the 28th day of November, 1943 until surrendering himself to the Civil Police, at Hornchurch, at approximately 2020 hours on the 8th day of December, 1943.

Total Absence: 10 days, 6 hours, 55 minutes.

J.H. Mothersill Lt.-Col.
(J.H. Mothersill) A/Commander,
1 Cdn Inf Rft Unit.

Barrosa Barracks,
Aldershot, Hants.

10th day of December, 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J.R. Stewart Lough
(J.R. Stewart Lough) Brigadier
Commander "G" Group
CANADIAN REINFORCEMENT UNITS

13 Dec 43.

Convening Officer

JRL

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/PAM/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.47716	Private		George Leonard	THOMSON	Westmr R. 1 C.I.R.U.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has [XXXX]committed the offence(X) set forth in the Charge Sheet(X) attached and on (date) 13 Dec 43 endorsed by me, [XXXXXXXXXXXXXXXXXX], "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(X) should be tried by an ordinary General Court-Martial; ([XXXXXXXXXXXXXXXXX

Plea of mitigation in the case of K4776 Pte Thompson D.L.

Sir:-

When I interviewed Pte Thompson after being detailed as his defending Officer I found much to my surprise that Pte Thompson was absolutely disinterested in any defence. Not being able to get any information from the accused I set out to gather the information I needed from his Coy Commander, Battalion Commander and the P.S.O.

In collaboration with them, and taking into consideration the best interests of this man and of the army I wish to put forward these considerations for the court.

① That since the P.S.O. have now representatives in each detention camp a note to the effect that he be considered for discharge by them.

② In the opinion of his C.O. Pte Thompson D.L. will never be of any value to the army and therefore in the interests of the army some other employment should be found for him.

③ His record shows him to be an habitual army criminal.

④ This man will never be reclaimed from his habitual ways in the army and in his interests should be given a chance to do it in some other employment.

In view of these facts I ask the court that Pte Thompson be given the minimum sentence and that a note be attached to the effect that the P.S.O. take this man's case into consideration

[signature]
Lieut. Calgary Highrs.
A/ Capt. & A.P.M.

181.

Medical Officers certificate
K.R. can. Para 557

I certify that I have this morning examined No. K-47716 Private.....

George Leonard THOMSON.....and in my opinion he is ~~Fit~~ unfit to undergo trial by court martial.

Station..1 C.I.R.U.....

Date.....14 Dec 43.....

.....
(Medical Officer)

Exhibit "A"
AB..

I CERTIFY that the man whose personal description is given below surrendered himself to* D.C. 491, Tenley.

at Farnborough, at (hour) 5.50 p.m. on the 21st day of December, 1943, as being No. R.149716, (Rank and Name) Private George Leonard [illegible], No 1 Royal Canadian Re-Inforcement a deserter (or absentee without leave) from Unit, Aldershot.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 25 yrs. Height 5 Feet 8½ Inches	
Complexion Fresh Hair Dark Brown Eyes grey	
Marks Nil.	
In uniform or plain clothes Uniform.	
Probable Date and Place of Attestation	6th July, 1940, Vancouver, B.C.
Probable Date of Desertion or beginning of absence, and from what place	20th November, 1943, from his Unit at Aldershot.

EASTS COUNTY BOROUGH POLICE 8 DEC 1943 FARNHAM

Signature of Officer in charge of [illegible] Station.

Deputy

26th December, 1943 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Normon Barracks, Aldershot, HANTS, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Aldershot, HANTS,
this 11th day of
December 1943

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of _____
if he is available.

SUMMARY OF EVIDENCE

In the case of K-47716 Pte. Thomson, G.L., of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

C-5142, L/Cpl. Smith, F. of the Hastings and Prince Edward Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:- I am C-5142, L/Cpl. Smith, F., of the Hastings and Prince Edward Regiment. On the 28 Nov 43 at approximately 1315 hrs I was detailed with H-16073 L/Cpl. Alix, G., a regimental policeman, to escort four prisoners to the Bath House. One of these prisoners was K-47716, Pte. Thomson, G.L. At approximately 1325 hrs, the prisoners having finished bathing, were lined up for escorting back to the Guard Room. On coming out of the Bath House two of the prisoners made a break and escaped. One of these prisoners who escaped was K-47716 Pte. Thomson, G.L. whom I now recognize as the accused.

The accused declines to cross-examine this witness.

F. Smith L/Cpl.
(F. Smith) C-5142.

SECOND WITNESS for the PROSECUTION

H-16073, L/Cpl. Alix, G., of Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas having been duly sworn states as follows:- I am H-16073, L/Cpl. Alix, of Princess Patricia's Canadian Light Infantry. At approximately 1315 hrs on the 28th November I was in company with C-5142 L/Cpl. Smith, F., to escort four prisoners to the Bath House. On finishing their bath the prisoners were lined up to be escorted back to the Guard Room. Just after leaving the Bath House two prisoners made a break for liberty, one of these was K-47716 Pte. Thomson, G.L. whom I now recognize. We gave chase but were unable to catch them. This break occurred at about 1325 hours.

The accused declines to cross-examine this witness.

G J Alix L/Cpl.
(G. Alix) H-16073.

THIRD WITNESS for the PROSECUTION

Lieut. T.A. Bate, of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn states as follows:- I am Lieut. T.A. Bate, of the Westminster Regiment. I produce Army Form O.1617, Certificate of Surrender, purporting to be signed by M.R. Munson, Inspector, Romford Police Station which relates to the accused whom I now recognize. This document is marked Exhibit "A" and is duly initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

Thos A Bate Lieut.
(T.A. Bate)

24 A (507)

SUMMARY OF EVIDENCE

In the case of K-47716 Pte. Thomson, G.L., of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

_____A/Capt.
(T.L.C. Pierce-Goulding) Officer
detailed to take the Summary
of Evidence.

Albuhera Barracks,
Aldershot, Hants.

10th day of December, 1943.

581.

MFM 6
(AFB 122)
40/PAM/136 (3432)

Old sheet destroyed 7-1-41 Entries - One

NX-47716 Name THOMSON, G.L. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 6-7-40 | GC Badges | Service or Proficiency Pay | Character

No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc Thos A. Bate Lt.

Date of last entry in Company Conduct Sheet

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Van Bks	18-3-41	Pte		AA.15(1) AWL from 2300 hrs 18-3-41 till 0815 hrs 19-3-41	C.S.M. Hogg W.	7 days C.B.	20-3-41	G.R.Burrows Major	Forf 1 days pay FR&I. 149.1.a.
Van Bks	31-3-41	Pte		AA.15(1) AWL from 2200 hrs 31-3-41 till 0630 hrs 1-4-41	Sgt Johnson T.O.	7 days C.B.	1-4-41	G.R.Burrows Major	Forf 1 days pay FR&I. 149.1.a.
Van Bks	1-4-41	Pte		AA.10(4) Breaking out of Barracks AA.15(1) AWL from 1800 hrs 1-4-41 till 0845 hrs 4-4-41 AA.40 Conduct to the prej etc.	Sgt Greenhough Cpl Foster R.G.D.	14 days Detn forf 14 days pay	4-4-41	G.C.Carbould Capt	Forf 3 days pay FR&I. 149.1.a.
Van Bks	1-5-41	Pte		AA.15(1) AWL from 2300 hrs 1-5-41 till 0025 hrs 2-5-41	Cpl Hartley C.	Awarded 2 days pay 7 days C.B.	2-5-41	G.R. Burrows Capt Major	
Field	3 Dec 41	Pte		AA.15(1) AWL			4 Dec 41	G.R. Burrows Major	Forf 1 days pay FR&I. 149.1.a.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16-3-42	Pte		AA.15(1) AWL from 1330 hrs 16-3-42 till 1340 hrs 16-3-42 (10 mins)	Sgt Johnson T.O.	3 days C.B.	16-3-42	G.R. Burrows Major	
Field	27-3-42	Pte		AA.40 Conduct to the prej etc	Cpl Quinn EW	96 hrs detn forf 4 days pay FR&I. 149.1.b.	28-3-42	W.T. Ibbott Major	
Field	20-5-42	Pte		AA.15(1) AWL from 1800 hrs 20-5-42 till 1800 hrs 21-5-42 (24 hrs)	Sgt. Greenhough B.C. Cpl Gibson JB	Awarded 4 days pay AA.46.2(d) 7 days C.B.	22-5-42	J.E. Sager Lt.-Col.	Forf 1 days pay FR&I.149.1.a.
Field	2-7-42	Pte		AA.10(4) Breaking out of barracks	Pte Smith T.M.	Forf 5 days pay AA.46.2(d) 5 days C.B.	3-7-42	W.T. Ibbott Major	
Field	25-8-42	Pte		AA.40 Conduct to the prej etc.	CSM Hogg W Cpl Peel B	Forf 2 days pay AA.46.2(d)	26-8-42	J.E. Sager Lt.-Col.	
Field	5-1-43	Pte		AA.40 Conduct to the prej etc.	Lt. Watson A	5 days C.B.	6 Jan 43	A.F. Brintall Capt	

MFM 6
(AFB 122)
40/P&S/136 (3438)

No. K-47716 Name THOMSON, G.L. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 6-7-40 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk: nil — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Field	19-3-43	Pte		AA.15(1) AWL 41 days 11 hrs GRANTED 30 DAYS REMISSION OF SENTENCE 3 Jul 43.		120 days Detn forf 6 days pay	6-5-43	F.G.C.M.	Total forf 96 days pay Remitted 30 days awaiting trial
Field	22-8-43	Pte		AA.40 Failed to report on fatigues	CSM North	3 days C.B.	24 Aug 43	W.G. Roxburgh Capt.	
Field	3-9-43	Pte		AA.15(1) AWL from 0800 hrs to 1000 hrs 3 Sep 43	CSM James	5 days C.B.	3 Sep 43	W.B. McQueen	
Field	10-9-43	Pte		AA.15(1) AWL from 0800 hrs 10 Sep 43 till 0700 hrs 22 Sep 43 (absent 11 days 23 hrs)	Documentary	120 days Detention	24 Nov 43	F.G.C.M.	Forf 120 days FR&I.149.1.b. Forf 12 days FR&I.149.1.a Forf 63 days FR&I.149.1.c.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY CONSISTING OF TWO PAGES
DATE 14 Dec 43

(H.J. Snell)
Officer having custody of original documents.

M.F.B. 355
22M—5-41 (572-3)
H.Q. (772-39-62)
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-47716	Private	George Leonard THOMSON,	Westmr.R., 1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA.Sec.10(4)	times	2 times
For AA.Sec.15(1)	1 times	8 times
For AA.Sec. 40	2 times	5 times
For	times	times

~~Number of instances of gallantry or distinguished conduct.~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

~~or~~

The accused at the present time is under sentence for 120 days beginning on the 24th day of November, 1943.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in ~~Air Force~~ military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 years

6. The date of ~~his commission~~ specified in ~~his record of service~~ is attestation paper 6 Jul 40

7. The service which the accused is allowed to reckon towards discharge is 2 years 129 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to).~~ State any ~~air force~~ military decoration or ~~reward~~ military.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the regimental rank of~~ Air Force

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

~~Air Force~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K-47716 Rank Private Unit

Name George Leonard THOMSON of Westmr. R. , 1 C.I.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.S.M.	6 May 43 Field	AA.15(1)	120 days Detention	30 days with pay
F.G.C.M.	24 Nov 43 Field	AA.15(1)	120 days Detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of Dec 43 (H.J. Snell) Records Officer

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

CHARGE SHEET

The Accused, No. K-47716 Private George Leonard THOMSON, of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with:-

First Charge
Section 12 (1) (a) Army Act

When on Active Service, having been warned for draft, deserting His Majesty's Forces,

in that he,

at No. 1 Canadian Infantry Reinforcement Unit on the 10th day of September 1943, having been warned for draft, absented himself without leave from 0800 hours on the 10th day of September 1943 until 0700 hours on the 22nd day of September 1943.

Total Absence:- 11 days 23 hours.

Lt.Col.
(J.H. Mothersill) A/Commander,
No. 1 Cdn Inf Rft Unit.

Barrosa Barracks,
Aldershot, Hants.

27th day of September 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.R. Stewart Lough) Brigadier
Commander "G" Group
CANADIAN REINFORCEMENT UNITS

28 Sep 43.

Convening Officer

Arthur S. Pettapiece, Maj
President

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. K47776 Pte. Thomson, G.L.
Wester.B. 1.C.I.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station... 1 C.I.R.U.

Date... 28 Sep 43

(Med Cal Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Barrack Barracks, Aldershot, Hants.
ON THE 28th DAY OF September 1943

The accused K/47216 Pte. Thomas, G.A. Unit. 1 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A.S. Rattazzini ..... Unit. H.Q. C.I.R.U.

Members Capt. J. Rose ..... Unit. 1 C.I.R.U.

Lt. C.L. Hudson ..... Unit. 1 C.I.R.U.

The officers under instruction are duly sworn:-

Lt. J.L. Thwell ..... Unit. 1 C.I.R.U.

..... Unit. .....

Prosecutor ..... Unit. .....

Defending Officer Lt. J.S. Moore ... Unit. 1 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(3) is complied with. (See Note below)
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(3).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AF3 296~~ and MFM 6.
The Court complies with R.P. 36(3).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR~~ HIS DEFENDING OFFICER. attached sheet.

1st Officer for Prosecution pursuant to R.P. 37

K 52080 Gnr. Ball. G.A. of 1 C.I.R.U. having been duly sworn states:- On 10 Sept. 43, I did not actually ascertain for myself that the accused was absent, until I had completed my search for him. This was at 0905 hrs.

Pursuant to R.P. 37 and 44 the accused's plea of "Guilty" is altered to read "Guilty except that he absented himself at 0900 hrs. 10 Sept 43."

M.A.

SUMMARY OF EVIDENCE

In the case of K-47716 Pte. Thomson G.L. of the Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath:

FIRST WITNESS for the PROSECUTION

K-52080 Cpl. Ball G.A. of the Seaforth Highlanders of Canada, "G" Coy Orderly Sergeant, No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn states as follows:-
At Albuhera Barracks at 0800 hours on the 10th of September 1943, the accused, whom I now recognize was reported by C.S.M. James to be A.W.L. from Company parade. I immediately checked to see if the accused was in billets but I could not find him. He did not appear on any subsequent Company parade until he reported to me at 0700 hours on the 22nd day of September 1943. When he reported to me, he was correctly dressed, clean shaven and sober.

The accused declines to cross-examine the witness.

(sgd) K-52080 Cpl Ball G.A.

SECOND WITNESS for the PROSECUTION

K-57134 Sgt Smith, J.A.B., 1 C. Scot. R., in charge of "G" Company draft for Scheme "Airedale", of No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows:-
At Albuhera Barracks at 1530 hours on the 24th August 1943, Lt. McLelland warned the draft that they were going on exercise "Airedale" and that they would be paraded at a time to be specified prior to departure, and that absence from the latter parade would lay them open to a charge of desertion I was witness to this warning being read to the draft and the accused, whom I now recognize, was present and was warned. I submit a nominal roll (Exhibit "A") duly initialled by me for purposes of identification which was called at this parade and to which the accused answered when his name was called.

Cross-examind by the accused.

Question 1. Are you in "C" Company?
Answer 1. No, I am in "G" Company.

Question 2. Could you recognize me by sight as being on the parade you mantion?
Answer 2. Yes, I would recognize you as being on that parade.

Question 3. Was I present at the time of my transfer to "C"Coy?
Answer 3. All I know is that you were present on the "Airedale" draft parade which was warned as I mentioned.

(sgd) Sgt Smith J.A.B. K-57134.

THIRD WITNESS for the PROSECUTION

Lt. V.S. Allan, P.P C.L.I., on the strength of No. 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows:
I was in charge of No.6 Platoon of the draft "Airedale" of which, Pte. Thomson was a member. Prior to date of departure of draft "Airedale" all men were warned that anyone absent from this parade would be charged with desertion. Pte. Thomson was absent from my platoon at the time of this parade and had to be replaced by another man. He was not present when the draft left.
The accused declines to cross-examine this witness.

(sgd) V.S. Allan, Lieut.

SUMMARY OF EVIDENCE

In the case of K-47716 Pte Thomson G.L., Westminster Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath:

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d)(e) and (f) have been complied with.

(sgd) C.B. Irwin) Capt.
Officer detailed to take the Summary of Evidence.

Albuhera Barracks,
Aldershot, Hants.

23rd day of September 1943.

CERTIFIED TRUE COPY:

.....Capt.
(J. R. Turner) Adjutant,
1 Cdn. Inf. Reinf. Unit.

Barrosa Barracks,
Aldershot, Hants.

22nd day of November 1943.

NOMINAL ROLL Ex "A"

Date

To: O.C. Field Unit

From: O.C. Holding Unit.

1. Demand No.
2. Date of Demand
3. Officers Demanded
4. Officers Despatched
5. O.R's Demanded
6. O.R's Despatched
7. Last Meal
8. Rations Taken
9. Departure Date Time
10. How Despatched
11. S.O.S. Holding Unit
12. To be T.O.S. Field Unit
13. Part I Pay Book Completed to date

Regt. No.	Rank	Name	Unit	Trade	Type & Date last leave	With or without warrant
		Bricklayers				
K42863	Pte.	Bainbridge, W.H.	WestMr. Regt.			
		Carpenters				
K53216	"	Berrarducci, J.M.	S.H. of C.			
K69388	"	Cougeon, W.F.	Westmr. R.			
M31134	"	Abrahams, W.G.	U.R.			
M30887	"	McMorran, R.	U.R.			
L110299	"	Treganowan, E.C.	P.P.C.L.I.			
M31143	"	Connors, J.E.	U.R.			
K69387	"	Pinchbeck, E.	Calg.H.			
M65622	"	Beggs, S.H.	U.R.			
M31783	Cpl.	Norman, E.D.	U.R.			
		Clerks				
K65325	Pte.	Leneczek, W.R.	Calg.H.			
M102184	"	Chaiken, P.	P.P.C.L.I.			
[illegible]		[illegible] Forrester, J.H.	[illegible]			
[illegible]	Pte.	Cooke, W.H.	Calg. H.			
K69824	"	Thompson, H.	U.R.			
		Equipment Repairers				
M31595	Pte.	Lunden, E.A.	U.R.			
		Tech. Storemen				
K98156	"	Johnstone, K.W.	S.H. of C.			
M100905	"	Field, L.H.	U.R.			
K24073	Sgt.	Carney, T.D.	1 C.S.R.			
K47227	Pte.	Poole, C.E.	Westmr. R.			
		Water Duty				
K62753	"	Davis, E.W.C.	Westmr. R.			
M11250	"	Rapa, S.J.	Calg. H.			
		Motor Mechanics				
M31526	"	Clare, C.P.	P.P.C.L.I.			
M11776	"	Glover, W.	Calg. H.			
K67031	"	Gordon, R.	Calg. H.			
M48014	"	Woods, D.A.	Westmr. R.			
M15996	"	Becker, H.E.	Edmn. R.			
M16177	"	Rector, A.	Edmn. R.			
K53001	"	Doiron, R.J.	S.H. of C.			
K63104	"	Smedley, J.A.H.	1 C.S.R.			
K57619	"	Benford, W.J.	1 C.S.R.			
K57441	"	McGuinness, C.R.	1 C.S.R.			
K73266	"	Butchart, R.J.S.	U.R.			
H17866	"	Zalubniak, P.	P.P.C.L.I.			
K53961	L/Cpl	Littlejohn, D.P.	S.H. of C.			
		Pipers				
M31526	Pte.	McIlvaney, E.	U.R.			
M31470	"	McInnes, C.P.	U.R.			
		Driver Mechanics				
H17856	"	McBurney, D.C.	P.P.C.L.I.			
L28229	"	Allard, F.	P.P.C.L.I.			
M44685	"	Slemmons, M.	P.P.C.L.I.			

K47468 Cpl. Searle H.G. Westm R.1

K42210 A/L/Sgt. CONNOLLY. NO

K69782 Pte Hargreaves - U.R. - 3

got 3 from Hq Sgt

DISTRIBUTION

1 copy to Reception Camp
1 " " Field Unit
1 " " 2nd Echelon
1 " " Records Officer

Records Officer O.C Reception Camp O.C. Field Unit

2.

NOMINAL ROLL E

To: O.C. ..... Date .....

Field Unit

From: O.C. .....

Holding Unit.

1. Demand No.
2. Date of Demand
3. Officers Demanded
4. Officers Despatched
5. O.R's Demanded
6. O.R's Despatched
7. Last Meal
8. Rations Taken
9. Departure Date ..... Time .....
10. How Despatched
11. S.O.S. Holding Unit
12. To be T.O.S. Field Unit
13. Part I Pay Book Completed to date

Regt. No.	Rank	Name	Unit	Trade	Type & Date last leave	With or without warrant
M17172	Pte.	Terry, E.	Mtn. R.			
M17365	"	Bernes, C.M.	Mtn. R.		→ M17172 Pt O'connor M	
K42717	"	Bergen, E.	C.H. of C.			
[illegible]	Cpl.	Searle, R.G.	Postmr. R.			
K52008	Pte	Turner, A.C.	C.H. of C.			
K62774	"	Gorrill, W.	Cdlg. H.			
M10853	"	Fehr, C.J.	Cdlg. H.			
K67189	"	Golden, H.S.	Cdlg. H.			
K42035	"	Shaw, J.	1 C.S.R.			
M12846	"	Shoults, D.R.	1 C.S.R.			
K63201	"	Saarikko, R.	1 C.S.R.			
K62098	"	Jackson, W.W.	1 C.S.R.			
K73220	"	Shrieves, C.L.	1 C.S.R.			
K45776	"	Struthers, C.J.	1 C.S.R.			
K47274	"	Janelle, R.	Postmr. R.			
K67914	"	Breitenbach, J.A.	Postmr. R.			
K47713	"	Cowin, W.	Postmr. R.			
K47553	L/Cpl	Whitehead, C.	Postmr. R.			
K47552	Pte.	Koskoqich, P.	Postmr. R.			
K47714	"	Wetsch, A.	Postmr. R.			
K67838	"	Breitenbach, L.A.	Postmr. R.			
K47602	"	Ricketts, C.Z.	Postmr. R.			
K47371	"	Wilcox, G.	Postmr. R.			
M31794	"	Norman, R.L.	C.H. of C.			
M100362	"	Munro, J.E.	U.R.			
M30881	"	Long, A.H.	U.R.			
M31199	"	Pardell, M.J.	U.R.			
K66532	"	Hawksley, W.G.	U.R.			
M103866	"	Hammermeister, H.	U.R.			
M102858	"	Taylor, C.A.	U.R.			
M31546	"	Anderson, W.	U.R.			
P 3428	Sgt.	Welch, M.T.	U.R.			
M11444	Pte.	Matthews, W.J.	Cdlg. H.			
M12849	L/Cpl	Leighton, J.C.	Mtn. R.			
K42042	Pte.	Duncan, W.G.	C.H. of C.			
M16696	"	Sharpe, F.R.	Mtn. R.			
M16872	"	Almonitis, E.W.	Mtn. R.			
		Drivers 1/c (T)				
M16881	Pte.	Abel, W.A.	R.P.C.L.I.			
K66242	"	Wiltshire, H.H.	R.P.C.L.I.			
M10638	"	Barclay, W.R.	Cdlg. H.			
K73854	Sgt.	Rayburn, C.H.	Cdlg. H.			
M30905	"	Tight, F.	Cdlg. H.			
K62164	Pte.	Ferdaro, J.A.	U.R.			
K73869	"	Davies, R.J.	1 C.S.R.			
M12685	"	Gable, S.	U.R.			
K62945	"	Papp, J.	U.R.			
M31180	Cpl.	Hunka, S.D.	U.R.			
K62164	Cpl.	Jamula, J.T.	1 C.S.R.			

DISTRIBUTION

- copy to Reception Camp
- " " Field Unit
- " " 2nd Echelon
- " " Records Officer

Records Officer — O.C Reception Camp — O.C. Field Unit

NOMINAL ROLL

Date

To: O.C. Field Unit

From: O.C. Holding Unit.

1. Demand No.
2. Date of Demand
3. Officers Demanded
4. Officers Despatched
5. O.R's Demanded
6. O.R's Despatched
7. Last Meal
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9. Departure Date Time
10. How Despatched
11. S.O.S. Holding Unit
12. To be T.O.S. Field Unit
13. Part I Pay Book Completed to date

Regt. No.	Rank	Name	Unit	Trade	Type & Date last leave	With or without warrant
		Drivers 1/c (T) Cont'd.				
M38849	Pte.	James, E.L.	U.R.			
		Drivers 1/c (M)				
H80282	Cpl.	Simmons, J.	R.P.C.L.I.			
H70600	Pte.	Seawolt, J.	Edmn. R.			
M17316	"	Berreth, H.C.	Edmn. R.			
M36377	"	Barrett, J.R.	Calg. H.			
K53591	"	Ball, L.H.	Calg. H.			
K57422	"	Robertson, R.	1 C.S.R.			
M100907	"	Brasconnier, L.A.	1 C.S.R.			
K63062	"	Palmer, C.E.	1 C.S.R.			
K63106	"	Smedley, L.H.	1 C.S.R.			
K65033	"	Tosoff, S.M.	1 C.S.R.			
K74355	"	Rutherford, A.	1 C.S.R.			
K49073	"	Hodgson, W.J.	Westmr. R.			
K47716	"	Thomson, G.L.	Westmr. R.			
K68552	"	Ratledge, H.C.	Westmr. R.			
K47716	Cpl.	Arneson, S.H.	U.R.			
K48259	Pte.	Flett, W.J.	U.R.			
K66660	"	Fry, R.	U.R.			
M104930	"	Rooke, G.A.	U.R.			
M18500	"	Sinclair, W.G.	U.R.			
M12554	"	Thornton, A.W.	U.R.			
M63891	"	Gorman, H.C.	U.R.			
M103661	"	Rodekopp, J.	U.R.			
M31542	"	Miller, T.E.	U.R.			
K59305	"	McKay, J.A.	U.R.			
M52855	"	Stout, D.G.	U.R.			
K52900	"	McFarlane, G.K.	S.H. of C.			
M30815	Sgt.	Coljee, E.	U.R.			
K43071	"	Remmsbottom J.P.	U.R.			
H70800	Pte.	Berkvens, A.	R.P.C.L.I.			
K52874	"	McGee, A.L.	L.H. of C.			
K53528	Cpl.	Davies, T.C.	S.H. of C.			
K67107	Pte.	Webster, R.H.	S.H. of C.			
M43454	"	Teneyoke, R.C.	R.P.C.L.I.			
K74013	"	Lipsey, F.C.	S.H. of C.			
M16568	"	Eaglesham, J.	Edmn. R.			
M17851	"	Bilsky, F.	Westmr. R.			
K57944	"	Fairholm, H.	Westmr. R.			
M12550	"	Gardiner, H.S.	Westmr. R.			
		~~M.T. Motor~~ Gen Duty				
M36500	"	Long, C.L.	Calg. H.			
B66049	"	Nash, E.E.	1 C.S.R.			
L19969	"	Kochie, P.	1 C.S.R.			
K67507	L/Cpl.	Hrechka, A.	Westmr. R.			
M42529	Pte.	Brady, L.P.	Westmr. R.			

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1 " " Records Officer

Records Officer O.C Reception Camp O.C. Field Unit

NOMINAL ROLL

Date

To: O.C. Field Unit

From: O.C. Holding Unit.

1. Demand No.
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12. To be T.O.S. Field Unit
13. Part I Pay Book Completed to date

Regt. No.	Rank	Name	Unit	Trade	Type & Date last leave	With or without warrant
		Gen Duty				
		~~Air Mortar~~ (Cont'd)				
H103756	Pte.	Knox, G.W.	P.P.C.L.I.			
H103506	"	Espey, H.W.	P.P.C.L.I.			
H103248	"	Harrison, R.	P.P.C.L.I.			
K52039	"	Johnstone, K.K.	S.H. of C.			
M103192	"	Johnson, E.	U.R.			
M31425	"	Fahner, C.E.	U.R.			
K57553	"	McPherson, A.C.	U.R.			
K92285	"	Simister, A.E.	U.R.			
M105112	"	Schreth, B.F.	U.R.			
M105147	"	~~Ninth~~ Godwin, R.W.	U.R.			
			~~S.H.~~			
K52490	Pte.	Hindle, E.	S.H. of C.			
K42602	Cpl.	Cooper, J.H.	U.R.			
M104778	Pte.	Coney, J.W.	U.R.		22-3	
K68680	"	Simpson, J.A.	U.R.			
K68680	"	Pendergast, A.R.	U.R.			
M50741	"	Gray, F.J.	U.R.			
M105056	"	Mehlsen, J.P.	U.R.			
M105138	"	Scott, R.W.	U.R.			
K66432	"	Crock, J.	U.R.			
K69082	"	Somerville, J.A.	U.R.			
			~~S.H.~~			
H102772	Pte.	Murray, G.L.	P.P.C.L.I.			
M103664	"	Dienuth, W.	U.R.			
H101386	"	Hood, J.	P.P.C.L.I.			
M105097	"	Hagen, D.R.	U.R.			
K47691	"	Goodenough, B.C.	U.R.			
			~~S.H.~~			
H16257	L/Cpl.	Truelove, W.P.	P.P.C.L.I.			
M31645	Pte.	Stevens, A.R.	Edmn. R.			
M101627	"	Johnson, E.	Edmn. R.			
			~~S.H.~~			
P22294A	Cpl.	Katchenoski, J.F.	P.P.C.L.I.			
M17174	"	Rooney, E.	Edmn. R.			
M30891	"	Moore, R.C.	U.R.			

The a/m personnel were paraded at 1 C.I.R.U. at 1550 hrs. 24 Aug 43 and warned that they would proceed on draft to "Exercise Airfield" and that they would again be paraded prior to departure at a specified time and that absence from that parade would lay them open to a charge of desertion. The warning was given by Lieut. H.A.McLellan, 1 C.S.R., and witnessed by Sgt. J.A.E. Smith, K57413, 1 C.S.R.

H.A. McLellan Lieut.

(H.A. McLellan)

J.A.E. Smith Sgt.

(J.A.E. Smith)

The a/m personnel were all present when paraded for draft. Lieut.

Sgt.

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1 " " 2nd Echelon
1 " " Records Officer

Records Officer O.C Reception Camp O.C. Field Unit

Clear of obligations in the case of X 47916 Pte Thomson G.S.L.o. of the Westminster Regiment, at present on the strength of No. 1 Can. Infantry Rft. Reinforcement Unit.

The accused volunteered for Active Service on the 6th of July, 1940. As he is a welder by trade he made two or three determined efforts while in Canada to transfer to the Royal Canadian Ordnance Corps. Just as it seemed that his transfer was to be completed with he came to England with the Advance Party of his unit.

He remained with his unit until he was hospitalized last March during the scheme Spartan. He was later discharged from hospital and went to No. 1 C.I.R.U.

He was not able to return to his unit and became disheartened.

Two years ago, the accused met a married woman. She had a child by him this year. Divorce proceedings are under way to free the woman and allow her and the accused to be married. The accused, in February, signed some of his pay over to support the child.

The accused, in evading Aldershot, was not trying to desert his Majesty's Service. He did not revert to civilian status as he remained in uniform during his absence. He also reported back to his unit under no pressure, and presumably merely wished to stay in England until the divorce becomes valid.

In pleading "guilty" the accused, although realizing the gravity of the charge, is not trying to evade punishment.

Barrosa Bks.
Aldershot Hants.

J.S. Moore Lieut.
Sep 28, 1943

FORM OF APPLICATION FOR A COURT-MARTIAL

Westminster Regiment
No. 1 Cdn Inf Rft Unit Regiment

Station Barrosa Barracks Date 27 September 19 43

Application for a Field General Court-Martial

Sir,

I have the honour to submit One charge against

No. K-47716 Private George Leonard THOMSON, Westmr . R., 1 C.I.R.U.

of the Unit under my command, and request you will obtain the sanction of Commander "G" Group that a Field General Court-Martial may be assembled for his trial at No. 1 Cdn Inf Rft Unit

The case was investigated by (a) Lt.Col. J.H. Mothersill, ED.
Major W.B. McQueen, and Capt. C.B. Irwin, all of this Unit.

~~A Court of Inquiry was held on (b)~~ (date)

at (Station).

President Ranks, names and corps.

Members

The accused is now at Barrosa Barracks His general character is (c) Sd

I enclose the following documents (d):—

1. One Charge Sheet ~~(in duplicate)~~ (e).
2. Summary of Evidence, original (f) ~~and~~ ~~copy~~ copies
3. Original Exhibits (g).
4. ~~List of witnesses for the prosecution and defence (with their present stations or addresses) (g).~~
5. ~~List of Exhibits (h).~~
6. ~~Correspondence (g).~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer Lt. Col. (J.H. Mothersill) A/Commander, No. 1 Cdn Inf Rft Unit.

To: Commander,
"G" Group,
Cdn Rft Units.

MEDICAL OFFICER'S CERTIFICATE

I certify that No K47716 Pte. THOMPSON, G.L., Westmr R. Regiment,

is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer R.C.A.M.C.

(Medical Officer) #1 C.I.R.U.

*Insert "fit" or "unfit."

(a) Here insert name of:
(i) Officer who investigated the charges.
(ii) Officer who made preliminary enquiry into the case.
(iii) Company, etc., Commander who took down the Summary of Evidence (R.P. 19 (B) (ii)).
(iv) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

M.F.B. 321
40/P & S/650

MFM 6
(AFH 132)
40/P&S/136 (3438)

No K47716 Name THOMSON GL | Sqn, Battery or Company | Corps Cdn Inf Corps | Date of enlistment 6-7-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 7 Jan 41.					
Vancouver Bks	18-3-41	Pte		AA Sec 15(1) AWL from 2300 hrs 18-3-41 till 0810 hrs 19-3-41	CSM Hogg W	7 days C.B.	20-3-41	Major G.R. Burrows	1 days pay FR&I 149(1)a)
Vancouver Bks	31-3-41	Pte		AA Sec 15(1) AWL from 2200 hrs 31-3-41 till 0630 hrs 1-4-41.	Sgt Johnson T.O.	7 days C.B.	1-4-41	Major G.R. Burrows	1 days Pay FR&I 149(1)a)
Vancouver Bks	1-4-41	Pte		AA Sec 10(4) breaking out of barracks	Sgt Greenhough	14 days detn	4-4-41	Capt. G.C. Corbould	3 days Pay FR&I 149(1)a)
				AA Sec 15(1) AWL from 1800 hrs 1-4-41 till 0845 hrs 4-4-41.	Cpl Foster				
				AA Sec 40. conduct to the prej. etc.	Cpl Hartley	2 days Pay FR&I 149(2)	2-5-41	Major G.R. Burrows	
Vancouver Bks	1-5-41	Pte		AA Sec 15(1) AWL from 2300 hrs 1-5-41 till 0025 hrs 2-5-41.	Sgt Johnston	3 days C.B.	16-3-42	Major G.C. Corbould	
Field	16-3-42	Pte		AA Sec 15(1) AWL from 1330 hrs 16-3-42 till 1340 hrs 16-3-42	Cpl Quinn E	96 hrs detn.	28-3-42	Major W.T. Ibbott.	
Field	27-3-42	Pte		AA Sec 40 Conduct to the prej. etc.					

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-6-42	Pte		AA Sec 15(1) AWL from 1800 hrs 20-6-42 till 1800 hrs 21-6-42.	Sgt Greenhough	7 days C.B. 4 days Pay	22-6-42	Lt-Col. J.E. Sager	1 days Pay FR&I 149(1)a)
Field	2-7-42	Pte		AA Sec 10(4) breaking out of barracks	Pte Smith G.M.	5 days Pay	3-7-42	Major W.T. Ibbott	
Field	28-8-42	Pte		AA Sec 40 conduct to the prejudice etc.	CSM Hogg Cpl Peel	2 days Pay	26-8-42	Lt-Col. J.E. Sager	
Field	5-1-43	Pte		AA Sec 40 Neglect to the prejudice etc.	Lt.A. Walter	5 days C.B.	6-1-43	Capt. R.F. Grinsted	
Field	19-3-43	Pte		A.A. Sec 15(1) AWL 41 days 11 hrs.	documentary	120 days detn	6-5-43	F.G.C.M.	total forf 96 days pay. Remitted 30 days awaiting trial.
Field	22-8-43	Pte		AA Sec 40 conduct to the prejudice etc. failed to report for fatigues	CSM North	3 days C.B.	24-8-43	Capt. W.C. Roxburgh	

No K-47716 Name THOMSON G.L. | Sqn. Battery or Company | Corps Cdn Inf Corps | Date of enlistment 6-7-40 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3-9-43	Pte		A.A. Sec 15(1) AWL from 0800 hrs 3 Sep 43 to 1000 hrs 3 Sep 43.	CSM James	5 days C.B.	3 Sep 43	Major W.B. McQueen.	

Certified True Copy Consisting of TWO pages
DATED: 28 Sep 43.

(Sgd) H.F. Atkinson Capt.
Officer Hwing custody of original documents.

CERTIFIED TRUE COPY
22 Nov 43.

[signature] Capt.
(D.R. Turner) Adjutant
1 Cdn Inf. Reinf. Unit.

(PTO)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
X-47716	Pte	George Leonard THOMSON	Wes'mr R - 1 CIRU

1. The following is a fair and true summary of the entries in the Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Regimental ~~and Squadron, Battery~~ ~~Service and General~~ HJS HJS of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with. HJS

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15(1)	1	times	AA Sec 15(1)	7 times
For A.A. Sec 40	2	times	AA Sec 40	5 times
For		times	AA Sec 10(4)	2 times
For		times		times

Number of instances of gallantry or distinguished conduct ~~or~~ HJS

HJS ~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~ HJS

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 72~~ A.A. 73 HJS HJS are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

HJS ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which NO days were spent in hospital. HJS ~~Air Force~~

5. The present age of the accused according to his ~~record of service~~ HJS attestation paper is 25 yrs.

6. The date of his ~~enlistment~~ HJS attestation specified in his ~~record of service~~ HJS attestation paper is 6 July 1940

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 34 days.

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ HJS military decoration, or ~~air force~~ HJS military reward ~~or is in possession of or entitled to). State any air force decoration or reward.~~ HJS ~~military~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

HJS

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force, and in his regiment (or corps), the rank of ..... unit ..... dated ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K-47716 Rank Pte Unit Name THOMSON G.L. of Westmr R., #1 C.I.R.U. Regiment Air Force

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	6 May 1943 Field	AA Sec 15(1)	120 days detention	remission 30 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of Sept 43 (sgd) H.F. Atkinson Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings. (Sgd) A.S. Pettapiece Major

CERTIFIED TRUE COPY.

(J.S. Turner) Capt.
Adjutant,
1 Cdn Inf Reinf Unit

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~ —
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 28th day of September 1943.

Arthur L. Bettgenaar, Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1920.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, ~~subject to what I have there stated,~~ hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19

(P. J. Montague) Major-General
Confirming Officer. Senior Officer
Canadian Reinforcement Headquarters

Promulgated and extracts taken in the case of K-47716 Pte Thomson G.E.
Promulgated in Part II D.O.231 dated 23 Nov 43.

(a) (Dated) 22 Nov 43 (Signed) (B. Sharp) Colonel Commander 1 Cdn Inf Reinf Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23573) WL.481179/850 50,000 2-43 A.& E.W.L.Ltd. Gp.698
(24256) WL.11192/71 100,000 5-43

XX-142 (case #3)

PTE THOMSON G.L.

See EE-50 for 1st case
" VU-126 " 2nd

UUU-65 Case # 2.

Spr. Thomson, GL.

See EE-84 for 1st case

RECORDED AT CMHQ IN AB 160 UUU-65

RECEIVED 30 AUG 1944 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40-P-M-8/1698 (2604)

Convened by Order of Brigadier E.E. Snow Comd R Sp CRE dated 26 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.39741	Sapper	George Lawson	THOMSON	7 CAWC RCE

PROCEEDINGS REVIEWED 30 Aug '44

JAG W.C. Couch Capt

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ENGLAND on (*date(s)*) 19 AUG 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do~~ you object to P 78776 as interpreter ? Ans

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer ? Ans
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.L. REDMAN VD	HQ. CRE
Member	CAPT	W.E. SUTHERLAND	1 CER RE
Member	LT	H.H. CUMINGS	1 CASC RE
~~Judge-Advocate~~			
Prosecutor	LT	T.R. PUNNETT	7 CAWC
Defending Offr	LT	M.J. NEFF	HQ. CCE

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (~~has~~) (as) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	NOT GUILTY	GUILTY	except that he absented himself without leave not from 0930 hrs 5 Oct/43 but from 1100 hrs 7 Oct/43
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence~~ for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2, Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention per a period of two (2) years

(Sgd) Judge-Advocate, if any. 19 Aug/44 Date awarded. (Sgd) President. (RP 85, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Yes

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn b, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ ~~(1. AA 57A. Delete if not used.)~~

Date 22 Aug 44 (Sgd) J.E. Snow Brigadier (J. E. SNOW) B. G. Commanding Corps Troops Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 39741 Sapper THOMSON, G.L.	22 Aug 44	Stadden Capt RCE

Published in Pt II Order No 20 d/25 Aug 44. A/Officer Commanding 7 Cdn Artizan Works Coy RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*B*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO-SIR(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATI
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans NO-Give Evidence. Do you intend to call witnesses on your behalf ? Ans NO-SIR Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATI
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans NO-SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By D/ Officer NOTE-ATI .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-39741 Sapper George Lawson THOMSON, on the strength of 7 Cdn Construction Coy R.C.E., since re-designated 7 Cdn Artizan Works Coy R.C.E., w.e.f. 1 Jun 44, (AUTH CMHQ Adm O 93 d/25 May 44), a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field did absent himself without leave from 0930 hrs 5 Oct 43, until 1900 hrs 14 Aug 44.

(Total time absent 314 days 9 hrs 30 mins).

Andrew Spy

In the Field
17 Aug 44

(ANDREW SPY) Capt RCE
A/Officer Commanding
7 Cdn Artizan Works Coy RCE

To be tried by Field General Court Martial.

18 Aug 44
Bordon, Hants

J.E. Page
(J.E. PAGE) Brigadier,
Chief Adm Off, C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA95 (In lieu of AFA3)
40/P&S/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R.59741	Gnr		George Lawson	THOMSON	7 C.A.O. R.C.E.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Aug 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	Duke, Hedley, Vicars,	Un CRE

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	From and to be detailed by CC	1 C.A.O.R.C.E.
A Lt	From and to be detailed by CC	1 C.A.O.R.C.E.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England — (Country.)

J. R. Page — (Signed personally. RP 105 fn 2.)

(Col. Comdt) Brigadier — (Rank.)

Date 16 Aug 44

Commanding "B" Op., C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K R (Can) para 557

I certify that I have this morning examined No. B39741 Rank Sgt.
Name THOMSON G.L. of 7 CAWC RCE (Unit) and in my opinion he is
fit to undergo trial by Court Martial.
~~unfit~~ (N/A) G.L.

(cross out one
N/A and initial)

In the Field

19 Aug 44

Capt RCAMC

F.G.C.M. IN THE CASE OF

B 39741 Spr THOMSON, G.L., 7 Cdn Constr Coy
redesignated 7 Cdn Artizans Wks Coy
19 AUG 1944

EVIDENCE FOR THE PROSECUTION

1st WITNESS FOR THE PROSECUTION
K 29166 QMS THOMAS, A.E., on strength 7 Cdn Artisan Works Coy having been duly sworn states:

I offer in evidence certified true copy of Part II Orders of No 7 Cdn Construction Coy, RCE, No 46, dated 31 May 44, para "3" of this order shows the alteration in the name of 7 Cdn Construction Coy to 7 Cdn Artizan Works Coy.

(Part II Order No 46 marked Exhibit "1" by the Court)

I offer in evidence certified true copy of the record of the declaration of a Court of Inquiry which relates to the absence of the Accused, Spr Thomson, G.L.

DEFENDING OFFICER STATES:

I object to the admission of this document on the grounds that the accused was not present when the Court sat and that the witnesses who appeared before that Court were not cross-examined by anyone on the behalf of the accused. And further that the Defence hopes to prove that the accused did not absent himself from the time declared by that Court.

BY THE COURT TO THE DEFENDING OFFICER

The document on its face is in order and is prima facie evidence of the time of going absent, the Court intend to admit it. Later you can bring evidence to the fact that any of the findings of the Court are incorrect.

(Declaration of the Court of Inquiry admitted and marked Exhibit "2"

WITNESS CONTINUES

I offer in evidence Part II Order of 7 Cdn Construction Coy No 92, dated 26 Oct 43, referred to in the Court of Inquiry as Appendix "D".

(Part II Order No 92 marked Exhibit "3" by the Court.)

I offer in evidence certificate of apprehension under PC 2797 which relates to the Accused.

(Certificate admitted in evidence and marked Exhibit "4" by the Court).

CROSS-EXAMINATION BY THE DEFENDING OFFICER

I was section sergeant of No 2 Sec in this Construction Coy at the time the accused went AWL, the accused was not a member of my section. I was not at the time of his alleged going AWL the orderly sergeant.

BY THE COURT

Q Do you know anything about the duty of the accused, what he was on when he went absent?
A I was on the Court of Inquiry, I know personally about him.

In the opinion of the Court it is unnecessary to comply with RF 83(B)

CASE FOR THE PROSECUTION IS CLOSED

EVIDENCE FOR THE DEFENCE EXHIBIT D-6

1st WITNESS FOR THE DEFENCE

B 39741 Spr THOMSON, G.L., (The Accused) on strength No 7 CANC having been duly sworn states:

I was an officer's batman with 7 Cdn Construction Coy at the time I was supposed to've gone AWL. I did not answer a roll call at Tattoo on the 4 Oct 43 there was not one called, I never did answer a roll call at Tattoo. I went to a picture show on the 5 Oct 43 in camp, I remember it quite well. I left camp on the 7 Oct 43 and went to the vicinity of Guildford at about 1100 hours.

CROSS-EXAMINATION BY THE PROSECUTOR

At 0930 hours on the 5 Oct 43 I was up-stairs in my officer's quarters taking care of his equipment, he was on leave at the time, I was in camp on ~~the 5 Oct 43~~. I have heard what the declaration of the Court of Inquiry has saidbut I was in camp on the 5 Oct 43. I was not in my own quarters on the 5 Oct 43 between 0930 and 1000 hours, I spent the whole morning fixing up the officers room and taking care of his equipment.

BY THE COURT

Q You have said that you went away from the camp about 1100 hours on the 7 Oct 43, is that right?
A Yes Sir.

Q Do you mean that you went AWL at that time?
A Yes Sir.

Q Did you leave camp without a pass to go to Guildford that day?
A Yes Sir.

Q Did you remain absent from that time until 14 Aug 1944, AWL?
A Yes Sir.

DEFENDING OFFICER pointed out to the Court that from the evidence just given by the accused it was apparent that the entry made in the Part II Order Exhibit "3" was inaccurate and untrue.

PROSECUTOR ADDRESSES THE COURT ON THE FINDING

Sir, On the evidence the accused admits that he went AWL at 1100 hours 7 Oct 43 and remained absent until 14 Aug 44 at 1900 hours, that is an absence of 312 days.

DEFENDING OFFICER ADDRESSES THE COURT ON THE FINDING

Sir, All I wish to say is that in summing up if the Court sees fit to find the accused guilty that the evidence which has been produced in this case be more than carefully scrutinized. The Part II Order describing the date of his going absent is obviously wrong, therefore the declaration was held two days too soon and therefore illegal as evidence. I submit that the Prosecution has submitted no evidence to establish a prima facie case. The only evidence available is the accused's own statement which he gave to establish the error in the Court of Inquiry and the Part II Order. I move that the Court dismiss the charges that have been brought against the accused for lack of evidence, which it is the duty of the Prosecution to produce.

PRESIDENT TO THE DEFENDING OFFICER

You will understand Mr Defending Officer that the Court, in this case have the right to make a special finding and the

Court might in such special finding find that the accused absented himself, not from the time mentioned in the charge sheet, but from 1100 hours the 7 Oct 43, the time given by the accused in evidence. This does not mean that the Court believes that the time mentioned in the declaration of the Court of Inquiry is necessarily incorrect, but such a finding might be based on a reasonable doubt created in the minds of the Court and the Court might decide to resolve that doubt in favour of the accused by making this special finding as above indicated.

COURT IS CLOSED TO CONSIDER THE FINDING

COURT IS RE-OPENED

PLEA IN MITIGATION:

Sir, I am not going to say much in mitigation except that due to the age of the accused he was not allowed to use his trade but has been allocated to the lowly and most unliked position, by Canadians, of being somebody's personal batman. His trade in civil life was a riveter in ship yards. The army could not use his trade or could not see fit to use it. He has become fed up with this sort of a job, and can you or anyone else blame him. I point out that his first two years of service were clear of crime of any sort, and I think that you will agree that this past history is just the result of him being fed up and rebelled at the type of work he was given and expected to like. I wish to ask the Court to be lenient when punishing him if they can see anything that would possibly justify that leniency towards him.

EX 2 EXHIBIT "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at BORDON, Hants on the 27th day of October 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 39741 Sapper THOMSON, G.L.

DECLARATION.

The Court declare, that Sapper Thomson had been absent from 0930 hrs 5 Oct 43 and still absent at 1030 hrs 27 Oct 43, a period of 22 days, 1 hour.

That he has deficiencies of kit amounting to $17.42 (Appendix "C").

That he is absent without leave and is still so absent.

That entries were erroneously published in Part II Orders (Appendix "B")

That Part II Orders have been amended. (Appendix "D").

Names of President and Members Capt R.J. Harris, RCE - President
Lieut D. Rhodes, RCE - Member

Signature of Commanding Officer (Sgd) H.B. Stuart
H.B. STUART, Major RCE
Officer Commanding
7 Cdn Constr Coy RCE

CERTIFIED TRUE COPY

Andrew Capt RCE
Signature of Officer having custody of the Original Record.

(16958) WL 28082/1365 120,000 1/41 A.& E.W.Ltd. Gp.688
(17936) WL 11504/173 200,000 5/41 " " Form/B116/56

LAST ORDER NO. 91 — 22 OCT 43. — PART II ORDERS ISSUED BY MAJOR H.B. STUART, MBE, RCE, OFFICER COMMANDING — THIS ORDER NO. 92 — 26 OCT 43.

SECTION "A" OFFICERS

N I L

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) TOS on posting from 8 Cdn Fd Sqn RCE w.e.f. 28 Sep 43)
(AUTH: ESI/1110 d/21 Sep 43)
B 27599 Spr Britton, L.W. (HQ)

2. STRENGTH DECREASE

(a) SOS to 1 METD on being recategorized "E" w.e.f. 25 Oct 43
(AUTH: 411/GEN/NC/345/3 d/22 Oct 43)
H 2937 Spr Malczewski, A. (2) Electrician C

(b) SOS on posting to 1 CERU w.e.f. 26 Oct 43
(AUTH: ESI/1655 d/21 Oct 43)
H 13042 A/CQMS Purdon, C.E. (HQ) Foreman Deptl

(c) SOS as a deserter w.e.f. 26 Oct 43 having been declared illegally absent by a Court of Inquiry from 0930 hrs 5 Oct 43. Deficiencies of kit to value of $17.56
B 39741 Spr Thomson, G.L. (4)

3. ATTACHMENTS

(a) Cease to be att. f.a.p. to 2 Echelon w.e.f. 23 Oct 43
F 92918 Spr Creary, W.V. (4) B 59048 Spr Works, M.B. (4)

(b) Att. f.a.p. to 1 Cdn Base Park Coy RCE w.e.f. 26 Oct 43
(AUTH: 4/CCE/Course/6 d/16 Oct 43)
B 26508 Spr Milson, W. (2)

(c) Ceases to be att. f.a.p. from 1 Cdn Base Park Coy RCE
(AUTH 4/CCE/Course/6 d/16 Oct 43) w.e.f. 25 Oct 43
B 23263 Spr Newport, P.

(d) Cease to be att. f.a.p. from 5 CCC. RCE w.e.f. 25 Oct 43
(AUTH 4/CCE/Course/6 d/16 Oct 43)
A 48503 L/Sjt Clark, R. M 5033 Cpl Neall, S.W.
K 73190 Spr Stewart, J.

(e) Cease to be att. f.a.p. from 6 CCC. RCE w.e.f. 25 Oct 43
(AUTH 4/CCE/Course/6 d/16 Oct 43)
G 17755 Spr Blakely, E. C 1837 Spr Pitman, J.

(f) Ceases to be att. f.a.p. from 6 CCC. RCE w.e.f. 21 Oct 43
B 29407 Spr Gurney, T.W.

(g) Att. f.a.p. from 1 CMEC. RCE w.e.f. 25 Oct 43
H 38630 Spr Imrie, R.

4. HOSPITAL

(a) Transferred from 2 CGH to Alton Conv Hosp w.e.f. 21 Oct 43
K 11203 Spr Giesen, C.A. (1)

(b) Discharged from 1 CMC w.e.f. dates shown
F 88510 Spr Hagell, F. (HQ) 25 Oct 43
A 20531 Sjt Jardine, H.A. (4) 25 Oct 43
M 41304 Spr Porret, A. (1) 24 Oct 43
B 25518 A/L/Cpl Tweedy, L.E. (HQ) 23 Oct 43

5. LEAVE OF ABSENCE

(a) Granted 7 days Privilege Leave and 48 hrs Extension with money allowance (9 days) in lieu of Rations from 30 Oct-7 Nov 43 (incl)
F 91580 Spr Adams, W.P. (1) B 26045 Spr Anderson, G. (HQ)
B 27233 L/C Barditt, S.G. (3)

(P.T.O. to Page 2)

1185

EX 3
EXHIBIT "

7 CDN CONSTRUCTION COY RCE (Page 2)
PART II ORDERS
ISSUED BY

LAST ORDER NO. 91 — THIS ORDER NO. 92

22 OCT 43. MAJOR H.B. STUART, MBE, ED, OFFICER COMMANDING 26 OCT 43.

SECTION "B" OTHER RANKS

LEAVE OF ABSENCE (Cont'd)
(b) Granted 14 days Privilege Leave and 48 hrs Extension with money allowance (16 days) in lieu of Rations from 30 Oct- 14 Nov 43(incl)
B 27769 Spr Cooper, T. (4)

6. ABSENT WITHOUT LEAVE
(a) (Amendment) Pt II Order No. 87 4/8 Oct 43 Sec B Para 7(b) is amended to read " AWL from 0930 hrs 2 Oct 43. Still AWL 0930 hrs 6 Oct 43 (24 hrs) B 39741 Spr Thomson, G.L. (4)"

(b) (Amendment) Pt II Order No. 88 4/12 Oct 43 Sec B Para 5(b) is amended to read: " Previously reported AWL from 0930 hrs 5 Oct 43 Still AWL 0930 hrs 13 Oct 43 (8th day)
B 39741 Spr Thomson, G.L. (4)"

7. APPOINTMENT
(a) To be A/CQMS D 16552 A/Cpl McBride, J.(HQ)w.e.f. 27 Oct 43

8. TRADESMENS RATES OF PAY
(a) Ceases to draw tradesmens rates of pay as Carpenter C
D 16552 A/Cpl McBride, J.A.(HQ)w.e.f. 26 Oct 43

9. PUNISHMENTS
(a) B 10407 Spr Smeltzer, D.V. (1)
Offence A.A. 15(1) WOAS AWL from 2200 hrs 23 Oct 43 until 0130 hrs 25 Oct 43 (Absent 1 day 3 hrs 30 mins)
Punishment 14 days C.B.
Forfeiture 2 days pay FR&I 149 1(a)
(Date of award 25 Oct 43)

(Amendment)
(b) Pt II Order No. 8 d/26 Jan 43 Sec B Para 9(d) is amended by the addition of the following:"In civil custody from 2315 hrs 16 Jan 43 until returned to unit 1115 hrs 17 Jan 43. Forfeits 1 days pay FR&I 149 1(c). Cost of Apprehension 11d.
C 34960 Spr Paris, M. "

(Cancellation)
(c) Pt II Order No. 11 d/2 Feb 43 Sec B Para 8(a) is cancelled
C 34960 Spr Paris, M.

10. MARRIAGE
(a) Married with permission to Mary Catherine Morans in the city of WESTMINSTER England on 16 Oct 43
B 29693 Cpl Law, P. (3)

11. CHANGE OF NEXT OF KIN
(a) B 29693 Cpl Law, P. (3)
From Mrs Margaret Law (mother)
To Mrs Mary Catherine Law (wife)
10 q.Peabody Avenue, EBURY BRIDGE, LONDON, S.W. 1

12. HONOURS AND AWARDS
(a) Having completed two years Service with good conduct and behaviour the u/n are granted permission to wear One Good Conduct Chevron w.e.f. dates shown
D 16780 Spr Koenpfel, R. (4) 1 Sep 43
K 63944 A/L/Cpl Ridgeway, C.H.(4) 3 Jul 43

SECTION "C" SPECIAL INCREMENT
Nil

Certified true copy of
Pt II Order No 92 d/26 Oct 43

[signature] Capt RCE
A/Officer Commanding
7 Cdn Artizan Works Coy RCE

for [illegible] STUART, MAJOR RCE
Officer Commanding
7 Cdn Constr Coy RCE

Lieut RCE

EXHIBIT "C"

B39741 Pte. Thomas or G.L.
7 Bruce, Gay Guildford
R.C.E. 14 Aug 44
1900 ... hours on ... (date) and ... at the time
of the arrest he was wearing (military uniform) or (

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces of the Officer, non-commissioned officer or non-commissioned officer in charge of the Detachment of the Canadian Provost Corps, Can Army, into whose custody the above named person was taken on arrest.

J Gore
.....

EX 4
MM

ORDERLY ROOM
AUG 15 1944
No. 9 PROVOST COY.

EX 1 EXHIBIT "D"

7 CDN CONSTRUCTION COY RCE
FINAL PART II ORDERS
ISSUED BY

THIS ORDER NO. 46

LAST ORDER NO. 45 30 May 44.

MAJOR H.B. STUART, MBE, RCE, OFFICER COMMANDING 31 MAY 44.

SECTION "C" SPECIAL INCREMENT

1. STRENGTH DECREASE

(a) The u/m are SOS on posting to 7 Cdn Artizan Works Coy RCE w.e.f. 31 May 44
(AUTH: CRU/406/A W Coys/1 d/1 Jun 44)

M 59324	Spr	Bassett,	A.M.	Pioneer	C
B 53696		Brawley,	K.J.	Concretor	B
D 16131		Brown,	J.J.	Pioneer	C
M 36949		Carmichael,	H.H.	Concretor	C
D 16687		Delcourt,	C.	Concretor	B
L 19591		French,	J.	Concretor	C
F 91516		Gerow,	W.J.	Concretor	B
K 11203		Gibsen,	C.A.	Pioneer	C
B 25319		Gordon,	W.J.	Concretor	B
A 20704		Kenney,	C.J.	Concretor	B
E 27279		Kerr,	P.J.	Concretor	C
D 16780		Kuempfel,	R.	Bricklayer	C
B 22904		Lacey,	A.S.	Concretor	C
L 17098	Spr (ALS)	Lafleur,	M.H.	Concretor	B
M 65883	Spr	Leslie,	C.H.	Concretor	B
B 16188		Lovering,	G.H.	Concretor	C
B 23132		Lyon,	C.A.	Concretor	C
F 88554		Murphy,	D.	Concretor	C
M 36211		McAndrew,	J.	Concretor	B
A 20312		McCafferty,	J.F.	Concretor	B
F 89118		McNeil,	D.J.	Concretor	B
A 19546	Cpl	Patton,	J.A.	Concretor	B
A 35090	Cpl	Perry,	J.H.	Concretor	B
B 5972	Spr	Pratt,	G.	Concretor	B
A 19271		Pritchard,	D.W.	Pioneer	C
A 18161	Spr (ALC)	Taylor,	L.R.	Concretor	B
B 27931	Spr	Wedlock,	T.R.	Concretor	B
L 19954		Williams,	W.		

(b) The u/m are SOS on posting to 1 CERU w.e.f. 31 May 44
(AUTH: CRU/406/A W Coys/1 d/1 Jun 44)

L 19940	Spr	Atkins,	W.	Pioneer	C
K 22014		Connell,	J.	Concretor	B
H 82122		Fouski,	N.	Concretor	B
A 68224		Farr,	A.R.	Bricklayer	C
C 2883		Gendron,	J.A.	Concretor	B
F 78316		Kaye,	R.C.	Concretor	B
K 73931		MacCrimmon,	J.	Concretor	B
D 57737		Marier,	A.	Plasterer	B
D 16540		Martineau,	J.G.W.	Concretor	B
B 23064		Mather,	H.	Concretor	B
B 53375		McComb,	R.	Concretor	B
H 36227		Saunders,	H.	Pioneer	C
M106376		Stanyer,	H.G.	Pioneer	C
B 23137		Thompson,	C.M.	Concretor	B
M 5397		Wilson,	F.L.	Pioneer	C
D 6971		Wooller,	H.F.	Pioneer	C

2. TRADESMENS RATES OF PAY

(a) The u/m cease to draw tradesmens rates of pay as shown wef 31 May 44

B 19719	Spr	Horne,	J.W.	Concretor	C
A 20539		Zettel,	J.J.	Pioneer	C

3. Under Authority CMHQ Administrative Order No 93 d/25 May 44 7 Cdn Construction Coy RCE will be redesignated "7 CANADIAN ARTIZAN WORKS COY RCE" w.e.f.1 Jun 44 and the INCREMENT 7 Cdn Constr Coy RCE is DISBANDED w.e.f. 31 May 44.

for H.B. STUART, Major RCE
Officer Commanding
7 Cdn Construction Coy RCE

Lieut RCE.

Certified true copy of Pt II
Order No 46 d/31 May 44

A/Officer Commanding
7 Cdn Artizan Works Coy RCE

SECTION "B" OTHER RANKS

6. TRADESMAN'S RATES OF PAY

(a) The u/m cease to draw Tradesman's Rates of Pay as shown w.e.f. 31 May 44.

B 29685	Spr	Beatty,	W.H. Tinsmith	"C"
B 29820		Balfour,	C.L. Welder	"C"
K 74277	A/C	Carter,	G.A. Eng Art	"C"
C 33169	Spr	Challice,	C.L. Plumber	"C"
K 31075	L/C	Collins,	E.G.W. Carpenter	"C"
M 60287	Spr	Devolin,	J.M. Eng Hand i/c	"C"
F 88510		Hagell,	F.J. Eng Hand i/c	"C"
B 39565		Johnston,	C. Eng Hand i/c	"C"
K 31016	A/C	Knight,	F.G.W. Painter	"C"
M 3839	Spr	Morris,	H.P. Painter	"C"
K 67620	ALC	Painter	A.B.F. Carpenter	"C"
B 25409	Spr	Rhodes,	C.M. Eng Hand i/c	"C"
A 59715	ALC	Rist,	W.E. Carpenter	"B"
B 82861	Spr	Stachiw,	S. Eng Hand i/c	"C"
K 70849		Thompson,	W. Carpenter	"C"

(b) The u/m ceases to draw Tradesman's Rates of Pay as Foreman of Works "B" w.e.f. 30 May 44, and being qualified is granted Tradesman's Rates of Pay, Painter "B" w.e.f. 31 May 44.

M 65273 A/L/S Bell, H.C.

(c) The u/m ceases to draw Tradesman's Rates of Pay as Cook "C" w.e.f. 19 May 44, and being qualified, is granted Tradesman's rates of Pay as Carpenter "C" w.e.f. 20 May 44.

B 26045 Spr Anderson, G.

(d) The u/m ceases to draw Tradesman's Rates of Pay as Carpenter "C" w.e.f. 31 May 44.

M 65196 Spr Cardinal, P.

7. PUNISHMENTS

(a) M 65196 Spr Cardinal, P.
On 26 May 44, tried by FGCM:

Charge AA 8(2)	WOAS Striking his Superior Officer
Finding	Guilty
Sentence	6 MONTHS DETENTION
Confirmation	Finding and Sentence confirmed by Cmdr (Brig) "F" Group, CRU, on 31 May 44.
Close Arrest	In Close Arrest from 2200 hours, 13 May 44, to 1000 hours 26 May 44. (12 days 12 hours)
Forfeitures	184 DAYS PAY under PR&I 149 1(b)
	12 DAYS PAY under PR&I 149 1(c) (13 days concurrent)
Total Forfeitures	196 DAYS PAY

8. HONOURS AND AWARDS

(a) Awarded 1939 - 43 Star (Overseas RO 4630)
L 13228 Spr Prebushewski, M.

9. BIRTHS

(a) Daughter, Freda Mary, born at FARNWORTH, Lancaster, Eng on 12 May 44.
Wife: Mrs Maggie Naylor.
B 22808 Spr Naylor, F.

10. MARRIAGE

(a) Married with permission to Sjt Margaret Patterson, (ATS), at MANCHESTER, Lancs, Eng, on 20 May 44.
K 65486 Spr Petrie, J.

11. CHANGE OF NEXT OF KIN

(a) K 65486 Spr Petrie, J.
From: Mrs Molly Kenny, (mother) 1246 Burrard St, VANCOUVER, BC.
To: Sjt Margaret Petrie (wife) 134 Buckley Road, Gorton, MANCHESTER. Eng.

P.T.O. to Page Twelve.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	21 May 43	A.A. Sec 15 (1) Absence Without Leave	60 Days Detention	Released from Detention Barracks - 2 Jul 43 Remission earned - 17 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 19 day of August 1944

Andrew Sec. Capt RCE

Officer having custody of Regimental Books

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-39741	Spr	THOMSON, G.L.	7 Cdn Artizan Works Coy RCE

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15 (1) — 4 times.

For ____ ____ times.

For ____ ____ times.

For ____ ____ times.

Date of first entry in Field Conduct Sheet ____

Date of last entry in Field Conduct Sheet ____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 5 days in military custody, *i.e.*, Nil days in open arrest, 5 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 46 years 8 Months

6. The date of his attestation is 24 Jun 40

7. The service which the accused is allowed to reckon is 4 yrs 1 month 24 days

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

EX B MY

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.8670/688 100,000 4/42 A.& E.W.Ltd. Gp.698
(21459) W1.29258/1873 60,000 9/42 " " Forms/B.296(War)/2

MFM 6
(AFB 122)
40/PAM/136 (3439)

No B-39741 Name THOMSON, G.L. | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 24 Jun 40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc H.B. Stewart Major RCE | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original Destroyed 24 Jun 42 CARO 2084 (2 years Service No Entries)					
Field	20 Sep 42	Spr		A.A. 15 (1) AWL from 2359 hrs 20 Sep to 7 Oct 42 2120 hrs (Absent 16 days 21 hrs 21 mins)	Cpl Rackett Spr Murphy	15 days pay FR&I 149 (2)	8 Oct 42	Lt/Col Archibald	17 days pay FR&I 149 (1)(a)
Field	22 Dec 42	Spr		A.A. 15 (1) AWL from 2300 hrs 22 Dec 42 to 0800 hrs 23 Dec 42 Absent 9 hrs	Cpl Bubar	5 days C?B.	23 Dec 42	Capt R.E. Neelands	1 days pay FR&I 149 (1)(a)
Field	2 Jan 43	Spr		A.A. 15 (1) AWL from 2315 hrs 2 Jan 43 to 0700 hrs 4 Jan 43 (Absent 1 day 7 hrs 45 mins)	Cpl Reilly	4 days C.B.	5 Jan 43	Major JF McDonald	2 days pay FR&I 149 (1)(a)
Field	4 Jan 43	Spr		A.A. 15 (1) AWL from 2315 hrs 4 Jan 43 to 0800 hrs 5 Jan 43 (Absent 8 hrs 45 mins)	Cpl Reilly	3 days C.B.	5 Jan 43	Major J F McDonald	1 days pay FR&I 149 (1)(a)
Field	21 Feb 43	Spr		A.A. 15 (1) AWL from 23 15 hrs 21 Feb 43 to 2130 hrs 29 Apr 43 (Absent 66 days 22 hrs 15 mins)		60 days detention	21 May 43	F.G.C.M.	67 days pay 149 (1)(a) 60 days pay 149(1)(b) 21 days pay 149 (1)(c)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Released from the Detention Barrack Feild Sentence having Expired. Remission earned under rules for Detention Barracks and Military Prisions 17 days. Com Initials.				2 Jul 43	

Certified True Copy of the Original in my Custody. 19 Aug 44.

Andrew Spy Capt.

(ANDREW SPY) Capt RCE
Officer having Custody of
Regimental Books.

SUMMARY OF EVIDENCE

In the case of B-39741 Spr THOMSON, G.L., R.C.E., on the strength of 7 Cdn Construction Coy R.C.E., since re-designated as 7 Cdn Artizan Works Coy R.C.E., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary is taken on Oath.

FIRST WITNESS for the Prosecution

K 29166 A/QMS Thomas, A.N., R.C.E., on strength of 7 Cdn Artizan works Coy R.C.E., Warrant Officer Class II of the Canadian Army Overseas, having been duly sworn states:

I am K-29166 A/QMS Thomas, A.N., R.C.E., on the strength of 7 Cdn Artizan Works Coy R.C.E., I am regimentally employed as C.S.M. and have access to the Regimental Books.

During the month of October 1943, I was employed as a section serjeant of 7 Cdn Construction Coy R.C.E., which has since been re-designated 7 Cdn Artizan Works Coy R.C.E. in connection with which I present the Final Part II Order, 7 Cdn Construction Coy R.C.E., No 46 d/31 May 44 (Exhibit "D"), publishing in Section "C" Para 3 the authority for this re-designation. This document is marked Exhibit "D" and is attached to this Summary of Evidence.

I produce a certified true copy of the Declaration of the Court of Inquiry (Exhibit "A") relating to the accused, whom I now recognize, which states that the accused absented himself without leave from 0930 hrs 5 Oct 43 and, as an Appendix to this Declaration, Part II Order, 7 Cdn Construction Coy R.C.E., No 92 d/26 Oct 43 (Exhibit "B"), publishing in Para 6(a) the amended time of Absence. These documents are marked respectively Exhibits "A" and "B" and are attached to this Summary of Evidence.

I now produce Schedule "F" (Exhibit "C") relating to the accused which is a certificate of apprehension and shows that the accused was arrested at 1900 hrs 14 Aug 44. This document is marked Exhibit "C" and is attached to this Summary of Evidence.

The above evidence was read to the accused.

A.N. Thomas
K-29166 A/QMS Thomas, A.N.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

T.R. Punnett

In the Field
16 Aug 44

(T.R. PUNNETT) Lieut RCE
Officer detailed to take the Summary of Evidence

~~LIST OF WITNESSES~~
~~PROSECUTION~~

7 C.A.W.C. RCE.

NIL

LIST OF EXHIBITS

A. A Declaration of a Court of Inquiry relating to the accused, d/27 Oct 43.

B. Part II Order No 92 d/26 Oct 43.

C. Schedule "pw" Certificate of Apprehension, d/14 Aug 44.

D. Part II Order No 46 d/31 May 44.

7 CDN ARTIZAN WORKS COY RCE

17 Aug 44

REQUEST FOR DEFENDING OFFICER

I certify that I have received free of charge one copy of Summary of Evidence, Charge Sheet, List of Witnesses and Exhibits.

I desire the services of an officer to represent me at my forthcoming trial.

G. L. Thomson

J-39741 Spr Thomson, G.L.

17 Aug 44

LIST OF WITNESSES

FOR THE PROSECUTION

1. K-29166 A/QMS THOMAS, A.W. 7 C.A.W.C. RCE.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

A. A Declaration of a Court of Inquiry relating to the accused, d/27 Oct 43.

B. Part II Order No 92 d/26 Oct 43.

C. Schedule "F" Certificate of Apprehension, d/14 Aug 44.

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17 Aug 44

G. L. Thomson

K-39741 Spr THOMSON, G.L.

71 G Pte Thomson H

O. H. M. S.

M. F. B. 270
BAM M 12-40 (5068-00-70)
H.Q. 1772-39-67

B-29315 Pte. Thompson,H.
No.1 Cdn Ord Reinf Unit

716

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 25th day of March, 19 43

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial on reference to a superior qualified officer~~.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

*~~I am unable to appoint:~~

*~~(1. Three Officers to form the Court)~~

*~~(2. A Field Officer as President)~~

*~~(3. Three Officers having more than one year's service)~~

~~for the following reasons, namely:~~

Judge-Advocate Capt. A.H. Friedgut, K.C. H.Q., C.R.U.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	R. Bingham	No.1 Cdn A.S.C. Reinf Unit

Members.

Rank.	Name.	Regiment.
A Captain	from	No.1 Cdn Arty Reinf Unit
A Lieutenant	from	No.1 Cdn Arty Reinf Unit
A Lieutenant	WAITING MEMBER from	1 Cdn Div Inf Reinf Unit

*Signed D.C. Spry Brigadier

Commanding Cdn Reinforcement Units.
Convening Officer.

17 Apr 43

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

DO 82.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-29132 PTE. THOMSON, H. No.1 Cdn Ord Reinf Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty.	Guilty. To Forfeiture of Seniority for 30 Days. RB. 27.3.42.	Confirmed A.B. Chilcott Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) A.B. Chilcott Brigadier (*Signed*) R. Buchanan Major
Commanding Cdn Reinforcement Units. *Convening Officer* (*c*) No.1 Corps R.U. *President*
A/ Lieut-Capt

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 27th day of March '42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that:—

1. The members of the Court and the Judge Advocate.
2. The witnesses
*(3. ~~The interpreter~~) The Shorthand writers.
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 27th day of March 1942

R. Buchanan. Major.
President of the Court Martial.

C.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

RB. ~~Signed this day of 19~~

President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 28 day of March 1942

A.B. Chilcott Brig
Confirming Officer

Promulgated and extracts taken in the case of B 29132 Pte Thomson H.

(*a*) (Dated) 2 April 42. (Signed) ~~Hon. Lieut. Deputy Asst.~~ C.O. 1 Cdn Ord R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42759) Wt. 40333—893 300 m 1/40 P. St. G. Co.

R. Pte Thomson Hapd
Pte Thomson

CHARGE SHEET

The accused, No. B.29132 Pte. Thomson, H. No. 1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with, while on Active Service:-

1st Charge
Sec. 15(1)
Army Act.

"Absenting himself without leave"

in that he, at Bordon, Hants, absented himself without leave from 2230 hours 30 Dec. 41 until he surrendered at Bordon at 1300 hours 4 March 42.

(HAROLD M. BAILEY) Lieut.-Col.
O.C. NO. 1 CDN. ORD. REINF. UNIT.

Bordon, Hants,
14 March 42.

To be tried by Field General Court Martial

(T.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.
Convening Officer

Farnborough, Hants
This 25th day of March 42.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT BRAMSHOT, Hants. ON THE 27 DAY OF MAR 42

TRIAL OF:- No. B-29312, Pte THOMPSON H. Unit No 1 CORU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Major E M Miller (Unit) No 1 CORU.

Defending Officer:- (Name) Lt. J W H Bustall (Unit) No 1 CORU.

At 0930 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No, sir.

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President ..Major R. Bingham.....(Unit) 1 CASCRU.

Members ....Capt. E.R. Dixon.....(Unit) 1 CARU.

....Lieut. V.E. Tice.....(Unit) 1 CARU.

The officers under instruction are duly sworn.

Q2 Do you object to ....Sgt. T. Pyburn.....acting as shorthand writer?
A2.- No, sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name...Major E.M. Miller...(Unit)..No.1 CORU..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 -Yes, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

ACCUSED, sworn, stated on 30 Dec 41 applied for pass, was refused. Wife failed receive allowance, and accused wished 48 hr pass in order to endeavour adjust matter. Wife was in difficulties financially as result of not recvg allowance. Decided go AWL for 48 hrs in order get matters straightened out. Failed to trace cheque. Borrowed money and took wife to Scotland. Not recvg allowance, accused unable to return immly, so remained in Scotland with wife. Wife pregnant at time, and accused accompanied her owing to her frequent fainting spells. Eventually borrowed rly fare and returned, leaving wife in Scotland. Married in Eng 1 yr ago. This first occasion wife failed receive allowance. All circumstances of situation explained to Coy Commdr, who refused pass.

P.T.O.

DEFENDING OFFICER states accused 23 yrs of age, enlisted May 40; came to Eng without training within one month of enlistment. Good record. Wife previously had miscarriage and in delicate condition. Took wife to her home in Scotland. Finally borrowed rly fare for return from village postman. Surrendered himself. 24 days detn awaiting trial. Requests leniency, and expresses opinion long sentence would not be in interests of justice or of advantage to army or accused.

In answer to Court, accused stated birth of child expected in 60 days.

CERTIFIED a true and correct
report of the proceedings:-

Sgt.
Shorthand Writer.

R. Bristow Major.
President.

SUMMARY OF EVIDENCE in the case of No. B.29132 Pte., Thomson, H. No. 1 Cdn. Ordnance Reinforcement Unit. By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st Witness for the Prosecution.

"D.109743 L/Cpl. Christensen, S. No. 1 C.O.R.U. having been duly sworn, states:

"I am a member of the Regimental Police, No. 1 C.O.R.U. At 1300 hours 4 March 42, Pte. H. Thomson, the accused whom I now recognize, reported to me at the guard room, No. 1 C.O.R.U., stating that he had been absent without leave. He was sober and properly dressed. He is the H. Thomson named in the Declaration A.F.B. 115 now produced. (MARKED EXHIBIT "A")"

The accused does not wish to cross-examine this witness.

S. Christensen L/Cpl.
(S. Christensen)

The accused having been duly cautioned in accordance with Rule of Procedure 4(E)

"Reserves his defence"

Certified that Rule of Procedure 4 (C) (D) and (E) (F) 4 (a) have been complied with.

Taken down by me in the presence and hearing of the accused this 14th day of March 1942 at Bordon, Hants.

E.M. Miller

(E.M. MILLER) MAJOR

rcement Unit

F.A.P.
26 March 1942

Medical Officer's Certificate.

I certify that I have this morning examined No... B29132
Pte. Thomson, H..... ..... of No.1 Cdn. Ord. Reinforcement Unit
and in my opinion he is ~~unfit~~ fit to undergo trial by court martial.

Station. New Martinique Barracks
Bordon, Hants,
Date. 27. March..... 1942

Sgd. J Alexander Capt. R.C.A.M.C.
~~A.W.E.Brown~~ M.O. #1 C.O.R.U.

R Brigham Major
President

Exhibit "A" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at Bordon on the 21st day of January 19 42, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.29132 Pte. Thompson, H., No. 1 Cdn. Ord. Rein. Unit.

DECLARATION.

The Court declare that B. 29132 Pte. Thompson, H., No. 1 C.O.R.U. illegally absented himself without leave at 2230 hours 30 Dec. 41 at Martinique Barracks, Bordon and that he is still so absent.

PRESIDENT

MAJOR No. 1 C.O.R.U
(E.M. MILLER)

MEMBERS

CAPT. No. 1 C.O.R.U.
(A.PIRIE MILLER)

Names of President and Members

LIEUT. No. 1 C.O.R.U.
(L.A. WINTER)

Exhibit "B" to Affidavit of Major E.M. Miller dated Dec 5th.

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(11551) WL.34318/1622 75,000 10/39 A.S.E.W.Ltd. Gp.698 Forms.B/115.55

#2 Road Constr'n Coy. R.C.E. (C.A.S.F.)

No. B.29132 Name Thomson, H. Sqn., Battery, or Company — Corps — Date of enlistment 8/5/40 G.C. Badges — Service and Proficiency Pay — M.F.M.A. (A.F.B. 133)

Date of last entry in Company Conduct Sheet: Nil — No. and date of last drunk: Nil — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.: E.J. YOUNG (Major) — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entries on previous sheet. Old sheet destroyed on completion of 6 months service							8/11/40.	E.J.YOUNG (Major)	
Oxshott	17/10 Spr. 41			Sec. 40. A.A. failed to report for guard duty at 1745 hrs when duly warned.	L/Cpl. Gosnell, A.S.	3 extra guards	20-10-41	E.J.YOUNG (Major)	
Bordon	22-12-41	Pte.		A.W.L. 0825 hrs 22-12-41 to 1800 hrs 22-12-41. Absent 9 hrs 35 min.	L/C Swinemar.	1 days pay Forf. 3 days pay awarded		J.W.INGLIS (MAJOR)	Total 4 days pay.

CERTIFIED TRUE COPY.

.....O i/c R

No. 1. Cdn. Ordnance Reinf. Unit

R. Bruce Jenn Major
President.

* Army Form B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.29132	Pte.	Thomson, H.	NO. 1 CDN. ORD. REINF. UNIT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 40 Failed to report for guard duty.	1 times	1 times.
For	times	times.
For A.A.15(1) A.W.L.	1 time	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N I L

or

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~23~~ 24 close arrest days in military custody, making a total of ~~23~~ 24 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 23

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 8 May 1940.

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decorations or military medals (or is in possession of, or entitled to receive, the following military decorations or medals).~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer held the substantive rank of

12. ~~(If the accused is an officer.)~~ The accused holds or has held a commission dated , and in his regiment (or corps or department) the rank of dated

(*16648) Wt.30248/862 75,000 12/40 A.S.B.W.Ltd. Gp.675

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from regimental books in my custody.

Signed this 26-27 day of March 1942

Sgt Major Lieut S/C R

No. 1. Cdn. Ordnance Reinf. Unit

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	..... years, ...
In the rank of	..... years .....
In the rank of	..... years, ...

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

UK-13

PTE THOMSON J.A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-81931 Pte. James Alfred THOMSON (R.H.C.) 5 C.I.R.U.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of One Hundred and twenty days with Loss of pay

(Sgd) ..... Judge-Advocate, if any. 3 Nov 43 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1). Dv.

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Col

Date 4th Nov. 43. Commanding [illegible] Can. Inf. Bde. Gp. Rft. Units

~~Col~~ Brigadier, etc. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.81931, Pte.THOMSON,J.A.	5 Nov 43.	[signature] (A.S.Pearson) Colonel Commander, 5 Cdn Inf Bde Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

KL-13

FIELD GENERAL COURT-MARTIAL

(CFA96 (1st Rev. of AFA3) 40/P.S./1508 (2864))

Convened by Order of Colonel C.S. Devey A/ Comd "G" Gp CRU dated 1 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-81931	Pte.	James Alfred	THOMSON	R.H.C. 5 CIRU

R. Deaulville Capt 17 Nov 43 Branch

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~acting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(2) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nein.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major Lewalee	(Lieut-Col R)	7 CIRU
Member	Capt H.H. Smith	(Edmn R)	1 CIRU
Member	Lieut A.H. Bennett		5 CIRU
Judge-Advocate			
Prosecutor	Lieut W.J. McLean		5 CIRU
Defending Offr	Lieut W.R. Magill	(RHC)	5 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convr Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.~~ (3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 13.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change~~ his (their) plea(s) of Guilty to Not Guilty on ~~N/A~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 145.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~ (2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

D. 81931 Pte Thomson J.A.
B.W (RNR)
5 C.I.R.V.

Remarks | Date

Trial in (Country) Eng. 3 Nov.

Charges 15(1)

Sentence 120 dys. 3 Nov.

Recd from CR at JAG Branch 7 Nov.

To DW for (~~pre~~)(post) rev 12 Nov.

Recommendations by DW

(1) Pass and record.
(2) ~~Pass~~ err irregularities.
(3) Quash
(4) _____ charge(s).

Retd to JAG Rev 1 by DW. 17 Nov.

Passed to

Passed to

To AG 5 for

Retd from AG 5 to JAG Rev 1

Instrs by JAG Rev 1 on disposal

Record & file Blank 18 Nov.

Instrs completed by

CHARGE SHEET

The accused, No. D.81931, Private THOMSON, James Alfred, The Black Watch (R.H.R.) of Canada, on the strength of 5 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec.15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the Field, whilst a defaulter, did absent himself without leave from 5 Canadian Infantry Reinforcement Unit, at 1300 hours on the 2nd day of October 1943 until he surrendered himself at the Unit Guard Room, 5 Canadian Infantry Reinforcement Unit at 2245 hours on the 21st day of October 1943.

Total time absent 19 days 9 hours 45 minutes.

A.B. Noble

(A.B.Noble) Lt.-Col.
A/Commander
5 Cdn Inf Reinf Unit.

In the Field
29th day of October
1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(C.W. Devey) Colonel,
A/Commander
"G" Gp Cdn Rft Units.

Convening Officer.

1 Nov 43

Medical Officer's Certificate
K. R. (Can) para 557

I certify that I have this morning examined No. [redacted]
Thomson, J.A. (R.H.Q., R.C.I.P.U.) and in my opinion he is

fit
~~unfit~~ to undergo trial by Court Martial.

Station: 5 Cdn Inf Rft Unit

Date: 3 November 1943

.....Capt.
(Medical Officer) RCAMC
5 Cdn Inf Rft Unit

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA3)
40/PAS/1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-81931	Pte.		James Alfred	THOMSON	(R.H.C.) 5 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Nov 43 endorsed by me, [illegible] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([illegible])
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.W. ABELL (CARLT & YORK R)	7 C.I.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC	1 C.I.R.U.
Lieut	To be detailed by OC	5 C.I.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 1 Nov 43

(Signed personally. RP 105 fn 2.)

Colonel (Rank.)

A/Commanding "G" Group Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

3 Nov 43

To: PRESIDENT of the COURT
From: Defending Officer

PLEA of MITIGATION

In the case of No. D 81631 Private THOMSON, James Alfred, The Black Watch (RHR) of Canada, on strength of 5 Canadian Infantry Reinforcement Unit, I submit the attached letters purporting to be signed by the father of the accused, ANDREW THOMSON, 1414, Balmoral Street, Montreal, P.Q.

1. The accused informs me that he has been deeply troubled for some time by the home life of his parents, which is described in the attached letters.

(W.A. Magill) Lt.,
Defending Officer.

1414 Balmoral St
Montreal
Aug 10/42

My dear Son + Pal

I got your letter from Doug when he came home here from St Johns and it had been opened as I don't think you will have to write Norma about that letter but how my letter went to your Mothers place I don't know or did you send them to her ? but I see my address was still on it then again it may be some more of her rotten tricks of changing my address at the post office and if I only knew I would sure fix her. She has been after me again to take up house with I told her I would but that she would have to act much different that she has been doing and that some day she was out with Bob Hutton what do you

think of that Eh "James she is
your mother but she will never
be any better until she can't
walk then she will have them
come and see her. Now Jim
your Aunt Julia took Georgie's
death very hard and was sick
herself for 2 weeks after but
she is back at work now and
has got over it Jim I am glad
to hear that you know a car so
well it is good to know and
like you say may be very handy
when you come home and you
will be able to teach me home
Eh you say Alfy is getting
married well I hope he is doing
the right thing you know a boy
can make a big mistake very
easy in that line and you
can't undo it so easy. Now Jim
I was working at the Gaiety
but it closed up and I am
now at the Lido working for a
boys pay that is the show you
and Hoey used to go to when
we were in Griffintown Eh. but

the Gayety will open again at the end of this month and I hope to be back there again

Well I have some news for you now Doug left here for Halifax on Monday and Boy do I miss him he is such a good kid just like you he would give his shirt to help anybody he will write you from there I just cant believe he has gone I just dont know when but I think he will be in England as soon as he finishes his gun training in Halifax he has volunteered for merchant Marine as a gunner and I expect him back here as soon as his course is finished he has taken 95 p.c. in all his classes so far so I have no fear that he will make good on that part, Well Son I am glad that for once you had a good time on your leave I'll bet you painted the town Red Eh, Ha ha Son I think I have given you all the news for this time but hope to have another letter soon I am as B.4 your loving Dad

+ Pal

1414 Bleury Admiral Ed
Montreal

My Dear Son + Pal

Card together I got your letter and
card today you are in the
hospital the card says Dr out and
well again so that means no more
measles so glad to hear Ed.
Jones I am glad to hear that you
met Jackie you can collect the 2
dollars the Dr owes me so make it
your business to get it as I challenge
it just as good to you as it is to him
Jones tell me if you have mumps to
Granny or Aunt Jean you say you
sent me back the letter Norma wrote
me well I have not received it yet
unless you sent it to your mother
let me know you are getting along
with your le Saunders I am back
at the movie business again but
only till the Varsity opens up again
things here are very quiet also much
the same as when you left but Ad Boy
I wish I was with you now here is
news for you Doug is leaving here
on Monday to work makes us
most break till we get a letter from
him I will owe him a letter for him
sleeping with me all this time we
have had fun telling our wrestle

jockey. the gang here are all well but I think I will look for a nother place after Xmas gets so the old Lady is so crabby so hard and is always looking for money just like she always did Norma is still working and likes her job she and your Mother asked me about living together again I had a letter from Norma today and it seems they have forgot all about it again so like I told Norma in my letter perhaps it is better that way as I dont think your mother will ever settle so I think the best thing for me to do is paddle my own canno Now Son I think I have given you all the news for this time so take care of yourself until we meet again I am as ever your loving

Dad & Pal

1414 Balmoral St
Montreal
Sept 16/48

My Dear Son & Pal

It is so nice to hear from you but I am sorry to hear of you being in the Hospital again you sure are having a tough time of it lately but keep your chin up and things will come out all right yet, game you sure stuck to Alice well I suppose he will be a married man by the time you get this and about Blanche well perhaps you will believe now what I told you long ago Eh. I never did think very much of her at any time but strange things happen and as for as women go you can't trust them anytime or anywhere even your mother is jipping Chaffe just like she did me and the best advice I can give you is to stay single a least for a few years more. Now about Jackie Meehan I was only out with him twice and he borrowed money from me both times and he paid me back the first time but I lent him $20 in a Tavern bee and have never seen him since so jin when you see him again you collect from him Now Son like you say when and where we meet again we will sure have a real party your Mother & Norma are back in the City again with Chaffe but they dont come near me I think there is some wrong with her heard the one day she begs me to take home with her again and the next day she is full of gossip to me I cant see what can you make of a person like that Wong took 11 pairs of socks that she was going to have for me and I got 4 pairs back not bad Eh.

well Love things are still the same here I am
working in the Empty Theatre and am just manage
to get along and the way things are a person
has to be satisfied and say nothing however
all we can do is pray on like you are doing so
I will close now for want of news only that
I don't know your mothers address or I would give
it to you but be sure and keep your chin up
and you will be all right until then take
good care of yourself as this I want most in
this world is that you come back to me dear
if I can't get over there with you as now
so as I will ring off hoping to have another
letter from you soon and I won't forget your
smokes your letter says you are in No 4
General Hospital so I suppose I can take a
chance and send it there so please answer as
soon as you get this and let me know how
you are getting along I am as ever Yours

Fanny Hart & Pal

Exhibit "L"

5 CANADIAN INFANTRY REINFORCEMENT UNIT Sheet 4

Last Order 191 PART II ORDERS This Order 192
d/13 Oct.1943 ISSUED BY d/14 Oct 1943
COL. A.S. PEARSON, O.B.E., E.D. OFFICER COMMANDING

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13. ABSENTEES

(b) AWL from hrs. and dates as shown.
D.81931 PTE. THOMPSON, J.A. (MHC) 1300 hrs. 2 Oct. 43.

Sgd: J.L. Henslowe
(J.L.Henslowe) Capt.& Records Officer
5 Cdn Inf Rft Unit.

Certified True Copy as taken from 5 Cdn Inf Rft Unit Part II Orders No. 192 d/14 Oct 43.

.....
(J. L. Henslowe) Capt.
Records Officer,
5 Cdn Inf Reinf Unit.

Exhibit B" H.L.C.

5 CANADIAN INFANTRY REINFORCEMENT UNIT Sheet 3.

Last Order 204 d/28 Oct. 1943 | PART II ORDERS ISSUED BY COL. A.S. PEARSON, O.B.E., E.D. OFFICER COMMANDING | This Order 205 d/29 Oct. 1943

15. ABSENTEES

(c) D.O. 192 d/14 Oct 43 Para. 13(b) insofar as it relates to the u/m is hereby amended to read "Pte. Thomson J.A."
D.81931 PTE. THOMPSON J.A. (RHC)

Sgd: J.L.Henslowe, Capt.
(J.L.Henslowe) Capt. & Records Officer
5 Cdn. Inf. Rft. Unit.

Certified True Copy as taken from 5 Cdn Inf Rft Unit Part II Order No. 205 dated 29 October 1943.

.....
(J.L.Henslowe) Capt.& Records Off:
5 Cdn. Inf.Rft. Unit.

"A"

SUMMARY OF EVIDENCE

In the case of No. D.81931, Private THOMSON, J.A., The Black Watch (R.H.R.) of Canada, on the strength of 5 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION. Lieut. F.T.Lloyd, Stormont Dundas and Glengarry Highlanders of Canada, Assistant Records Officer, 5 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am Lieut. F.T.Lloyd, Stormont Dundas and Glengarry Highlanders, employed as Assistant Records Officer at 5 Canadian Infantry Reinforcement Unit. I produce a certified True Extract of 5 Canadian Infantry Reinforcement Unit Part II Daily Orders No. 192 dated 14 October 1943 showing the accused as being absent without leave from 1300 hours on the 2nd day of October 1943. This document purporting to be signed by Captain J.L. Henslowe, Records Officer, 5 Canadian Infantry Reinforcement Unit, is marked Exhibit "A". I have examined the documents in my possession, relating to the accused, and certify that on the 2nd day of October 1943, the accused was a defaulter. I also produce a certified true extract of 5 Canadian Infantry Reinforcement Unit Part II Orders No. 205 dated 29th of October 1943 showing the correction on spelling the name of the accused. This document purporting to be signed by Capt. J.L. Henslowe, Records Officer, 5 Canadian Infantry Reinforcement Unit, is marked Exhibit "B". This evidence pertains to the accused whom I now recognize.

F.T. Lloyd Lieut.
(F.T.Lloyd) Lieut.

The accused declines to cross-examine this witness.

SECOND WITNESS FOR THE PROSECUTION. C.40591, L/Cpl Rodgers, W.E., Canadian Infantry Corps, on the strength of 5 Canadian Infantry Reinforcement Unit, employed on the Regimental Police, having been duly sworn states:

I am C.40591, L/Cpl Rodgers, W.E., Canadian Infantry Corps, employed on the Regimental Police at 5 Canadian Infantry Reinforcement Unit. At 2245 hours on the 21st day of October 1943 the accused, No. D.81931, Private Thomson, J.A, the Black Watch, (R.H.R) of Canada, 5 Canadian Infantry Reinforcement Unit, "A" Company, surrendered to me at the Unit Guard Room. This evidence pertains to the accused whom I now recognize.

C40591 L/Cpl. Rodgers W.E.
(C.40591, L/Cpl Rodgers, W.E.)

The accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE

In the case of No. D.81931, Private THOMSON J.A., The Black Watch (R.H.R.) of Canada, on the strength of 5 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

The accused having been warned according to Rules of Procedure 4 (E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been complied with.

J.E.Pope Lieut.

(J.E.Pope) Lieut.
Officer detailed to take Summary of Evidence.

In the Field
29th day of October
1943.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Tournay Barracks, Farnborough Hants on the 29th day of October 1943, preliminary to My Court Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

(D.81931, Pte. Thomson, J.A.)

Dated at Tournay Barracks
this 29th day of October 1943.

I hereby request that the convening Officer appoint an Officer to represent me at my trial.
I desire the services of Lieut W A Maguire R A C
if he is available.

(D.81931, Pte. Thomson, J.A.)

Dated at Tournay Barracks
this 29th day of October 1943.

MFM 6
(AFB 122)
40/PAS/156 (3438)

No D819-1 Name Thomson G A Sqn, ~~Battery~~, or Company B Corps C I C (RHE) Date of enlistment 14-3-40 GC Badges A.P.Bosuell 2/Lt Service or Proficiency Pay N/A Character

Wild street discharged 14-9-40 after 6 months service CARD 343

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc A.E. McLaren Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ilkeston	27/10/40	Pte		WOAS. Acting to the prejudice of discipline in that he without authority was absent from 1400 hrs 15-11-40 to 1120 hrs 16-11-40. (21 hrs 20 mins) AA sec 15 (1)	D 56317 Cpl Garman A	7 days CB	1-11-40	Capt Fairbairn 5 Bde A/Tk Coy	
Ilkeston	15/11/40	Pte		WOAS AWL from 1400 hrs 15-11-40 to 1120 hrs 16-11-40. (21 hrs 20 mins) AA sec 15 (1)	D 81020 Cpl Webster C Cpl Hunter T	4 days CB	18-11-40	Maj Cuthbert	Forf 1 day PC for absence 14-11
Ilkeston	16/12/40	Pte		WOAS AWL from 0815 hrs 16-12-40 to 1345 hrs absent 3 days 4 hrs 30 mins AA sec 15 (1)	D 81250 Cpl Hunter T D 81256 Cpl Hanson C	11 days CB	20-12-40	Maj Cuthbert	Forf 4 days PC for absence (FR 1149 WIRE)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ascot	31/12/40	Pte		WOAS AWL from 0815 hrs 31-12-40 to 1300 hrs 4-1-41 (4 days 4 hrs 45 mins) AA sec 15 (1)	D 81343 Sgt Howat J D 81427 Cpl Hunter J	14 days CB forf 10 days pay	8-1-41		4 days S days [R&I 14 (1) (a)] Forf 10 days [R&I 14 (1) (b)] 10/- forf 15 days pay
Ascot	14/1/41	Pte		WOAS failing to appear at place of parade appointed by his commanding officer at 1645 hrs 14-1-41 failed to answer defaulters roll AA sec 15 (2)	D 81055 PSM Shepperd W D 81057 Cpl Evans W.B.	14 days CB	15-1-41	Maj Camilleri	
Ascot	12/3/41	Pte		WOAS AWL from 1815 hrs 12 Mar 41 to 2130 hrs 12 Mar 41 on leave he broke barracks while on duty as fire orderly. absent 3 hrs. AA sec 15 (1)	D 81720 Cpl Isherwood J.C.	7 days CB	13-3-41	J.B.Weir Maj.	
						Canc	[illegible]	[illegible]	[illegible]

No D31931 Name Thomson G.A. Sqn, Battery, or Company Corps C.I.C. (RHC) Date of enlistment GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/156 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									Forf 5 days pay FR 41
Field	7/2/41	Pte		WOAS AWL from 2359 hrs 7 Feb 41 until 0230 hrs 8 Feb 41 AA sec 15 (1) (absent 2 hrs 30 mins)	D31277 PSM Todd F.F.T. D31581 Pte Lee F.D.	5 days F.P.	10 Feb 41	Lt Bennett R.A.	14 (2) (2) Stop 5-0-0 15 (2) FR 41
Field	21/4/41	Pte		WOAS failed to comply with order in that he, went to supper with the guard. He was not on guard. AA sec 11	D31844 CQMS Price C.E. D31555 Cpl McMillan D.N.	5 days C.B.	21-5-41	J.H. Bevan Maj.	
Field	19/5/41	Pte		WOAS AWL from Reveille 18-5-41 to 2130 hrs May 19 1941. AA sec 15 (1)	D31036 Cpl Fearn V.L.	7 days C.B. Forf 7 days pay	19-5-41	J. Bevan Maj	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						forfeit 2 days pay	8-6-41		DO 4 21 Jun 41 (RHC)
Field	5/6/41	Pte		10 OAS AWL 4 days 4 hrs 45 mins. AA sec 15 (1)					
Field	14/7/41	Pte		40 OAS AWL 2357 hrs 14 July 41 to 0020 hrs 15 Jul 41 AA sec 15 (1)	D82369 Cpl Hudders W	5 days CB	15 Jul 41	J B Weir Maj	
Field	17/8/41	Pte		40 OAS AWL 2359 hrs 17 Aug 41 to 0810 hrs 20 Aug 41 (2 days 10 hrs 11 mins) AA sec 15 (1)	D81749 L Cpl Tweedell AE D81641 Cpl Sunberg I	7 days CB forf 7 days pay	20-8-41	J Blackader Lt Col	forf 7 days pay & R+I 147 (11)(b) 3 days pay R+I 147 (11)(a)
Field	13/9/41	Pte		40 OAS AWL 2359 hrs 13-9-41 to 2250 hrs 14-9-41 AA sec 15 (1)	D81697 Pte Corbett G D81515 Cpl McMillan DN	10 Days CB forf 10 days pay	17-9-41	H Blackader Lt Col	forf 1 day 147 (11)(a) forf 10 days 147 (6) 10 forf 11 days pay
Field	13/10/41	Pte		40 OAS AWL (1 day 40 mins) AA sec 15 (1)		14 days CB forf 7 days pay	13-10-41	original [illegible]	DO 61 31 Oct 41 (RHC)

[illegible]

No 881731 Name Thomson J.A. Sqn, Battery, or Company Corps RE (RHE)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No | GC Badges | Signature OC Company, etc | Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (3439)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Character			
Ansiled	2/2/42	Pte		WOAS AWL 2300 hrs 2-2-42 to 2015 hrs 2-2-42	D 81152 Cpl Hawkes MW D 81356 Cpl Snodgrass W	3 dys CB forf 1 dy pay	4-2-42	CSM Fletcher Capt	forf 1 dy FP No 1 1479 (2)
Ansiled	4/5/42	Pte		WOAS AWL 7 hrs on parade for guard absented himself from 2100 hrs 6-5-42 to 2120 6 May 42 (30 mins) AA sec 15 (1)	D 82369 Cpl Hawkes W	4 dys CB forf 4 dys pay	7-5-42	Capt Stevenson	forf 4 dys pay FP No 1 1479 (2)
Ansiled	17/5/42	Pte		WOAS AWL from 2330 hrs 17-5-42 to 0830 hrs 18-5-42 (1 dy 9 hrs) AA Sec 15 (1)	D 82022 L/Cpl Drumb L D 81297 L/Cpl Davidson L	7 dys CB forf 7 dys pay	19-5-42	Rawlings Maj	forf 1 dy 1479 (2) 7 dys 1479 (2) Tot forf 8 dys pay

(PTO)

Certified Copy

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ascot	8/7/42	Pte		(1) WOAS AWL 1200 hrs 8-7-42 to 1300 hrs 9-7-42 (1 day 1 hr) AA sec 15(1) (2) WOAS AA sec 40	D31720 Capt Sutherwood	sec (2) elige 10 days CB + forf 10 days pay	14-7-42	2 Cmdr Tk Coy	Forf 2 days pay FR 41 1 day (1)(b) 10 days pay 14(2) 10 forf 10 days pay
Ascot	26/1/43	Pte		WOAS AA sec 40	D31030 sgt McCann	2 days CB	27/1/43	Coy cmdr	
Ascot	24/6/43	Pte		WOAS AWL from depuration (on 6a (1))	D32781 Cpl Grimm R	3 days CB	23-6-43	Coy cmdr	
Ascot	8 Sep 43	Pte		WOAS AWL 2200 hrs 8 Sep 43 to 1530 hrs 12 Sep 43 (3 days 17 hrs 30 mins) AA sec 15(1)	Sgt Harris	21 days FP forf 21 days pay	13 Sep 43	A. Cmdr Ascot Coy	forf 4 days pay 14(2)(b) 21 days pay 14(2)(b) 10 forf 25 days pay
Ascot	25 Sep 43	Pte		WOAS AWL 2130 hrs 25 Sep 43 to 2130 hrs 25 Sep 43 (30 hours) AA sec 15(1)	Documentary	Evidence withheld	27 Sep 43	A Coy Cmdr	

9 Nov 1943 [illegible] Original

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-8,93[illegible]	Pte.	London, J. P.	S. Elgin.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery or Company Conduct sheets~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.A. Sec 40 times	A.A. Sec 40 3 times
For	A.A. Sec 45(1) 1 times	A.A. Sec 45 (1) 17 times
For	times	A.A. Sec 1 1 times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ ~~Air Force Act~~ ~~A.F.A. 73~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in civil custody, and 12 days in ~~Air Force~~ military custody, making a total of ~~N/L~~ 12 days in custody, of which N/L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ is attestation paper is 23 yrs. 7 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 14 Oct 40.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs. 7 mos.

8. The accused is entitled to reckon 3 yrs. 7 mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~ ~~military~~

10. (If ~~the accused is a warrant officer.~~) ~~The accused before he was made a warrant officer last~~ ~~Air Force~~ held ~~the regimental rank of~~

11. (In the ~~case of an officer.~~) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment ~~(or corps)~~, the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of November

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

101-0 (2nd case)

Pte THOMSON L.

See NAME for 1st case

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

101-0

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of AUGUST, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I [illegible] President [illegible] Five Officers [illegible] more than one [illegible] years [illegible]~~

In my opinion military exigencies, namely the dispersion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed Schedule.

PROCEEDINGS REVIEWED [illegible]

President.

Rank.	Name.	Regiment.
Major	E.W. White	S Sask R

Members.

Rank.	Name.	Regiment.
Capt.	R. Gravel	Fus M R
Lieut.	P. Jackson	Camerons of C
WAITING MEMBERS		
Lieut.	R. DeMontigny	Fus M R
Lieut.	A.F. Dawson	S Sask R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Signed W.W. Southam Brig

Commanding 6 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H 20711 Pte. Thomson, Leslie Camerons of C	First Charge Striking his Superior Officer, being in the execution of his duties, in that he at South Heighton, Sussex, on or about the 26th day of April 1942, struck with his fist, in the hands, H 19682 Corporal Norton Cyril Herbert, 1st Bn Queen's Own Cameron Highlanders of Canada Regiment, whose duty it was at that time to take him into custody. (A.A.Sec 8(1) Second Charge Resisting an escort whose duty it was to apprehend him, in that he when ordered into custody by H 19682 Corporal Norton, Cyril Herbert, 1st Bn Queen's Own Cameron Highlanders of Canada Regiment, refused to accompany him and resisted by kicking and struggling. (A.A.Sec.10(3) Third Charge When on active service Drunkenness, in that he at South Heighton, Sussex, on or about the 26th day of April, 1942 was drunk. (A.A.Sec.13	Not Guilty Not Guilty Guilty	Not Guilty Guilty Guilty	9 confirm GW 6 months detention.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—No.

(Signed) Brig (Signed) E W White major.
Commanding 6 Canadian Infantry Brigade *President.*
Convening Officer (*e*) S. Sask. R.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~
*(4. ~~The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this Sixteenth day of August 1942.

E W White major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I~~ certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ GW

Signed this 3 day of Sept 1942

G R Turnbull Brig
Confirming Officer

Promulgated and extracts taken in the case of

(*a*) (Dated) 4 Sep 42 (Signed) R Bergman Lieut & Adjt

Promulgated and extracts taken in the case of

(Dated) 4 Sep. 42 (Signed) D J Roach capt. for S/C 6 C.I.B.

Promulgated and extracts taken in the case of

(Dated) 1 Mar 43 (Signed) R McCampbell Capt. & Adjt. Camerons of C.

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(31759) Wt. 40125—293 20M 11/42 J. S. B. 580

Fourth Charge

Conduct to the Prejudice of Good Order and Military Discipline, in that he, at South Heighton, Sussex, on or about the 26th day of April, 1942, at the premises commonly known as No. 2 Southview, South Heighton, Sussex, did creat a distrubance.
(A.A.Sec. 40)

not Guilty Guilty

CHARGE SHEET

The accused, H 20711 Private Thomson, Leslie, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, is charged with:-

First Charge
A.A. Sec.8(1)

STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE,

in that he

At South Heighton, Sussex, on or about the 26th day of April, 1942, struck with his foot, in the hands, H 19682 Corporal Norton, Cyril Herbert, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, whose duty it was at that time to take him into custody.

Second Charge
A.A. Sec.10(3)

RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM,

in that he

When ordered into custody by H 19682 Corporal Norton, Cyril Herbert, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, refused to accompany him and resisted by kicking and struggling.

Third Charge
A.A. Sec.19

When on active service, DRUNKENNESS

in that he

at South Heighton, Sussex, on or about the 26th day of April, 1942 was drunk.

Fourth Charge
A.A. Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at South Heighton, Sussex, on or about the 26th day of April, 1942, at the premises commonly known as No. 2 Southview, South Heighton, Sussex did create a disturbance.

To be tried by Field General Court Martial.

A. C. Gostling Lt.-Col.
(A. C. Gostling)
Comd. Camerons of Canada.

I hereby acknowledge receipt of a copy of the Summary of Evidence and Charge Sheet.

I. Thomson

I request that an Officer be appointed to represent me at my trial.

I request the services of the Adjutant of the F.M.R. if he is available.

I. Thomson

THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, CDN. ARMY (O.S.)

Cam G-7
31 Aug. 42

Headquarters,
6 Cdn Inf Bde.

H-20711 Pte. Thomson, L.
Field General Court Martial

1. The above mentioned soldier was tried by Field General Court Martial on Sunday 16 Aug. 42, and the evidence submitted by the prosecuting officer conformed with the evidence contained in the summary of evidence. The defending officer called Pte. Steuart, B.J., H-20146 who testified that the accused did not offer any resistance to Cpl. Norton when Cpl. Norton attempted to effect his arrest. It will be noted that the accused pleaded guilty on the third charge.

Lt.-Col.
(D.M. Cunningham)
Comd. Camerons of Canada.

SUMMARY OF EVIDENCE in the case of No. H 20711 Private Thomson, Leslie, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas.

FIRST WITNESS

H 19682 Corporal Norton, Cyril Herbert, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, having been duly sworn states as follows:-

I am H 19682 Corporal Norton, Cyril Herbert, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas.

At approximately 0030 hours, 26 April 1942, acting on orders from the Battalion Duty Officer, I proceeded to the Premises commonly known as No. 2 Southview, South Heighton, Sussex, where I found the accused, whom I recognize and Pte. St. Croix in the kitchen of the house. I told Thomson he was under arrest for breaking and entering and to come along quietly with me. He replied " I don't have to leave here". St.Croix said, "You'd better come along, you're only getting yourself into trouble". I took a step towards Thomson and he moved forward as if to strike me, and I grabbed him and we fell to the floor. St.Croix tried to help me and pulled up at Thomson and said, "Come on Thomson, you'd better do as Norton says". It was then that Thomson sprung up, kicked at me and I protected my face with my hands, and his foot hit my hands. I then decided I needed assistance as Thomson was obviously drunk and smelled of liquor. As I was going out the door for help I was struck over the left shoulder.

Q.1. How do you know it was not St.Croix that struck you?
A.1. He was right ahead of me and I would have seen him do it. There was no one else except Thomson in the room at that time.

Q.2. Did Thomson know who you were when you first walked into the room?
A.2. Yes, Sir. When I walked in the door of No. Southview, he said, "How what in the hell do you want Norton"?

Q.3. Did he know what rank you held?
A.3. Yes, Sir. I've looked after him in detention often and I held the rank of Corporal on those occasions.

Q.4. What else can you tell me about this matter?
A.4. At 0900 hours 26 April 1942, I went back to No.2 Southview, South Heighton and entered it with Mrs. Miller and found Thomson asleep in an upstairs bedroom. I woke him up and took him to the guard room. He did not resist at this time but came quietly.

Witness questioned by the Accused.

Q.1. When was it that I kicked you?
A.1. Do you remember the first time I grabbed you and we fell to the floor?

Q.2. Yes, I remember all that quite well but I don't remember kicking you.

H 19682 Cpl. Norton, C.H.

...../2

SECOND WITNESS

H 19930 Private St.Croix, William Arthur, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas, having been duly sworn, states as follows:-

I am, H 19930 Private St.Croix, William Arthur, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas.

I remember very little of what happened that night. I do remember going out with Thomson, the accused, whom I recognize, on the evening of the 25th of April, 1942 to do a little drinking at the Hampton Arms and after the pubs closed Thomson and I went up to No. 2 Southview South Heighton, Sussex. We went up there because Thomson said he wanted to see his woman. The next thing I remember is being in the kitchen at No. 2 Southview, South Heighton when Corporal Norton walked in. I can't remember being invited into the house but I'm sure we entered the house through the door. I also remember seeing Thomson and Norton wrestling on the floor and I tried to help Norton.

Q.1. Did you know what Norton's job was at the time the fighting took place?
A.1. Yes Sir. He was on M.P. duty and he held the rank of full Corporal.

Q.2. Was anyone else in the kitchen at that time?
A.2. No, there was just Norton, Thomson and I.

Q.3. Did Thomson recognize Norton?
Q.3. Yes, I think he did. At any rate he should.

Q.4. How much did you and Thomson drink that night?
A.4. We drank about three pounds worth of liquor.

THE ACCUSED DECLINES TO QUESTION THE WITNESS.

H 19930 Private St.Croix, W.A.

THIRD WITNESS

N 19225 Private Sanders, Harold, 1st Battalion Queen's Own Cameron Highlanders of Canada, Canadian Army Overseas, having been duly sworn, states as follows:-

I am, No. H 19225 Private Sanders, Harold, 1st Battalion Queen's Own Cameron Highlanders of Canada Regiment, Canadian Army Overseas.

On Saturday, April 25th, 1942, I was on sentry duty at Naval Headquarters at South Heighton. At approximately 2300 hours a woman with a baby in her arms came to me and said that there were two men at the back of her house causing a disturbance. She said she was alone and asked me to go over, which I did. When I arrived there they were in the back yard. I then went back to Naval Headquarters and phoned the Guard Commander and asked him to come up. I then went back to my post.

Q.1. Would you recognize the house if you saw it again?
A.1. Yes, Sir.

THE ACCUSED DECLINES TO QUESTION THE WITNESS.

THE ACCUSED DECLINES TO MAKE A STATEMENT. H 19225 Pte. Sanders, H

Taken down by me at Seaford, Sussex, this 4th day of May 1942. I hereby certify that all the conditions of R.P. 4 (c to e) have been complied with.

[illegible] Lieut.
([illegible]) Camerons of C.

M.F.M. 5

No. H2071 Name Thomson, Leslie Regt., Battery, or Company Corps Camerons of C. Date of enlistment 4/10/40 G.C. Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No. 1 | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Delville Brks	2/2/41	Pte		A.W.L. from Church Parade at 1000 hrs.	Sjt. Purdie, D.J.	5 days C.B.	3/2/41	Lt. W.W. Willson	
Delville Brks	15/4/41	Pte		Conduct to the prejudice etc., creating a disturbance in Cove on 15/4/41. A.A. 40	Civil Police Doc'y	Remanded C.O. 120 hours Detention	22/4/41	Major Otton Lt.-Col. G.F. Dudley	
Delville Brks	24/5/41	Pte.		A.W.L. from 0600 hrs to 1230 hrs 24/5/41 (Absent 6 hrs 30 mins) A.A. 15(1)	L/C Cameron Sjt. Hurst, L.E	7 days C.B.	27/5/41	Major C.E. Otton	1 day's Pay
In The Field	1/11/41	Pte		2. Failing to take his rifle with him when going on leave. A.A.11 1. A.A.41 Committing a Civil offence 2. A.A.40	C.Q.M.S. Ritchie, R. Doc'y L/C Ritchey W.E.	180 days Detention	11/12/41	F.G.C.M.	Forfeits 220 day's Pay

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED A TRUE COPY.

(N.S. Bergman) Lieut.

Assistant Adjutant, Camerons of Canada.

(Substitute for A.F.W. 42c)
or N.F.S. 30b.

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. H 20711 NAME Pte. TUNNON, Leslie UNIT Camerons of C.

AGE 20 MARRIED OR SINGLE Single NO. OF DEPENDENTS Nil

DATE OF ATTESTATION 4 October 1940

NO. OF DAYS SPENT IN CONSTRUCTIVE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY 112 HOSPITAL _____ TOTAL 112

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF N.F.W. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

_____ Unit.

(J.A. Turner) Capt. & Adjt.
Camerons of Canada.

Dated at [illegible] the Field

This 16 day of Aug 1942

(To be dated and signed as of date of trial)

16 Aug 42.

Trial of No. H 20711 Pte Thomson L.
A.O.C. of Can.

I deem it necessary that
the trial of A/M man be
~~conducted~~ continued after 1800 hours
on the a/m date

E. W. White major
A. D. and A. R.
President.

16. Aug. 42.

Trial of No. H20711 Pte Thomson L.
QOC of Can.

I deem it necessary that the trial of the a/m man be conducted on the a/m date even though it is Sunday.

E.L. White major
A. Asst. A.
President.

PLEASE USE BOTH SIDES

MEDICAL OFFICER'S REPORT

I certify that No. H 20711 Pte. Thomson L.
of Lanarkshire Canada is in a Good state of health,
and is fit to undergo Trial by Court martial.

B. Bachmann Capt.
Medical Officer

Station In the field

Date 13/8/42
16/8/42
BB

M. F. B. 246
20M—9-40 (4990)
H.Q. 1775-39 480

170 } E Pte Thomson L.
172 } E Pte Doll P. L.

O. H. M. S.

M. F. B. 270
1000 M-12-60 (8958-09-70)
H.Q. 1778-29-67

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 1st day of December, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer;]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*I am unable to appoint—~~

~~(1.—Three Officers to form the Court;)~~

~~(2.—A Field Officer as President.)~~

for the following reasons, namely:—]

In my opinion military exigencies, namely the dispersion of Units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer usually in command at the place, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	J.E. McRae	S Sask R

Members.

Rank.	Name.	Regiment.
Capt	J.M. Vezina	Fus M R
Capt.	W.E. Osler	Camerons of C.
WAITING MEMBERS		
Lieut.	R.H. Lajoie	Fus M R
Lieut.	H.G. Kent	Camerons of C.
Lieut.	A.J. Edmunson	S Sask R

*Signed ..... Brig.
6 Cdn. Inf. Bde.

Commanding *Convening Officer.*

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged (Jointly)	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H.20711 Pte. Leslie Thomson and H.20072 Pte. Paul Lindbergh Doll, both of the Queen's Own Cameron Highlanders of Canada	When on active service committing a civil offence, that is to say, malicious wounding, contrary to Sec 20 of the Offences Against the Person Act, 1861. (A.A. Sec. 41.) (See Charge Sheet Att.)	not Guilty	Guilty	
	Second Charge Conduct to the prejudice of good order and military discipline. (A.A. Sec. 40) (See charge sheet attached)	not Guilty	not Guilty	

The accused H 20711 Pte Thompson L. is sentenced to undergo detention for 180 days

The accused H 20072 Pte Doll P. L. is sentenced to undergo detention for 120 days.

Confirmed

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No Sir

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) ..... Brig.
6 Cdn. Inf. Bde.
Commanding

(Signed) .....
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

MEDICAL OFFICER'S REPORT

Pvt 3

I certify that No. H20711 Thomson L. HQ.

of Cameron of Lochiel, is in a good state of health,

and is fit to undergo Trial by Court Martial.

D. Beachman Capt
Medical Officer

R.C.A.M.C.

Station In the field.

Date 9/12/41

M.F.B. 246
40-7 A 8572

PTE. DOLL ELECTED TRIAL BY F.G.C.M. 7

CHARGE SHEET

The accused:
H20711, Pte. Thomson, Leslie and H20072, Pte. Paul Lindbergh Doll, both of the Queen's Own Cameron Highlanders of Canada, soldiers of the Canadian Army (Overseas), stationed in the field, are jointly charged with:

FIRST CHARGE
A.A.Sec. 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MALICIOUS WOUNDING, CONTRARY TO SEC. 20 OF THE OFFENCES AGAINST THE PERSON ACT, 1861
in that they

at about 2210 hours 1 Nov 41, at Newhaven, Sussex, did maliciously wound, by striking and kicking him, H20333, Pte. Ritchey, W. H., who was at the time carrying out Provost duties.

SECOND CHARGE
(Alternative)
A.A.Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
in that they at the place and date mentioned aforesaid, did kick and strike with their fists the said Pte. Ritchey, W. H., who was at the time carrying out Provost duties.

G F Dudley
Lt. Col

G.F. Dudley
Officer Commanding
Camerons of Canada, Cdn Army O.S.

TO BE TRIED BY F.G.C.M.

December, 1941

I request that Lieut McKellar act
in my behalf L. Thomson

#20711 L Thomson Pte

I request that Lieut McKellar act
in my behalf P.L. Doll

#20072 P.L. Doll Pte.

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

1. Trial of No. H-20711 Pte. Leslie Thomson and
H-20072 Pte. Paul Lindbergh Doll both of the
Camerons of C.
Held at DENTON, SUSSEX, on 9 Dec 41.

2. Actual Court;-

Major J.E. McRae ------ S. Sask. R.
Capt. J.M. Vezina ------ Fus. M.R.
Capt. W.E. Osler ------- Camerons of C.

3. Prosecutor:-

Lieut. R.S.M. Hannesson ---- Camerons of C.

Defending Officer:-

Lieut. McKellar ---------- Camerons of C.

4. The accused are arraigned and plead "Not Guilty" to the following charges;-

First Charge
A.A. Sec 41.

When on active service committing a civil offence, that is to say, malicious wounding, contrary to Sec 20 of the Offenders against the Persons Act, 1861,
in that they
at about 2210 hrs, 1 Nov 41, at NEWHAVEN, Sussex, did maliciously wound by striking and kicking him, No. H-20333, Pte. Ritchey, W.H. who was at the time carrying out Provost Duties.

Second Charge
(Alternative)
A.A. Sec 40

Conduct to the prejudice of good order and military discipline, in that they, at the place and date mentioned aforesaid, did kick, and strike with their fists, the said Pte. Ritchey, W.H. who was at the time carrying out Provost Duties.

5. The accused is asked the question at the ~~first~~ first of page 2 of A.F.A. 3 and his answer "No" is recorded by the President.

6. Prosecution evidence

First Witness No. H-20333 Pte. Ritchey, W.H., Camerons of C. having been duly sworn states;-

"On Nov. 1, I was on duty in Newhaven. I went into the "Prince of Wales" Public House at approximately 2200 hrs. I was standing in the bar as the boys were going out and they seemed to be going out quietly. Ptes. Thomson and Doll came back in and asked me if I was Regimental Police, I said I was. They asked me if I was on duty and I said I was. They told me I had better go h me or they would beat me up. I asked them to come outside rather than start a disturbance in a public house. After we went out they started the same argument again. Pte. Thomson told me to go home or he'd beat me up. I asked them to go home and said I would go home as soon as they cleared away. After a lot of threatening, Pte. Thomson took a swing at me and I stepped back. As I stepped off the curb I was off balance, Thomson clinched and we went down to-gether. Pte. Doll kicked me on the head as soon as I went down. Thomson attempted to bite me, he pushed his fingers in my eyes. I pushed him back and he punched me in the face, then grabbed me by the hair and bumped my head on the street. By that time I had got my legs around Thomson in a scissor hold. Pte. Doll caught me by the feet, broke the hold and told Thomson to kick me which he did.

FIRST WITNESS FOR THE PROSECUTION CON'T

I caught Thomson by the toe to twist his foot and spun him around and he kicked back and down. That was the kick that gave me this scar on the eye. When Doll let go, I got up on my feet but I could hardly see. Thomson came at me again and I got a hold on his head. Somebody reached afoot out and pushed Thomson which loosened my hold. He bit me once or twice and they started kicking me again. That is all I can tell you Sir".

Q. "What makes you think Doll had any part in it ?"

A. "He was threatening me before Thomson swung at me".

Q. "In what way?"

A. "He had his hands up and was stepping back and forward. I saw him quite distinctly when he caught me by the ancles to break my hold on Thomson".

Q. "Apart from this argument, had anything occurred inside the pub?"

A. "I walked into the public house where Thomson and Doll were drinking a few minutes before closing time. Pte. Thomson said that I was big but he figured he was tough and could handle me. He said it with a smile, so I let it pass and went outside till closing time. That is the reason I stayed till closing time."

CROSS EXAMINED BY DEFENCE

Q. "Are you a regular Provost?"

A. "I have been on since we came to Newhaven, Sir".

Q. "Can you tell me briefly just what your duties are?".

A. "I go uptown in the evenings and take a walk around to see if there is any trouble, look into the odd pub, especially around closing time. We have orders to see that the boys are properly dressed and that there is no loitering or anything going on that shouldn't be."

Q. "On the night in question were you in the "Prince of Wales" at 2130 or 2140"?

A. "I came in just a few minutes before closing time. I walked in one door and was going to walk out the other till Thomson spoke to me".

Q. "When you went in did you have and M.P. band on your arm?"

A. "I had neither sidearm nor band".

Q. "Can you definitely say that Doll kicked you"?

A. "Yes Sir, I can".

SECOND WITNESS FOR THE PROSECUTION

H-19468 Sgt. McKay, D.M., Camerons of C. having been duly sworn states;-

"I am Provost Sgt. of the Camerons of C. I have certain auxiliary provosts whose duties include duty at the Bn O.R., traffic control and patrolling the streets at night."

Q. "At what times and under what circumstances are the men on duty."?

A. "On pay weekend, dances, etc., downtown".

13

SECOND WITNESS FOR THE PROSECUTION CON'T

Q. "Is Pte. Ritchey one of your auxiliary Provosts?"

A. "Yes"

Q. "Was Pte Ritchey on duty the night of Nov 1"?

A. "Yes".

CROSS EXAMINED BY THE DEFENCE

Q. "Is it customary for your M.P's to be onduty without arm bands or sidearm"?

A. "Yes, Sir".

Q. "By what means can the men be certain they are M.P's"?

A. "They know them Sir. They are not new men".

THIRD WITNESS FOR THE PROSECUTION

Mrs. Joyce Jittings, Southview Road, Peacehaven, Sussex, having been duly sworn states:-

"I went into the "Prince of Wales" with my Mother and Father There were four Canadians sitting at a table next to ours. A policeman came in. He went around to another bar. Just before closing time he came around again and stood at the counter. He was talking to a Canadian. He went outside and then one of the fellows called "Tommy" called me outside and spoke to me. Then he shouted out would you like to see me get the big fellow out. Next thing I saw the policeman standing with his hand out as though he was going to shake hands. I then saw two Canadians rush at the policeman. He was knocked to the side of the road. They were punching him. After that one of the fellows dropped out of the fight and left the other one. He was giving him a hiding, pounding his face. The next time I saw them they were in the middle of the road. Somehow they got separated. Then I saw the fellow called Tommy kicking the policeman in the head. He then jumped all over him. After that I turned away it made me feel bad.

"When I looked around the policeman was standing up and the other fellow was waving his arms all over the place. He made for the policeman again and got him down. He was pounding into his face dreadfully. After awhile the other fellow shouted out "You won the fight, Tommy" and then he was pulled off the policeman and I went away"

Q. "Do you see any of the men taking part in that fight in court"?

A. "I see the fellow called Tommy".

Q. "Anyone else"?

A. "I wouldn't like to commit myself".

CROSS EXAMINED BY THE DEFENCE

Q. "On the night in question you saw two men attack a policeman at the same time"?

A. "Yes, I did".

Q. "Was it very dark"?

A. "No, It was moonlight".

THIRD WITNESS FOR THE PROSECUTION CON'T

Q. "Could you see clearly"?

A. "Well, of course I could see".

Q. "When Pte. Thomson spoke to you did he appear to be under the influence of liquor"?

A. "No".

FOURTH WITNESS FOR THE PROSECUTION

Captain B. Brackman, having been duly sworn states;-

"I am Medical Officer attached to Camerons of C."

Q. "Do you remember early last month Pte. Ritchey was brought into you"?

A. "Yes"

Q. "Would you describe his injuries"?

A. "When I was called to see him he had so much swelling about the left side of his face that it was difficult to say the extent of his injuries. The left eye was completely closed, there was a cut over his left eyebrow, smaller cuts about left side of his jaw, corner lip on left side cut inside mouth. I had him admitted to regimental infirmary and it was not till the next day when I was able to pry the lids apart, that I was satisfied there was no injury to the eye proper. He spent the remainder of the week under treatment at the infirmary."

Q. "Could you suggest the type of instrument which might have caused the wound"?

A. "I would not like to commit myself any more than what is on record, describing the wound itself."

CROSS EXAMINED BY THE DEFENCE

Q. "Do I understand you are not prepared to swear what kind of implement was used"?

A. "I will not".

EXAMINED BY THE COURT

Q. "Could these injuries be caused by the nakdd fist"? Just.

A. "I would say 'No' ".

FIFTH WITNESS FOR THE PROSECUTION

Mr. J. Stockwell, 58 Gibbons Road, Newhaven, Sussex, having been duly sworn states;-

"I am second engineer in the mercnant service. On the night of Nov 1, I came along South Road and saw one man lying in the road on his stomach and another one kicking his head".

CROSS EXAMINED BY THE DEFENCE

Q. "You only saw one man attacking him".

A. "That's all".

Q. "What time was that".

FIFTH WITNESS FOR THE PROSECUTION CON'T

A. "Between ~~10~~ 2200 and ~~1015~~ 2215 hrs".

SIXTH WITNESS FOR THE PROSECUTION

Mr. K. Newnham, 51 Gibbons Road, Newhaven, Sussex, having been duly sworn states;-

"I was going home on the night of Nov 1 towards the Sheffield hotel. Passing the 'Prince of Wales' I saw a man lying in the road. I stopped to see if I could do anything. With a soldier I helped the man up and took him to the R.A.P.

Q. "Did you see any actual fighting"?

A. "Yes, while I stood there I saw a man lying in the road and there were two or three kicking him and one was on top of him."

Q. "What did the man on the ground do"?

A. "He couldn't do very much. He was really out. He had his arm in front of his eyes to protect his eyes."

Q. "Could you describe any of the men"?

A. "Only the one on top - He was short and stalky. It was dark and I could not see very much."

CROSS EXAMINED BY THE DEFENCE

Q. "When you were coming along the road there two or three kicking him and one on top of him".

A. "There were two kicking him and later there was just one on top of him on the ground".

Q. "It was dark"?

A. Not pitch black, but it was dark".

EXAMINED BY THE COURT

Q. "How dark was it"?

A. "It was dark but moonlight, you could see clearly but I could not identify anyone".

SEVENTH WITNESS FOR THE PROSECUTION

Mr. P. Chandler, Bartender, Prince of Wales Hotel, Newhaven, Sussex, Having been duly sworn states;-

"I am a licensee of a public house. On the night of Nov 1 I had six soldiers in the place. They had a few drinks of bitter and one or two scotches each. Their behavour was nothing to take exception to. About two minutes past ten the house was practically cleared. There was no disturbance inside and they left in quite an orderly manner. I saw nothing whatever of what occured outside."

Q. "Did anybody else come in"?

A. "Yes, some civilian".

Q. "Did you see another soldier come in much later"?

A. "The only one I saw was the military policeman or picquet. He came around about five minutes to ten."

SEVENTH WITNESS FOR THE PROSECUTION CON'T

Q. "How do you know he was a picquet"?

A. "Because I have seen him on the same duty before".

Q. "Was he talking to the soldiers"?

A. "Not more than a few words. I think one said to him "Hello big boy, I'm a big boy too!" but it was not in an aggressive manner".

CROSS EXAMINED BY THE DEFENCE

Q. "Are you sure the picquet was not in between 950 and 940"?

A. "I didn't see him if he was".

(Examined by the court, witness identified Thomson and ~~Slatt~~ Doll as being in the premises).

EIGHTH WITNESS FOR THE PROSECUTION

No. H-20732 Pte. Tracey, J.E., Camerons of C. having been duly sworn states;-

"I am in "D" Coy Camerons of C. I was in the Prince of Wales pub on the night of Nov 1."

Q. "Who was with you"?

A. "Thomson, St. Croix, Doll, and two from the S. S. R.

Q. "Do you know Pte. Ritchey"?

A. "I know him to see him".

Q. "Did you know he was an M.P.?"

A. "I had seen him on picquet".

Q. "What did you see of the actual fight"?

A. "I just saw Thomson and Ritchey, when I came out of the pub they were starting to fight. The rest of us broke it up, and they started again. They were still fighting and we broke it up again."

Q. "What were they doing"?

A. "Just a rough and tumble fight".

NO CROSS EXAMINATION

QUESTIONS BY COURT

Q. "Who was fighting"?

A. "Thomson and Ritchey".

Q. "Nobody else"?

A. "That's all I saw".

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NINTH WITNESS FOR THE PROSECUTION

No. H-19950 Pte. St. Croix, W.A., Camerons of C. having been duly sworn states;-

"I am in "D" Coy Camerons of C. On the night of Nov 1, I was in the Prince of Wales Hotel".

Q. "Do you know Pte. Ritchey"?

A. "Yes".

Q. "Do you know what he does"?

A. " He's an M.P., I wasnt sure that night though".

Q. "How long have you known him"?

A. "Since way back in Shilo".

Q. "Has he ever interfered with you or any of your friends as far as you know?"

A. "No Sir".

Q. What did you see the night of Nov 1.?"

A. "I went in about six o'clock. About half an hour later, Tracey, Doll, and Thomson came in. We were having a few beers, when the bar closed and we went out. When I came out the fight was on between Thomson and Ritchey. A woman was crying for us to break it up. Tracey and I got Thomson and pulled him off. Ritchey got up and put up his fists. They went at it again and werefighting in the street. It was pretty dark and you couldn't see much of what was going on. The two ladies still called out to pull them apart. We pulled Thomson off a second time and Thomson went home. This time Doll helped us.

Q. "Did you see Thomson do any kicking"?

A. "No - I didn't see anything like that of course it was pretty dark.

NO CROSS EXAMINATION

QUESTIONS BY THE COURT

Q. "Was it a dark night"?

A. "Yes, it was pretty dark. It was not moonlight by any means".

Q. "Are you sure"?

A. "No".

Q. "If I told you it was as bright as possible, could you deny it?"

A. "No".

Voluntary statements by accused 20 Nov 41 were put in by prosecution.

NO DEFENCE WITNESSES CALLED

7. The court is closed for finding.

8. The court is re-opened.

9. The prosecutor files A.F.B. 296 and certified copy of M.F.M. 6.

10. The accused decline to make statements in mitigation of punishment.

The court is closed for consideration of a sentence.

Certified that the forgoing pages, No's one to eight is a true record of this trial.
9th day of December 1941.

Major
J.E. McRae,
President.

Exhibit

VOLUNTARY STATEMENT

H20711 PTE. THOMSON, L, you are charged with a Civil Offence, that is to say,
Common Assault; in that you at about 2210 hours, 1 Nov 41, at NEWHAVEN, SUSSEX, did assault, by striking and kicking, H20333 Pte. RITCHEY, W.H., who was at the time carrying out Provost Duties.

A.A. Sec 41.

You do not have to make a statement unless you wish to do so, but anything you say may be taken down and used as evidence against you.

Do you wish to make a statement?

Yes Sir.

Those present at the time were Ptes. Doll, St. Croix, and Tracy of my own unit and Williams and O'Shea of the S. Sask R. We were all in the Prince of Wales Hotel, having a very good time. Pte. Ritchey came walking in at 2150 hours. He was walking around looking at us, not saying nothing. Pte. Doll asked him if he was on duty tonight. Pte. Ritchey said "No, not tonight". He was not wearing any M.P. badge. At ten o'clock the bartender started yelling "Time". Pte. Ritchey was still standing watching us, so we got up and started to leave. I was last to go out the door, Pte. Ritchey was behind me and said "Come on, get out." and gave me a shove out the door. I turned around and said "I don't have to be shoved out of the hotel tonight." I don't know whether he thought I was going to hit him or not, but he brought up his fist and that is how it started.

I knocked him down at the side of the street and got on top of him. Ptes. Doll, St Croix and O'Shea pulled me off and took me down the street a bit. Pte. Ritchey came after me and grabbed me again, so they let us go at it again and I got him down a second time. They let us go at it for about three minutes. Ptes. Doll and St. Croix pulled me off again. Pte. Ritchey held on to my leg while they were pulling me off. They got us stopped. Pte. Ritchey started off and I returned by myself to "D" Coy. That's about all there was to it Sir.

There was no kicking in this fighting. I did bite his finger once. He had a hold on my jaw with his fingers inside my mouth so I bit his fingers to make him let go.

L. Thomson

I have read over the revised charge sheet wherein are two alternative charges, ie.
First charge - Malicious wounding AA Sec 4
Second Charge - Common assault AA Sec 4
(alternative)
I do not wish to alter my statement in any way.

Pte. L Thomson L

Taken down before me
at Newhaven Sussex
Witnessed this 20th day Nov 41
[illegible] Lieut.

VOLUNTARY STATEMENT

H20072 PTE. DOLL, P.L., you are charged with a Civil Offence, that is to say,
Common Assault; in that you at about 2210 hours, 1 Nov 41, at NEWHAVEN, SUSSEX, did assault, by striking and kicking, H20333 Pte. RITCHEY, W.H., who was at the time carrying out Provost Duties.

A.A. Sec 41.

You do not have to make a statement unless you wish to do so, but anything you say may be taken down and used as evidence against you.

Do you wish to make a statement?

Yes Sir.

There were O'Shea (S.S.R.), Williamson (S.S.R.), Tracy ("D" Coy), St. Croix ("D" Coy), Thomson and myself, we were all drinking together at the Prince of Wales. At about 2150 hours Pte. Ritchey came in and he was looking at us all the time. I asked him if he was on duty and he said "No". He didn't have his M.P. band on. We sat down at our table until ten o'clock. The bartender called "Drink up" or "Time up". Pte. Ritchey told us to hurry and get out. We went out, Thomson, I think was last. We went outside and Thomson and Ritchey came out pushing one another. I don't know what was going on exactly. They came outside and started fighting. Thomson got on top of Ritchey. Ritchey had a scissor hold on Thomson and Thomson had hold of Ritchey by the clothes on his chest and was banging his head on the pavement. Thomson was crouching over Ritchey, while Ritchey had a scissor hold around Thomson's waist. I grabbed hold of Thomson and pulled him off. Somebody was pulling Ritchey away at the same time.

Both of them got to their feet and Ritchey made a grab for Thomson again. They started fighting again and somebody else separated them again. They got up and started fighting a third time. Thomson said "Now I'll give it to him seeing as he doesn't want to quit" or something to that effect. St. Croix and myself pulled Thomson off a third time. We took Thomson away. Two British soldiers took Ritchey away. We quietened Thomson down and went for home. That's about all there is to it.

Pte. Doll P.L.

I have read over the revised charge sheet whereon are two alternative charges, i.e.
First charge - Malicious wounding AA Sec 41
Second charge - (Alternative) Common assault AA Sec 41
I do not wish to alter my statement in any way.

Pte. Doll P.L.

Taken down before me at Newhaven Sussex Witnessed this 20th day Nov 41
W.M. Jamieson Lieut

ABSTRACT OF EVIDENCE in the case of H20711 PTE. THOMSON, L., and H20072 PTE. DOLL, P.L., both of the Queen's Own Cameron Highlanders of Canada, Soldiers in the Canadian Army Overseas, stationed In the Field.

29

First Witness for the Prosecution.

H20333 PTE. RITCHEY, W.H., "A" Coy, Queen's Own Cameron Highlanders of Canada states:

"On November 1, 1941, I called at the Prince of Wales at closing time to help clear the pub. The bartender called time just as I came in, so I tried to help clear the place without any trouble. I was on duty as an M.P. that night.

Some Camerons were in the pub, including Ptes. Thomson and Doll. They started an argument with me. Thomson said he didn't like M.P's and I'd better scram. Thomson asked me if I was an M.P. and I said "Yes". I didn't want any trouble with them; I only wanted to get them cleared out.

I asked them to come outside as it was closing time, and not to start any argument inside. They kept up the argument outside and I asked them to go home as there was nothing to start any trouble over.

Thomson swung at me first and I stepped back to avoid the punch and to keep Doll in sight as he had his hands up too. I was off balance as I stepped off the curb. Thomson clinched and we went down together.

He tried to bite as we went down. Doll kicked me a few times in the head right then but somebody pulled him back.

Thomson shoved his fingers in my eyes. I shoved him back and he struck me twice in the face while I was down. He grabbed me by the hair with both hands and banged my head on the cement twice. I got a scissor hold on him and started to turn him over but Doll took me by the feet, held me, and told Thomson to give me the boots, which he did.

He let go of me and I got up to try to make a fight of it, but as my eyes filled with blood as soon as I got up and I couldn't see him. He clinched with me again. I got a head-hold on him, but someone pushed Thomson, breaking my head-hold. Thomson got up and put the boots to me again. Two Englishmen came along, stopped the fight and helped me to the F.A.P."

Second Witness for the Prosecution.

Mrs. Joyce Jittings, Southview Road, Peacehaven, Sussex, states:

"On November 1, 1941, I was with my mother and father at the Prince of Wales. A tall chap came in by himself. He stood at the bar, and a tall-thin-faced chap went up and spoke to him at the bar. They seemed quite friendly at this time.

At closing time, they all went out. "Tommy" spoke to me and said "Would you like to see me get the big fellow down." Then he and the tall thin-faced fellow tackled the big policeman and got him down. One grabbed him by the neck and the ofther seemed to pull his feet from under him. The thin-faced fellow then dropped out of the fight while "Tommy" pinned the man's arms and pounded his face.

Somebody separated them and they started fighting again in the middle of the road. This time "Tommy" was standing up and kicking the man in the head. I knelt beside the poor fellow at the time because they were kicking his poor head. I saw someone else kick him in the back at this time but I couldn't say who it was because I couldn't look andy more and ran away.

When I looked back the big fellow had got up. I don't know how he got up, I'm sure, but he was on his feet again.

"Tommy" was flinging his arms about allover the shop, "Tommy" knocked the big fellow down again. The poor fellow could hardly stand on his feet.

"Tommy" hammered him some more. The Canadians went over, told Tommy he had won and managed to take him away.

When "Tommy" kicked the policeman in the head, he also jumped all over his body."

Third Witness for the Prosecution.

Mr. J. Stockwell, 58 Gibbons Road, Newhaven, Sussex, states:

"I was proceeding along South Road at approximately 2210 hours, on the night of 1 Nov 41. While passing the Prince of Wales Hotel, I saw a soldier attacking another soldier. The soldier who was being attacked was on the gound and the other was kicking him. I have seen plenty of gights, being a sailor and dock man, but have never seen anything as brutal as to see men kicking another man when he is down."

Q. How would you describe the man who was doing the kicking?
A. He was dark and stocky, but he was swinging his arms around like he was daft. He was standing by the man's head and kicking him. A tall fellow there was doing most of the shouting. He yelled "Beat him up, Thomson", but I didn't see him take any part in the fighting. A little curly-headed chap was trying to get Thomson off and he finally dragged Thomson away.

Fourth Witness for the Prosecution.

Mr. K. Mewnham, 51 Gibbons Road, Newhaven, Sussex, states:

"I was proceeding along South Road at approximately 2210 hours on the night of 1 Nov 41. While passing the Prince of Wales Hotel, I saw three soldiers attaching another soldier. The soldier who was being attacked was on the ground and the others were kicking him. I went to the aid of the soldier, and in company with Sapper Davis, assisted him to the F.A.P. in the Masonic Hall, where we turned him over to the orderly in charge."

Q. Were three soldiers actually attacking the man on the ground?
A. One soldier called "Tommy", a fairly tall very broad man, was the main attacker. He ran at the man on the ground and kicked him in the head. He did this several times. The man on the ground seemed played out and only put up his arms to protect his face. The smallest soldier there, wearing a balmoral, also kicked the man in the head at least once. The second tallest also kicked the man on the ground.
Q. Are you quite sure of this?
A. Yes the stocky man did most of the kicking, but the other two kicked whenever they got a chance, and were "egging" "Tommy" on the whole time.

Fifth Witness for the Prosecution.

Mr. P. Chandler, Bartender, Prince of Wales Hotel, Newhaven, Sussex, states:

"On 1 Nov 41 four Camerons and two S.S.R's were drinking in the pub. I should say they were here about two hours before closing. They drank mainly bitter, but had two, paossibly three single tots of whiskey. They didn't drink a great deal considering the time they were here.

The big fellow came in between nine-thirty and nine-forty. He walked around the bar stopped on the far side for about ten minutes talking to someone; then he returned to the same side as the four Camerons and stood near the bar. This would be about five minutes to ten. The big fellow was not drinking.

He was talking to the four men sitting down, in a friendly way. He put his hand on the shoulder of one (L.T.) and "L.T." told him to take his hand off saying "Youre a big boy, but I'm a big boy too" or something like that.

As it was time, I tried to get them out and they finally left about five or six minutes past en. The big fellow went out amon the others, Thomson and a fellow called "Curly" being the last.

Thomson had a glass in his hand which I managed to get back just as he went out the door.

Actually there was no trouble in the Prince of Wales, but it blazed up directly they got outside.

The man I have referred to as "L.T." borrowed ten shillings from me, leaving his watch with these initials as security. The watch has been redeemed."

Sixth Witness for the Prosecution.

H20732 PTE. TRACEY, J.E., "D" Coy, Queen's Own Cameron Highlanders of Canada states:

"On 1 Nov 41, we were all in the pub. Ritchey came in about 2130 hours. At closing time we started to leave and Ritchey told us to hurry up. While we were there, Thomson asked him if he was an M.P. and he said he was an M.P. but he wasn't on duty.

I started out, but had forgotten my repsirator. When I got out they had started fighting. Thomson had Ritchey down and they were rolling around. Thomson was on top. I helped to pull Thomson off so as to break up the fight and get Thomson home. They broke loose and started fighting again. It wasn't safe to get near the fight, but finally we broke it up again. Some artillerymen took Ritchey, and we took Thomson home.

It was a rough and tumble fight. They were down and up. I couldn't see much as it was pretty dark."

Seventh Witness for the Prosecution.

H19930 PTE. ST CROIX, W.A., Queen's Own Cameron Highlanders of Canada, states:

"On the night of 1 Nov 41, Thomson, Doll, Tracey and myself went to the Prince of Wales about 1830-1900 hours. We were drinking beer and scotch. Tracey, Doll and Thomson actually came in about half an hour to an hour after I did.

About nine o'clock we were getting short of money and Thomson pawned his watch to buy a round of scotch.

Paddy O'Shea (S.S.R.) and I were singing songs at the piano.

Pte. Ritchey came in about half or three quarters of an hour before closing time. He was quiet. He wasn't in our party so I didn't pay much attention to him. All the time he was there he didn't interfere with any of us as far as I could see. He was minding his own business when he was at the pub.

Pte. Ritchey is an auxiliary M.P. I've known him a long time and he has always been on M.P. work. He has never interfered with me at any time.

When we left, O'Shea and I were amon the last to leave. When I got outside, the fight was on. An old lady was crying on the street and asked us to stop the fight. Tracey and I pulled Thomson off.

Ritchey got to his feet, put his hands up, and Thomson rushed him again. I didn't see what went on, but Tracey and I pulled Thomson back but he broke loose; he was swinging his arms about and jumping all over the place.

Ritchey had got up when we pulled Thomson back. Ritchey put up his fists and Thomson rushed him again. Ritchey went down again. They were flailing around with Ritchey underneath. I just let them go this time.

Tracey, Doll and I dragged Thomson back a third time. Thomson was still jumping about and swinging his arms. I said "Come on Tommy lets go home." He agreed, went down to the corner and caught a bus on his own."

Eigth Witness for the Prosecution.

H19468 SGT. D.M. McKAY, Queen's Own Cameron Highlanders of Canada, states: (Unit Provost Sergeant)

"I hereby certify that H20333 PTE. RITCHEY, W.H., was detailed by me, and was on Regimental Police duty between 1900 hours and 2300 hours 1 Nov 41.

All auxiliary regimental police such as Pte. Ritchey, W.H., are automatically on duty around pay days.

All Regimental Police are automatically on duty at any time.

6nth Witness for the Prosecution.

CAPT. B. BRACKMAN, R.C.A.M.C., Medical Officer, Queen's Own Cameron Highlanders of Canada, states:

"I first saw H20333 Pte. Ritchey on 1 Nov 41 about 2330 hours, soon after he had received some injuries about his face.

Examination showed marked swelling of both lids of left eye completely occluding the eye. There was a horse-shoe-shaped cut of the skin over and about the left eyebrow which was bleeding freely. Several smaller cuts on the left jaw with considerable swelling.

He was admitted to the Regimental Infirmary where he remained for 7 days. With intensive treatment it was possible to force the lids open after 24 hours to examine the eye itself which was apparently unaffected. The skin injuries were nearly healed at the time of discharge."

Taken down by me at NEWHAVEN, SUSSEX,
November 8-15, 1941.

Lieut.
R.S.M. Hannesson,
Camerons of Canada, Cdn. Army (O/S)

37

VOLUNTARY STATEMENT

H20711 PTE. THOMSON, L, you are charged with a Civil Offence, that is to say,

Common Assault; in that you at about 2210 hours, 1 Nov 41, at NEWHAVEN, SUSSEX, did assault, by striking and kicking, H20333 Pte. RITCHEY, W.H., who was at the time carrying out Provost Duties.

A.A. Sec 41.

You do not have to make a statement unless you wish to do so, but anything you say may be taken down and used as evidence against you.

Do you wish to make a statement?

Yes Sir.

Those present at the time were Ptes. Doll, St. Croix, and Tracy of my own unit and Williams and O'Shea of the S. Sask R. We were all in the Prince of Wales Hotel, having a very good time. Pte. Ritchey came walking in at 2150 hours. He was walking around looking at us, not saying nothing. Pte. Doll wasked him if he was on duty tonight. Pte. Ritchey said "No, not tonight". He was not wearing any M.P. badge. At ten o'clock the bartender started yelling "Time". Pte. Ritchey was still standing watching us, so we got up and started to leave. I was last to go out the door, Pte. Ritchey was behind me and said "Come on, get out." and gave me a shove out the door. I turned around and said "I don't have to be shoved out of the hotel tonight." I don't know whether he thought I was going to hit him or not, but he brought up his fist and that is how it started.

I knocked him down at the side of the street and got on top of him. Ptes. Doll, St Croix and O'Shea pulled me off and took me down the street a bit. Pte. Ritchey came after me and grabbed me again, so they let us go at it again and I got him down a second time. They let us go at it for about three minutes. Ptes. Doll and St. Croix pulled me off again, Pte. Ritchey held on to my leg while they were pulling me off. They got us stopped. Pte. Ritchey started off and I returned by meself to "D" Coy. That's about all there was to it Sir.

There was no kicking in this fighting. I did bite his finger once. He had a hold on my jaw with his fingers inside my mouth so I bit his fingers to make him let go.

L. Thomson

I have read over the revised charge sheet whereon are two alternative charges, ie
First charge - Malicious wounding A.A. Sec 41
Second charge - Common Assault AA Sec 41
(alternative)
I do not wish to alter my statement in any way.

Pte Thomson L

Taken down before me at Newhaven Sussex.
Witnessed this 2nd day Nov/41
A.M. Jamieson Lieut.

VOLUNTARY STATEMENT

H20072 PTE. DOLL, P.L., you are charged with a Civil Offence, that is to say,

Common Assault; in that you at about 2210 hours, 1 Nov 41, at NEWHAVEN, SUSSEX, did assault, by striking and kicking, H20333 Pte. RITCHEY, W.H., who was at the time carrying out Provost Duties.

A.A. Sec 41.

You do not have to make a statement unless you wish to do so, but anything you say may be taken down and used as evidence against you.

Do you wish to make a statement?

Yes Sir.

There were O'Shea (S.S.R.), Williamson (S.S.R.), Tracy ("D" Coy), St. Croix ("D" Coy), Thomson and myself, we were all drinking together at the Prince of Wales. At about 2150 hours Pte. Ritchey came in and he was looking at us all the time. I asked him if he was on duty and he said "No". He didn't have his M.P. band on. We sat down at our table until ten o'clock. The bartender called "Drink up" or "Time up". Pte. Ritchey told us to hurry and get out. We went out, Thomson, I think was last. We went outside and Thomson and Ritchey caem out pushing one another. I don't know what was going on exactly. They came outside and started fighting. Thomson got on top of Ritchey. Ritchey had a scissor hold on Thomson and Thomson had hold of Ritchey by the clothes on his chest and was banging his head on the pavement. Thomson was crouching over Ritchey, while Ritchey had a scissor hold around Thomson's waist. I grabbed hold of Thomson and pulled him off. Somebody was pulling Ritchey away at the same time.

Both of them got to their feet and Ritchey made a grab for Thomson again. They started fighting again and somebody else separated them again. They got up and started fighting a third time. Thomson said "Now I'll give it to him seeing as he doesn't want to quit" or something to that effect. St. Croix and myself pulled Thomson off a third time. We took Thomson away. Two British soldiers took Ritchey away. We quietened Thomson down and went for home. That's about all there is to it.

Pte. Doll P.L.

I have read over the revised charge sheet wherein are two alternative charges, i.e.
First charge - Malicious wounding AA Sec 41
Second charge
(alternative) - Common assault AA Sec 41
I do not wish to alter my statement in any way.

Pte. Doll P. L.

Taken down before me
at Newhaven Sussex
Witnessed this 20th day Nov 41
R.M. Hanneson Lieut.

Exhibit "A" Identification Parade 41

Those present at the parade were

H 20141 Pte Clunna
H 20084 Pte Blair
H 20072 Pte Doll
H 20563 Pte Sauerbeber
H 20085 Pte McNaughton
Pte Williams

J Dumma R.S.M.
Camerons of Can

[illegible] Manneson Lieut
Camerons of Can

The men, dressed alike, were paraded outside with hats on; then paraded inside, under electric light, with hats off.

Mrs Joyce Gittings, the witness, looked the men over carefully but could not decide between two tall fair men.

J Gittings
[illegible] Lieut

I could not decide between two men who were second and third in the lineup outside, and third and second in the lineup inside. These two men were very much alike.

J Gittings

The two men selected by Mrs Gittings were
H 20084 Pte Blair
H 20072 Pte Doll

J Dumma R.S.M.
[illegible] Lieut.

7 Nov 1814

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove Fd. Bks. Quebec, P.Q.	8-11-40	Pte.		Absent from parade at 0830 hrs and 1330 hrs 8-11-40 (Absent 7 hrs 30 mins)	P.S.M. Good, Sgt. Gordon,	G.E.Remanded to C.O. E.E. 28 Days Det, For. 5 days pay	12-10-40	Mj.C.E.Otton, Lt.-Col. Mackenzie	5 days pay total 33 days pay.
Cove Fd Bks. Quebec, P.Q.	8-11-40	Pte.		Absent from parade at 0830 hrs and 1330 hrs 8-11-40 (Absent 7 hrs 30 mins)	PSM Good, SGT Gordon,	G.E. For. 1 days E E pay. 7 days C.B.	9-11-40	Capt.B.T.McFarlane	For.1 dys pay.
"	6-12-40	Pte.		Absent without leave from 0630 hrs 6-12-40 to 1745 hrs 6-12-40 (Absent 8 hrs 15 mins)	L/Cpl Cameron Pte Unger, H.	7 dys C.B. For 1 dys pay	7-12-40	Lieut.N.R.Calder	For 1 days pay.
	15-5-41	Pte.		W.O.A.S. A.W.L. 10 hrs 15 mins		5 days Det.			For 6 days pay
Jasper Camp	3-6-41	Pte.		Conduct to the prejudice etc., failing to have his rifle clean	Sgt. Watt, P. L/Cpl Langstaffe	3 Days Det.	4-6-41	Lt-Col. Redman	3 days pay.

No. H20072 Name DOLL, P.L. | Sqn., Battery, or Company | Corps Camerons of C. | Date of enlistment 5-4-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 200M—8-39 (1702) H.Q. 1772-65-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	21-5-40	Pte.		W.O.A.S. A.W.L. from 0600 hours 21-5-40 to 2359 hrs, 31-5-40	Doc'y	13 days Det.	3-6-40	C.O.Pt.II 129	For 11 days pay
	6-8-40	Pte.		W.O.A.S. A.W.L. from 0530 hrs 6-8-40 to 2045 hrs 9-8-40	Doc'y		10-8-40	C.O.Pt.II 187	For 4 days pay
Camp Shilo, Polo Park Wpg. Bivouac Area	30-9-40	Pte.		1. Absent from 0600 hrs 30 Sep 40 to 2000 hrs 3 Oct 40 (Absent 3 days 4 hrs) 2. Absent from 0600 hrs 11 Oct 40 to 1800 hrs 11 Oct 40 (12 Hrs) Polo Park Bivouac Area	Cpl. Gordon, E.E. Sgt. Wilson, R.B. Pte. Langstaff	Remanded to C.O. 28 days Det. For. 5 dys pay.	12-10-40	Lt.-Col. Mackenzie	H.C.E. Otton 5 days pay total 33 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	13-5-41	Pte.		W.O.A.S. absent without leave from 2215 hrs 13 to 0900 hrs 14 May 41 (Sec 15(1) A.A.)	Sgt.Herd,J.	(5) dys Det. Aut. For. 5 days pay F.R. & I forfeits (1) days pay F.R. & I (1) (a) Total 6 days pay	14-5-41 149 (1) (B)	Lt-Col. A.P. Plante	(Off.Commd.)
Brixham	12-4-41	Pte.		W.O.A.S. did go A.W.L. from 2215 hrs 12-4-41 to 0012 hrs 13-4-41 (A.A.15) (1) Absent (1) one hour and 57 minutes.	Cpl.Wood	(4) four dys C.B.	15-4-41	Lt-Col. A.P. Plante.	

CERTIFIED A TRUE COPY

Capt. & Adjt.

J. Huncle,
Cameron of Canada, Cdn. Army (O/S)

No. H120072 Name DOLL, P.L. | Sqn., Battery or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M F M 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	12-4-41	Pte.		W.O.A.S. being absent without leave from 2215 hrs 12-4-41 to 0012 hrs 13-4-41(Sec.15(1)A.A.)	Sgt.Pelletier	(4) Four days C.B.	15-4-41	Lt.-Col. A.P. Plante.	
Brixham	7-5-41	Pte.		1.W.O.A.S. breaking out of Barracks (Sec. 10(4) A.A.) 2.Absent without leave from:- 2359 hrs 7-5-41 to 0900 hrs 8-5-41	H16313 Pte. Stephenson R.P.	120 hrs Det. Automatic forfeiture (5) five days pay.F.R. & I.	8-5-41	Lieut. & Adjt. R.S.J. Sealy.	
Jasper Camp	4-6-41	Pte.		A.A. 40 Conduct Prejudice	Doc'y	3 dys Det.	6-6-41	C.O. Pt.II 132	For 3 days pay F.R. &

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brixham	13-5-41	Pte.		W.O.A.S. absent without leave from 2215 hrs 13 to 0900 hrs 14 May 41 (Sec 15(1) A.A.)	Sgt.Herd,J.	(5) dys Det, Aut. For. 5 days pay F.R. & I forfeits (1) days pay F.R. & I (1)	14-5-41	Lt-Col. A.P. Plante (B) 149 (1) (a) Total 6 days pay	(Off.Commd.)
Brixham	12-4-41	Pte.		W.O.A.S. did go A.W.L. from 2215 hrs 12-4-41 to 0012 hrs 13-4-41 (A.A.15) (1) Absent (1) one hour and 57 minutes.	Cpl.Wood	(4) four dys C.B.	15-4-41	Lt-Col. A.P. Plante.	

CERTIFIED A TRUE COPY

Capt. & Adjt.

J. Runcie,
Camerons of Canada, Cdn. Army (O/S)

MFM 6
(A.F.B. 133)

No. H20711 Name THOMSON, Leslie | Sqn., Battery or Company | 11th Coy Corps Camerons of Canada | Date of Enlistment 4-10-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature O.C. Company, etc. L. Naish, Lt.-Col. O.C. District Depot M.D.10.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Delville Bks	2-2-41	Pte.		W.O.A.S. absent from church parade at 1000 hours	M10151 Sgt. Purdie, D.J.	5 days C.B.	3-2-41	Lieut. W.W. Willson.	
Delville Bks	15-4-41	Pte.		W.O.A.S. conduct ot the prejudice of good order and military discipline in that he created a disturbance in Cove on 15 Apr 41. A.A. 40	Civil Police (Doc'y)	Remanded to C.O. 120 hrs Detention	22-4-41	Maj. C.E. Otton, M.C. Lt.-Col. G.F. Dudley.	
Delville Bks	24-5-41	Pte.	1.	W.O.A.S. absent without leave from 0600 hours 24-5-41 to 1230 hours. Absent 6 hrs 30 mins. (2) Failing to take his rifle with him when going on leave A.A.11.	L/Cpl. Cameron, E.A. Sgt. Hurst, J.E. RSMS Ritchie	7 days C.B.	27-5-41	Major C.E. Otton, M.C.	Forfeits 1 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED A TRUE COPY

Capt. & Adjt.

J. Runcie,
Camerons of Canada, Can. Army (Overseas)

57

(Substitute for A.F.B. 296
or N.F.B. 366

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. H20072 NAME Pte. DOLL, P.L. UNIT R.C.C.H. of Canada.

AGE 27 MARRIED OR SINGLE Single NO. OF DEPENDENTS -

DATE OF ATTESTATION 5-4-40

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL) from 2 Nov 41

CIVIL MILITARY X HOSPITAL TOTAL 37

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

(officer i/c records)

Dated at DENTON, SUSSEX.

This 9 day of ~~Nov~~ Dec 1941

(To be dated and signed as of date of trial)

69

(Substitute for A.F.B. 296
or N.F.B. 385

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. H20711 NAME Pte. THOMSON, L. UNIT Q.O.C.H. of C.

AGE 20 MARRIED OR SINGLE Single NO. OF DEPENDENTS -

DATE OF ATTESTATION 4 - 10 - 40

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL) 2 Nov 41

CIVIL MILITARY X HOSPITAL TOTAL 37

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

(officer i/c Records)

Unit

Dated at DENTON, SUSSEX

This 9 day of ~~Nov~~ Dec 1941

(To be dated and signed as of date of trial)

Evidence and Charge Sheets (if necessary) to be PINNED here.

53

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9 day of December 1941 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable

Signed this 9 day of December 1941.

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension

(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Brig. Bde.

Signed this 20th day of December 1941

Confirming Officer.

Promulgated and extracts taken in the case of W 2911 Pte Thomson L.

(*a*) (Dated) 23rd Dec 1941 (Signed) G Dudley Lt Col.

Promulgated and extracts taken in the case of W 2912 Pte Bell A L.

(Dated) 23rd Dec 1941 (Signed) G Dudley Lt Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(B4) Wt. 38092/1316 70m. 2/42 W. & Co., Ltd. Gp. 765/2

T R.

Pte Thomson, Mr.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8098-69-70)
H.Q. 1773-24-67

Correspondence to be PINNED here.

3 R.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~If any such officer cannot attend~~
~~Three officers may be detailed~~
~~An Additional Officer may be detailed~~
~~for the following reason~~

* Omit if not applicable.

PROCEEDINGS REVIEWED.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	I.S. Johnston	48 Highrs

Members.

Rank.	Name.	Regiment.
Capt	D.W. Banton	48 Highrs
Capt	A.F. Macpherson	48 Highrs
Lieut	H.E. Cameron	48 Highrs

Waiting Member

† Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (C.C. Simonds) Brig.,
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.73799 Pte Thomson, James ~~McClymont~~ McClymont 48 Highrs	1st Charge AA Sec 15 (1)	Guilty	Guilty. Nine months detention 24 Oct 42 and undergo stoppages by £2-6-8. Lt Col	I confirm the finding and the sentence. [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) (G.G. Simonds) Brig., Commanding 1 Cdn Inf Bde
Convening Officer (*e*)

(*Signed*) (Ian S. Johnston) Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Owing to the exigencies of the service it was not found practical to detail Members of this Court from any other Regiment than the 4th Highlanders of Canada.

(S.B. Simonds) Brigadier
Comd., 1 Can Inf Bde.

24 Oct 42
In the Field.

48th Highlanders of Canada.

CHARGE SHEET.

The Accused B.75799 Pte. James McClymont Thomson, "C" Coy., 48th Highlanders of Canada, C.A. (A.F.), a soldier of the Canadian Army (O/S) is charged with:-

1ST CHARGE
A.A. 15(1)

When on Active Service, absent without leave,

in that he
At THREE CHIMNEYS, KENT, did absent himself without leave from 1630 hrs. 28 May 42 until 1300 hrs. 18 Oct. 42, when he surrendered himself to the Civil Police at BOLTON BOROUGH, thereby incurring costs amounting to £2/6/8 to return him to his Unit. (142 days, 21 hrs., 30 mins.)

(J.E. GANONG,) Lt-col.,
Officer Commanding,
48th Highlanders of Canada.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Brigadier
(C. G. Simonds)
Comd., 1 Cdn Inf Bde.

In the Field
22 Oct 42.

Saml Johnston Maj.
President

I certify that I have this morning examined No. B.73799
Pte. THOMSON, J.M. of 48th Highlanders of Canada
he is fit to undergo trial by court-martial.
XXXXX
tion In the Field.
ate 24 Oct 42

W.E.M. Brocus Capt.

Sam'l. Johnston Maj'
President.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD IN THE FIELD ON THE 24th DAY OF OCTOBER, 1942.

Trial of No. B.73799 Pte. THOMSON, James McClymont, 48th Highlanders of Canada.

Prosecutor;	Lieut. E.M. MacLachlan	48th Highrs
Defending Officer;	Capt. J.C. Clarke	48th Highrs
Officer under instruction;	Lieut. H.E. Cameron	48th Highrs

1. The order convening the Court is read in the presence of the accused.

2. The accused is asked the following question:-

"Do you object to be tried by the President, or any members of the Court whose names you have heard read over?"

Answer:- No Sir.

3. The President, Members, Officer under instruction and Shorthand Writer are duly sworn.

4. (a) The Accused answers his name and number and is duly arraigned on the charge.

4. (b) The accused having pleaded guilty to the charge R.P.35(b) is complied with.

1st Witness for Prosecution

B.72505, Sgt. Hobson, W. having been duly sworn states: The Witness identifies exhibit "A" and states that it contains the list prepared by himself of all theoretical casualties who reported to Regimental Aid Post during Exercise TIGER, that the name of the accused does not appear on this list and that the Witness is the Medical Sgt. of the 48th Highlanders of Canada and was with the R.A.P. throughout Exercise TIGER. W. Hobson

The accused is informed of his rights in accordance with R.P.40 (a) and Note 2 on page 644 of the Manual of Military Law, 1929 edition.

The accused is asked the following questions:-

Q. 1. Do you wish to give evidence as a witness?

A. 1. No Sir.

Q. 2. Do you intend to call any other witnesses on your behalf?

A. 2. Yes Sir.

Q. 3. Are they witnesses as to character only?

A. 3. Yes Sir.

Jas J. Johnston Maj.
President.

Def Officer. Plea for mitigation of punishment:-

The accused has pleaded guilty to a lenthy absence and I would like to give the reasons for the absence so that they may be taken into consideration by the Court. The accused is 20 years of age and enlisted on the 8th of January 1940, therefore when he enlisted he was under 20 years of age. He came overseas in 1940 and in the early part of 1941 met a girl and married her. This girl deserted him. At first he could not locate her but later found her through the address to which her dependence allowance was sent. She said she would be a good wife. He tried to be happy with a girl who has not played the game but she deserted him again and he asked to have the allowance stopped, but could not do so. She said she was going to have a child. The child was born unknown to Pte. Thomson. The girl did not inform him that the child had been born. She again deserted him. He went to the Padre and asked if he could be divorced from this woman as she was not a wife to him but she was just someone who was taking money from the government. He was told by the Padre to wait a year or two. He wasn't satisfied with this and wanted to have the allowance stopped. He wanted to get the divorce from his wife but could not. He wanted to have the allowance stopped but could not. His only way of stopping the allowance was to go absent so he went absent without leave. (Here the Defending Officer read excerpts from letters which were marked exhibit "B") Here we have a young fellow who after serving overseas for two years and made an unfortunate marriage with a girl who would not play the game. This is to show that this chap is under considerable mental strain, and if he could get out of this trouble and get a divorce he could start again ona normal life. It is quite clear that this woman has been carrying on the marriage for the money. Marriage is this way with many a girl like this and marrying her has thrown this man off kilter and caused him to go absent without leave. (At this point the Defending Officer produced a letter from the Officer in Charge of Records marked as exhibit "C" and a copy of a letter sent by Mrs. M.D. Thomson, 20 Nile Rd., Gillingham, Kent. marked as exhibit "D") The accused told his wife that if she would divorce him he would give himself up and she would receive her allowance in a few days. He promised to allow her something for her and the baby's keep. I submit the letter as evidence of what this chap has been up against in my plea for mitigation of sentence.

1st Witness for Defense. Lieut. S.J. Simons H.Q. R.C.E. having been duly sworn states:-

Q. You have been asked to appear for Pte. Thomson. Would you kindly give the Court any points as to the character of Pte. Thomson?

A. Sir I have known Pte. Thomson for some years. When I knew him first he was quite small boy and between the years 1939 and 1940. On many occassions I visited his family and Thomson himself and during that time always found him to be of the highest character and always looked upon him as a fine man. In January 1940 he joined the 48th Highlanders and at the time I knew that Thomson was under age. Up to this time he had lived at home and had left a sheltered life. In May 1940 he was sent overseas. I received a letter from him saying that he had got married, that the marriage was not very happy. and I feel personally that due to the youth of this soldier and the more or less unfortunate marriage and his previous good character that it was the marriage that caused him to go absent without leave and I feel that some consideration should be given to this in his sentence

President

Platoon Officer and Sergeant are in ~~character~~ CANADA so cannot be called.

2nd Witness for Prosecution

Capt. J.R.O. Counsell, Adjutant, 48th Highlanders of Canada, having been duly sworn produced and read AFB 296 and certified copy of MFM6 exhibit "E" and produced Expense Voucher Exhibits F and G.

Sam Johnston Maj
President.

Summary of Evidence in the case of B/75799 Pte. Thomson, J.M.

"C" Coy. 48th HIGHLANDERS OF CANADA.

By direction of the Commanding Officer all evidence is taken under oath.

1st Witness for the prosecution. B/73554 Sgt. Dyball, N.T. "C" Coy. 48th. Highlanders of Canada, having been duly sworn, states:
" I am and was at all times material hereto, Serjeant in charge of 15 Plt. "C" Coy.
On the 28th May 42. during Exercise Tiger, at the village of Hawkhurst, Pte. Thomson was awarded a scene casualty by Lieut. McLurg and was told to evacuate himself to the R.A.P. That was the last I saw of Pte. Thomson.

.....N.T. Dyball Sgt.....

The accused declines to question the witness.

2nd Witness for the prosecution. B/73819 Cpl. Fullerton, T. "C" Coy. 48th Highlanders of Canada, having been duly sworn, states:
"I am and was at all times material hereto, Cpl. in charge of No. 8 sec. in 15 Plt. "C" Coy.
On the 28th of May 42. on Exercise Tiger, Pte. Thomson was handed a casualty slip, which meant that he was to report to our own R.A.P. In24 hrs. time, having gone through the normal channels, Pte. Thomson should have reported back to the Plt. It turns out that Pte. Thomson did not report to the R.A.P. HE did not come back, and this is the first time I have seen him since that date.

.....T. Fullerton Cpl.....

The accused declines to question the witness.

3rd Witness for the prosecution. B/87681 L/Cpl. Clarke, A.B. "C" Coy. 48th Highlanders of Canada having been duly sworn, states:
"I am and was at all times material hereto, Cpl. in charge of No. 7 sec. in 15 Plt. "C" Coy.
Pte. Thomson was handed a casualty slip at 1630 hrs. 28th May 42. during Exercise Tiger. After receiving this slip and going through the normal channels, Pte. Thomson should have reported back to the Plt. He did not come back and I have not seen him since that date.

.....A.B. Clarke L/Cpl.....

The accused declines to question the witness.

(E)

4th witness for the prosecution. B/7561 L/Cpl. Hall, W.H. Provost Section, 14th Highlanders of Canada, having been duly sworn, states;
"I am and was at all times material hereto, a member of the Provost Section.
On 20th of Sept. 42. at approximately 1500 hrs. I received Pte. Thomson from the Canadian Provost Corps, who had escort ed him to the Lewes Reception Depot. I brought him back to Uckfield and handed him over to the Cpl. in charge of our own guard room.

L/Cpl. Hall W.H.

The accused declines to question the witness.

Having been duly cautioned in accordance with rule of procedure 4 (E).
The accused declines to make any statement or give any evidence upon oath

Rules of Procedure 4(b) (c) (d) (e) and (f) have been complied with.

Taken before me in the field, Uckfield, Sussex, this 21st day of October 1942.

J.S. Macfarlane
(J.S. Macfarlane) Lieut.
14th Highlanders of Canada.

Wm S Johnston Maj
President



Mrs. M. E. Thomson

[redacted] Rd.

10 Nelson Rd

Gillingham

Kent.

England.

address changed
without notification
Return Cyprus
Defamation

Exhibit B in H. Marshall's
B 73179 Pa. Supreme Ct.

Dear Peggy:

I write this letter to you sir, in a final plea of separation hoping that I can appeal to your sense of decency.

When I first came overseas to England, I was proud to wear the King's uniform. I was very virtous and honourable, and alas, very young, too young in fact. I finally strayed from the straight and narrow path of life and through my own youthfull folly and ignorance fell in with a girl of lesser virtue. I realized my mistake and was sorry. I was eighteen years of age, four thousand miles from my own dear home and very homesick when I met you. You looked



Mrs. M. E. Thomson

[redacted] Rd.

10 Nelson Rd.

Gillingham

Kent.

England.

address changed without notification Postmaster Copy

Part of Enclosed "B"
Sam Houston
Pres.

1. Exhibit B in St Marcus v
B73779 Pltf. Sworn & Id

Dear Peggy. Sent from Hamilton Bay

I write this letter to you
in a final plea of separation
hoping that I can appeal to
your sense of decency.

When I first came overseas to
England, I was proud to wear
the King's uniform. I was
very virtous and honorable, and
alas, very young, too young
in fact. I finally strayed
from the straight and narrow
path of life and through
my own youthfull folly
and ignorance fell in with
a girl of lesser virtues.
I realized my mistake and
was sorry. I was eighteen
years of age, four thousand
miles from my own dear
home and very homesick
when I met you. You looked

sweet and pretty and I thought we could be happy. I'm afraid my imagination was too idealistic and too youthful. We were married and I tried to make you happy. It was all, as you know, a mistake from the start. I fear you know it will. We cannot be happy together. It is better to break clean now than have the burden of our so called marriage ~~on~~ all our lives.

You do not care for me Peggy. I could have loved you but you deserted me when I needed you most. I had reason to stand by me. I would have been there when ~~Dan~~ David was born but you did

not let me know. Friend
left ~~Ford~~ David after
seeing him for the first
time I wanted to cry because
I knew that I would never
see him again. If I did
it would only make it
more difficult for me.
I have his dear little photo
with me. Strange as it
will seem to you I love
him. I would gladly take
him home to my mother
but I fully realize that
it would be so cruel to you.
I am not as bad as all
that; I am more than
willing to provide for
him the rest of my life, if
you will only divorce me.
My mother is very ill
about our marriage. She
wants me to be free. She

not blaming you she
is naturally concerned
over her only son's grave
mistake. I know you do
not care for me Peggy, so
naturally I think you are
just hanging on because
of the allowance. I know
you have not started
divorce proceedings because
I have enquired. If you
divorce me I promise I
will go back to camp
and ~~go~~ I swear by God
that you will get your
money. When I go back I
shall have to face a jail
sentence. If my dear mother
finds out it may kill her.
I am willing to face anything
with a smile and with

God's help start all over again if you will only divorce me. If you don't divorce me, then I shall have no alternative but to kill myself. You see I will have nothing to live for. My people will probably not take me home and I shall just have to become a rolling stone and wander round the world a unhappily married man with a prison record at the age of twenty.

I have gone too far to turn back unless you divorce me Peggy. I beg of you to do this for the sake of my mother. My mother isn't growing and my father is getting on in years. I have brought

them sorrow by my foolish
act of so early a marriage
The strain may be too great
on my mother. you will
at least make them happy.
I faithfully make a promise
to you that the day you start
divorce proceedings I shall
give myself up and you
will get your money several
days after I report.
I beg of you to do this
Peggy.

Jim

El Paso

REC/B-73729 (R3)

CANADIAN MILITARY HEADQUARTERS

RDJ/B

RECORDS OFFICE,
Bromyard Avenue,
Acton, London, W.3.
20 Oct 42.

Officer Commanding,
48th Highlanders of Canada,
Canadian Army Overseas.

B-73729 Pte. Thomson, J.M.

Herewith copy of letter received from the wife of the marginally named, this date apprehended from desertion, together with a letter which he wrote to her while still an absentee.

2. These are passed to you for your action. An answer has been sent to Mrs. Thomson, stating that her letter has been forwarded to the proper authorities.

Exhibit "C" to Court martial of B 73 729 Pte Thomson J M 48 Highrs. 2-4 Oct 42

D.R.L.S. Pte.

(R.D. Jennings) Lieut.
for Officer i/c Records,
Canadian Military Headquarters.

(C O P Y)

10, Mile Rd.,
Gillingham,
Kent.

Re: J.W. Thomson,
B-75709

Dear Sir:

Enclosed you will find a letter, which I've received from my husband, the contents itself I doubt will be much use to you, but I wondered if the Post mark would help you to trace him.

I remain,
Yours truly,
(signed)
(Mrs.) M.E. Thomson.

P.S. I am beginning to wonder if there is any serious search for him, as it seems a very long time for a soldier to be away from his Company without being caught. You're quite welcome to read the letter see what a poor defence my husband is putting up. Would you kindly return the letter when finished with.

Exhibit D to Court Martial of Pte Thomson J.W. 75709
Sam Johnston Maj
President

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B 73799 Rank Pte. Name Thomson, J. Unit 48 Highs

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Bolton

Date	Particulars	Amount £	s	d
	Escorts return fare from LONDON To Bolton (2 persons		15	0
20 Oct. 42	Prisoners single fare to LONDON From Bolton		15	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Tea~~ Meals, Bus fares		9	0
	Total £	1	19	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H. W. Lowman Lieut.

Officer Issuing Railway Warrant and Expense monies,
No. 6 Provost Company, Canadian Provost Corps, London.

Exhibit "F"

Ian S. Johnston Maj
President.

C.M.H.Q. 1000-55
40/P & S/489

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. B73799 Rank Pte Name Thompson, J.M Unit 48 Highrs

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
20/10/42	Escorts return fare from LONDON To Lewes (½ portion)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Exhibit "G"

W. de S. Cowling Lieut.
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

Jim Johnston Wit
Resident

C.M.H.Q. 1000/55
40/P & S/483

I CERTIFY that the man whose personal description is given below surrendered himself to* Det Con.71 John Whittle.

at Bolton Borough at (hour) 1300 hrs on the 18th day of October 1942 as being No. B/ 75799.

(Rank and Name) Pte James Mc Glymont Thomson.

a deserter (or absentee without leave) from 48th Highlanders. Canada.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 20 yrs. Height 5' Feet 8 Inches

Complexion Fresh. Hair Black. Eyes Grey.

Marks Nil.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	9-1-40 Toronto. Canada.
Probable Date of Desertion or beginning of absence, and from what place	Since 29th May 1942.

William Kemp Sgt 5

Signature of Officer of Police in charge of

Bolton Borough Police Station.

Jos. Johnston Insp. President

14 10 42 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

GRANTI PROOF UNDER THE ARMY ACT, SECTION 163 (1) (d)

I, Lieut.H.W.Cowling.No.6.Can.Gen.Provost Corps.....certify that

No. No.B.4.3799.Rank.Pte.. Name.Thomson..J.M.....

REGIMENT.48th.Highrs.of.Can.....

UNIT .....

SURRENDERED AT .....

Surrendered himself to No.....Rank.....Name.Dat.Const.W.J.Whittle

of the ..Bolton.Borough.Bolton.....

on the ..... day of .....194 , at ..... hours .....

.....and at present without Hat, ...

At the time of his ~~surrender~~ handing over to the Can.Provost Corps

[redacted]

Signature of Provost-Marshall,Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken or surrendered.
(Strike out part inapplicable)

W.W.L.Cowling Lieut.

.....
Officer i/c Detention Room,
No. 6 Can. Provost Coy.

Wm. Johnston Maj.
President.

Place	Date of offence	Rank	Class of discharge-ance	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	24 Dec 41 to			AOA A.A. from 2300hrs 24-12-41 until 2300hrs 25-12-41 2hrs	Cpl.Cooper	7 dys CB	9-1-42	Major L. Crawford-Brown	For 7 dys AW
In the Field	16-2-42 to			AA sec 6(1) AA sec 15 A.A. from 2300hrs 16 Feb 42 until 1300hrs 17 Feb 15hrs	Sgt. Aybell	10 dys CB	10-3-42	Major L. Crawford-Brown	For 2 dys AW A.A. 104(1)(a)

I hereby certify this is a true and exact copy.

J Connell Capt

for (J.R.CAMERON) Lt-col.
Officer Commanding,
48th Highlanders of Canada.

Jas S Webster Maj
Assistant.

No. 175799 Name THOMS H. J.E. Sqn., Battery, or Company 48th Highlanders of Can. Corps Date of enlistment 9-1-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 177) (1939-40) H.Q. 1272-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra line | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									Major A.G. Forfeits 10
In the Field	10-1-41	Pte		(1) CA sec 15(1) from 0700 hrs 10-1-41 to 1110 hrs 11-1-41 (CA Sec 15(1)) (2) CA Conduct to prejudice etc. dirty boots as Sec 40	Cpl. Munns, A. L/Cpl. Harvey Sgt. Horton	10 days Field punish.	11-2-41	Lt.Col.	dys pay M.C. R.C.A.M.C.
In the Field	11-4-41	Pte		CA Sec 15(1) from 1830 hrs 11-4-41 to 2000 hrs 11-4-41 CA Sec 15(1) Total absence 11 hrs 29 mins	Sgt. Horton L/Cpl. Goldberg	Admonished	13-4-41	Major A.G.	Forfeits 1 days pay M.C. R.C.A.M.C.
In the Field	7-8-41	Pte		CA Sec 15(1) from 2300 hrs 7-8-41 to 0300 hrs 8-8-41 Total 10 hrs CA Sec 15(1)	Cpl. Colwell J.S.B. Cpl Clarke		8-8-41	Lieut Colonel	Forfeits 1 days pay Pri
Kingswood	6-10-41	Pte		CA Sec 40 Conduct to the prejudice etc. Dirty rifle	Sgt. C.Seale L/Cpl. Merick	4 dys C.B.	17-10-41	Major L. Crawford from Lieut Colonel	for 8dys pay
Kingswood	8-11-41	Pte		CA Sec 15(1) from 2215 hrs 8-11-41 until 2359 hrs 10-11-41 8dys 46 Mins CA 15(1)	L/Cpl. Malach	Admonished	13-11-41	Lieut Colonel	Forfeits pay 140

(P.T.O.)

48th Highlanders of Canada

I desire Capt. J.C. CLARK, 48th Highlanders of Canada to defend me at my pending trial by Court Martial

B.73799 Pte. THOMSON, J.M.

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
B.73799	Pte.	THOMSON, J.M.	48th Highlanders of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given in the most serious offence in each entry, and to not recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A.Sec 15 (1)	Three times	Six times.
For A.A.Sec 40	----- times	Two times.
For ----------	---------- times	---------- times.
For ----------	---------- times	---------- times.
For ----------	---------- times	---------- times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* NOT by Court Martial

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for NOT beginning on the N/A day of

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and Six days in military custody, making a total of Six days, of which NONE days were spent in hospital.

5. The present age of the accused according to his record of service is 28 yrs,4 months 4 days

6. The date of his attestation specified in his record of service is 9 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon 2 yrs,9 mths,16 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated , and in his regiment (*or* corps *or* department) the rank of N/A dated

(51-4230) Wt.15882/144 120,000 6/41 A.A.E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B. 73799 Rank Pte Name THOMSON, J of 48 Highrs Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		This soldier has NOT previously been tried by Court Martial.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of October 42

Exhibit "E" J Counsell Capt.
Jas S Johnston Maj
President.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of ... years,
In the rank of ... years
In the rank of ... years,

Date of Promotion

(CAUTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

nd Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) N/A
*(4. The officers under instruction) N/A

were duly sworn. The Oath was duly administered

Signed this 24th day of October 1942.

Jas. Johnston Maj
President of the Court Martial.

* Omit if not applicable.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

N/A
President of the Court Martial.

D. Confirmative

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~) N/A

Signed this 24th day of October 1942.

J. J. Smith Brig.
Confirming Officer.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of B 73799 Pte. Thomson J. M.

(a) (Dated) 26 Oct. 42 (Signed) J Counsell Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 47197/1937 35 M. 5/41 K.31,626(2) Gp. 698/3

RRR-83

PTE THOMSON RS.

RECEIVED AT CMHQ IN AB 160 RRR 83

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this EIGHTH day of JULY, 1944, ----------

Whereas it appears to me, the undersigned, an officer in Command of 3RD PARACHUTE BRIGADE. ----------

----------on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	C.B.STARTIN,	North Staffordshire Reg

Members.

Rank.	Name.	Regiment.
Captain	To be detailed by OC	1st Canadian Parachute Bn.
SUBALTERn	To be detailed by OC	1st Canadian Parachute Bn.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] BRIG.

Commanding 3RD PARACHUTE BRIGADE.

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-49639 A/SJT THOMSON R.J. 1 CDN PARA BN.	SEE CHARGE SHEET MARKED 'A' ANNEXED. 1st Charge Sec 19 A.A. WOAS drunkenness 2nd Charge. Sec 40 A.A. WOAS conduct to the prejudice of good order and military discipline.	Prot. Prot. Guilty. Guilty. Prot. Prot. Guilty. Guilty.		

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with; and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded in the words used if necessary*) :—

(Signed) _____ BRIG. (Signed) _____ *President.*

Commanding 3 Para Bde. *Convening Officer* (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CFA96 (In lieu of AFA3)
40/P/A/71868 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier, Comd 3 Parachute Bde dated 8 July 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-49039.	Pte.	A/Sgt.	R. J.	THOMSON.	1 Cdn. Para Bn.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE. on (date(s)) 10. July 1944.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 11 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) J.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to the interpreter?~~ Ans ~~No.~~ ~~Do you object to the shorthand writer?~~ Ans ~~No.~~ J.

~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 26, 28, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major,	C.R. Martin.	M. No.
Member	Capt.	J. W. Mascall.	1 Cdn Para Bn.
Member	A.	R.C. Hillhouse.	- do -
Judge-Advocate		Maj.
Prosecutor	Lt. T.A. Simpson.	1 Cdn. Para. Bn.
Defending Offr	Lt. J.A. Cecil-J.	do.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See OI p 3.)

A8. The accused A/Sgt Thomson before arraignment makes(s) (no) ~~no~~ plea(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. J.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

'X'

CHARGE SHEET

The accused, No. K-49639, A/Sgt THOMSON R.J. of the 1 Canadian Parachute Battalion, a soldier of the Territorial Army Embodied, is charged as follows:-

1st Charge

WHEN ON ACTIVE SERVICE DRUNKENNESS

in that he

in the Field of 29th June 1944 when a section commander of No.2 Platoon, 1 Canadian Parachute Battalion, in close proximity to the enemy was drunk.

2nd Charge

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 29th June 1944 when a section commander of No.2 Platoon, 1 Canadian Parachute Battalion, in close proximity to the enemy, became unfit for duty by reason of indulgence in alcoholic stimulants.

Field
9 Jul 44.
/GE

Lt.Col.
Comd. 1 Can Para Bn.

To be tried by Field General Court Martial.

Field
9 Jul 44.
/GE

Brig.
Comd. 3 Para Bde.

Prosecution.

1st Witness. Capt. P.R. Griffin. A. Coy. 1. Cdo. Para Bde. Sworn.

On 29. June 1944 at 1800 hrs I received a report from my C.S.M.

In consequence I went to see accused when I recognised at 1800 hrs.

I found him in his Section area standing up behind his hedgerow.

He was Sec. Cmd of a Sec of No 2 Pl. 1. Cdo. Para Bde & his Pl &

his Sec were some 300 yds from his enemy. When I got close to

accused I saw he was swaying about, his eyes were blood shot & his

speech thick I considered he might be drunk. I cannot remember

what I said to him but I remember that his replies to my Questions

were incoherent. I warned accused.

Cross Ex. At 1800 hrs I had no opportunity to place accused in

arrest as I was in a forward area. I have known

accused since June 16, his speech is sometimes thick.

Strain + lack of sleep might have been the cause of his

eyes being blood shot.

Nil. Re. Ex

By Court. Accused was unfit for duty because I thought

he had been drinking. S3(8).

2nd Witness. 13-9-224. A/C.S.M. H.K. Duckett. 1. Cdo. Para Bde

Sworn.

In Consequence of orders on 29. June. 44 I placed accused under

arrest in close arrest. He had been drinking.

Cross Ex. Accused was not fit for duty because he had been

drinking. I am against drinking at all times in

in proximity of the enemy. From my account he took
1/2 glass of cider I would say he was unfit to Guard
a gun.

No. 2. Cr.

Re-Direct Accused has not drunk at 1600 hrs when I saw
him. At this hour I placed him in arrest. He was not
fit to command his sec at this time for he had been
drinking I smelt his breath with no 2 witness
Re-Cr. Accused has been arranging about when he fell
in with his escort. It was regarding smell of alcohol.
Witness knew him for 2 yrs.

3rd Witness. No 114378. Sgt. R.A. Abbott. 1. Coy. Para Bn. Known.
At 1300 hrs accused whom I recognise was in a rear Coy area
of a location held by 1. Coy para Bn on 29 June 44.
I saw him there & I thought he had been drinking I smelt
his breath & it smelt of drink. I went to make a recce
of a forward area for where to my pl which had been
marched in an intermediate position I again saw him.
at 1400 hrs approx. From my own knowledge I can say accused
marched his pl & Commander saw him from his rear
location to his intermediate one. When in his intermediate
position I rec'd orders at approx 1400 hrs & I took accused to
Bn. HQ where he was placed in close arrest.
Cross Ex. It was about 200 yds from his rear to his intermediate

position. When I arrived at his station & took over from him accused his pl was deployed correctly.
The pl was under fire during his tenure & I was fully satisfied with his dispositions when I saw him deployed.
R.Ex. Accused if he had had some drinks could have moved his pl from cover to his intermediate position.
Re-exam: When I returned to his intermediate position I issued some orders to accused & he carried them out properly.
Then I issued orders & I took him down to HQ & he was placed in close arrest. He was not drunk, he did command his section & he could have commanded his section in his own.

S3(13).

The prosecutor calls no further witness.

Statement by defending officer.

Accused has no case to answer, on to his charges.

1. No evidence to support his charge accused was drunk.

2. With regard to his 2nd charge
(a) The evidence has been conflicting & uncertain.
(B). Accused had been drinking but was not drunk. The chief witness for his prosecution has given evidence that accused marched his pl from cover to an intermediate position, that he deployed his pl & completed properly with orders issued to him
In view of this accused could not be unfit for duty by reason of alcoholic stimulants.

Summary of Evidence in the case of K.49639 A/Sgt THOMPSON, R.J. "A" Coy, 1 Cdn Para Bn.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS.

CAPT P.R.GRIFFIN, OC A Company 1 Cdn Para Bn having been duly sworn states:-

I am acting OC A Company 1 Cdn Para Bn. On 29th June 1944 at approximately 1300 hours Sgt Dockett, acting CSM, warned me that Sgt THOMPSON, whom I now recognise, had been drinking and that there was a bit of trouble. I was very busy at the time and I told him that I would deal with the matter later. At approximately 1600 hours I saw Sgt Thompson and noticed that he had obviously been drinking. I came over to where Sgt Thompson's section was sited. As I approached he was standing behind the hedgerow the same side as I was walking. He was standing up at the time. He did not appear to recognise what I was saying. I cannot remember exactly what I said. His reply was incoherent. He was weaving about when I spoke to him. That is he was swaying about. I told Sgt Dockett to provide an escort and send him back to the Battalion HQ under close arrest. He walked off to Bn HQ without support.

On 28th June I received a verbal order from the Commanding Officer. The import of this order was that nobody was to indulge in alcoholic stimulant. On the evening of the 29th I passed this on to my company NCOs. I did not interpret the order to include cider. Sgt Thompson was present at the meeting.

The accused declines to cross-examine this witness.

(Signed) PETER R.GRIFFIN. Capt.

SECOND WITNESS.

B.98228 A/CSM DOCKETT, H.K. 1st Canadian Para Bn, having been duly sworn states:-

I am acting CSM of A Company, 1st Canadian Para Bn. On 29th June 1944 at approx 1330 hours in consequence of a report received from Sgt Ferren that Sgt Thompson had been drinking. I went to my Company Commander, Capt Griffin. He was too busy at the time to deal with the matter as the company was moving up to forward positions. At approx 1630 hours, Capt Griffin ordered me to place Sgt Thompson under close arrest. He did not state the reason. Sgt Thompson was standing 30 yards away from me. He was standing upright. I called Sgt Pym, and as Sgt Abbott was already standing close to Sgt Thompson, I placed Sgt Thompson in their charge. I removed Sgt Thompson's pistol and fighting knife. The only words I remember Sgt Thompson saying were "I am all right." I am certain that he knew what was happening. He smelt of alcohol. He walked away with Sgt Pym and Sgt Abbott.

The accused declines to cross-examine this witness.

(Signed) H.K.DOCKETT. A/CSM.

THIRD WITNESS.

B.114378 Sgt ABBOTT, R.A. 1st Canadian Parachute Bn, having been duly sworn states:-

I am a Sgt in A Coy 1st Canadian Parachute Bn. I recognise Sgt Thompson. On 29th June 1944 I saw Sgt Thompson at 1300 hours in the rear area beside the Brickworks. He appeared to be intoxicated. He was swaying about and his eye lids were heavy and he looked sleepy and had a high colour. I then moved forward to recce the area to which my platoon were about to move. At approx 1400 hrs when I returned from my forward platoon area to the Company forward position I noticed Sgt Thompson arguing with Sgt Ferron. The nature of the argument appeared to be personal. I carried on moving my platoon, and I then heard their voices raised, so I went over to stop the argument. As I approached Sgt Ferron appeared to push Sgt Thompson. I caught hold of Sgt Ferron and said "Go away to your area; he has been drinking" or words to that effect. Sgt Thompson waited to one side. He smelt of drink at this time. About 20 minutes later I saw Sgt Thompson by his slit trench. He was lying down when I approached and he got up when I spoke to him. He did not say anything to me. Sgt Dockett then ordered me to march him down to Bn HQ. I was ordered to take him to Bn HQ and place him in arrest for drunkeness. I reported to the RSM.

On 28th June 1944 I was present at an O Group of Capt Griffin's and I remember him giving out a verbal order, the gist of it was that drinking would be curtailed in the line. I don't remember if Sgt Thompson was present.

The accused declines to cross-examine this witness.

(Signed) R.A.ABBOTT. Sgt.

FOURTH WITNESS.

83415 Sgt FERRON, R.L. 1st Canadian Parachute Bn, having been duly sworn, states:-

I am a Sgt in A Company, 1st Canadian Parachute Bn. I recognise Sgt Thompson. At approx 1230 hours 29th June 1944, I became involved in an argument with Sgt Thompson over the fact that my men were not drinking and he was. At approx 1300 hours I reported to Sgt Dockett, the acting CSM, that I wished to prefer a charge of drunkeness against Sgt Thompson. My reasons for thinking that Sgt Thompson had been drinking were that he had slightly alcoholic breath and a slight sway when he stood talking to me. I heard no more about the incident and I moved up into the forward area. While working in the forward area at approx 1430 hours Sgt Thompson and I became involved in an argument on purely personal grounds. Sgt Thompson is a Section Commander in the adjoining platoon. Tempers flew and when something drastic might have happened, and as I reached out to push Sgt Thompson, Sgt Abbott stepped in between us. Sgt Abbott asked me to go down to my own area which I did.

On 28th June 1944, at an NCOs Meeting, Capt Griffin said that there would be no drinking in the company.

The accused declines to cross-examine this witness.

(Signed) R.L.FERRON.

The accused having been cautioned in accordance with R.P.4. declines to make a statement.

It is hereby certified that R.P.4 has been complied with.

Taken down by me this 7th day of July 1944 in the Field.

In the Field. (Signed) JOHN T.WOODGATE. Capt.
Staff Capt, 3 Parachute Brigade.

position. When I arrived at his station & took over from him accused his pl was deployed correctly.
The pl was under fire during his tenure & I was fully satisfied with his tactical state when I saw him deployed.

Re-Ex. Accused if he had had some drinks could have moved his pl from one to his intermediate position.

Re-Exam: When I returned to his intermediate position I issued some orders to accused & he carried them out properly.
Then I had orders & I took him down to HQ & he was placed in close arrest. He was not drunk, he did command his section & he could have commanded his section in his own.

S3(13).

The prosecutor calls no further witness.

Submission by defending officer.

Accused has no case to answer re to his charges.

1. No evidence to support his charge accused was drunk.

2. With regard to his 2nd charge
(a) The evidence has been conflicting & inconvincing.

(B). Accused had been drinking but was not drunk. The chief witness for his prosecution has given evidence that accused handed his pl from one to an intermediate position, that he deployed his pl & complied properly with orders issued to him
In view of this accused could not be suspected for duty by reason of alcoholic stimulants.

The prosecution makes no reply.

The Court tells accused has no case to answer on both the charges & he is found Not Guilty of the same

This announcement is made in Open Court.

Summary of Evidence in the case of K.49639 A/Sgt THOMPSON, R.J. "A" Coy, 1 Cdn Para Bn.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS.

CAPT P.R.GRIFFIN, OC A Company 1 Cdn Para Bn having been duly sworn states:-

I am acting OC A Company 1 Cdn Para Bn. On 29th June 1944 at approximately 1300 hours Sgt Dockett, acting CSM, warned me that Sgt THOMPSON, whom I now recognise, had been drinking and that there was a bit of trouble. I was very busy at the time and I told him that I would deal with the matter later. At approximately 1600 hours I saw Sgt Thompson and noticed that he had obviously been drinking. I came over to where Sgt Thompson's section was sited. As I approached he was standing behind the hedgerow the same side as I was walking. He was standing up at the time. He did not appear to recognise what I was saying. I cannot remember exactly what I said. His reply was incoherent. He was weaving about when I spoke to him. That is he was swaying about. I told Sgt Dockett to provide an escort and send him back to the Battalion HQ under close arrest. He walked off to Bn HQ without support.

On 28th June I received a verbal order from the Commanding Officer. The import of this order was that nobody was to indulge in alcoholic stimulant. On the evening of the 29th I passed this on to my company NCOs. I did not interpret the order to include cider. Sgt Thompson was present at the meeting.

The accused declines to cross-examine this witness.

(Signed) PETER R.GRIFFIN. Capt.

SECOND WITNESS.

B.98228 A/CSM DOCKETT, H.K. 1st Canadian Para Bn, having been duly sworn states:-

I am acting CSM of A Company, 1st Canadian Para Bn. On 29th June 1944 at approx 1330 hours in consequence of a report received from Sgt Ferron that Sgt Thompson had been drinking. I went to my Company Commander, Capt Griffin. He was too busy at the time to deal with the matter as the company was moving up to forward positions. At approx 1630 hours, Capt Griffin ordered me to place Sgt Thompson under close arrest. He did not state the reason. Sgt Thompson was standing 30 yards away from me. He was standing upright. I called Sgt Pym, and as Sgt Abbott was already standing close to Sgt Thompson, I placed Sgt Thompson in their charge. I removed Sgt Thompson's pistol and fighting knife. The only words I remember Sgt Thompson saying were "I am all right." I am certain that he knew what was happening. He smelt of alcohol. He walked away with Sgt Pym and Sgt Abbott.

The accused declines to cross-examine this witness.

(Signed) H.K.DOCKETT. A/CSM.

THIRD WITNESS.

B.114378 Sgt ABBOTT, R.A. 1st Canadian Parachute Bn, having been duly sworn states:-

I am a Sgt in A Coy 1st Canadian Parachute Bn. I recognise Sgt Thompson. On 29th June 1944 I saw Sgt Thompson at 1300 hours in the rear area beside the Brickworks. He appeared to be intoxicated. He was swaying about and his eye lids were heavy and he looked sleepy and had a high colour. I then moved forward to recce the area to which my platoon were about to move. At approx 1400 hrs when I returned from my forward platoon area to the Company forward position I noticed Sgt Thompson arguing with Sgt Ferron. The nature of the argument appeared to be personal. I carried on moving my platoon, and I then heard their voices raised, so I went over to stop the argument. As I approached Sgt Ferron appeared to push Sgt Thompson. I caught hold of Sgt Ferron and said "Go away to your area; he has been drinking" or words to that effect. Sgt Thompson waited to one side. He smelt of drink at this time. About 20 minutes later I saw Sgt Thompson by his slit trench. He was lying down when I approached and he got up when I spoke to him. He did not say anything to me. Sgt Deckett then ordered me to march him down to Bn HQ. I was ordered to take him to Bn HQ and place him in arrest for drunkeness. I reported to the RSM.

On 28th June 1944 I was present at an O Group of Capt Griffin's and I remember him giving out a verbal order, the gist of it was that drinking would be curtailed in the line. I don't remember if Sgt Thompson was present.

The accused declines to cross-examine this witness.

(Signed) R.A.ABBOTT. Sgt.

FOURTH WITNESS.

83415 Sgt FERRON, R.L. 1st Canadian Parachute Bn, having been duly sworn, states:-

I am a Sgt in A Company, 1st Canadian Parachute Bn. I recognise Sgt Thompson. At approx 1230 hours 29th June 1944, I became involved in an argument with Sgt Thompson over the fact that my men were not drinking and he was. At approx 1300 hours I reported to Sgt Deckett, the acting CSM, that I wished to prefer a charge of drunkeness against Sgt Thompson. My reasons for thinking that Sgt Thompson had been drinking were that he had slightly alcoholic breath and a slight sway when he stood talking to me. I heard no more about the incident and I moved up into the forward area. While working in the forward area at approx 1430 hours Sgt Thompson and I became involved in an argument on purely personal grounds. Sgt Thompson is a Section Commander in the adjoining platoon. Tempers flew and when something drastic might have happened, and as I reached out to push Sgt Thompson, Sgt Abbott stepped in between us. Sgt Abbott asked me to go down to my own area which I did.

On 28th June 1944, at an NCOs Meeting, Capt Griffin said that there would be no drinking in the company.

The accused declines to cross-examine this witness.

(Signed) R.L.FERRON.

The accused having been cautioned in accordance with R.P.4. declines to make a statement.

It is hereby certified that R.P.4 has been complied with.

Taken down by me this 7th day of July 1944 in the Field.

In the Field. (Signed) JOHN T.WOODGATE. Capt.
Staff Capt, 3 Parachute Brigade.

Further Statement by A/CSM DOCKETT, H.K.

Sgt Thomson was in charge of a section in No. 2 platoon. This section was holding a stretch of the line about 400^{x} from the enemy. Later in the afternoon this section moved to another position about 200 yds from the enemy. When I saw Sgt Thomson at 1630 hours, I do not think that he was capable of performing the duties of a section commander in the front line, as he had been drinking.

(Signed) H.K.DOCKETT. A/CSM.

Further Statement by Sgt ABBOTT, R.A.

Sgt Thomson was in my opinion drunk. He was i/c a section of No. 2 platoon who were about 300^{x} - 400^{x} from the enemy. At 1340 hours my platoon which includes Sgt Thomson's section moved up to an area about 100^{x} from the enemy. At approximately 1300 hours I had put the 2 i/c of Sgt Thomson's section in charge as Sgt Thomson was drunk. I do not know if Sgt Thomson would have been capable of performing the duties of section commander. In view of his actions after moving up, I am inclined to think that he could have.

(Signed) R.A.ABBOTT. Sgt.

Further Statement by 83415 Sgt FERRON, R.L.

At 1230 hours Sgt Thomson was drunk. If Sgt Thomson had been one of my section commanders, I would not have trusted him at that time in charge of one of my sections owing to his drunken condition.

(Signed) R.L.FERRON.

Pin here loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.(3)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~an~~) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed~~ allowed on the charge(s), and ~~is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to swear on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. As to assembly and disposal of record after trial see instrs on back of Convening Order. Confirming Offr see KR Can 567. 2. RP 50. As to release from arrest by

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K.-49639. A/Sgt. R. J. THOMSON.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec. 19. A.A.	Not Guilty.	Not Guilty.	
Alternative. Sec. 40. A.A.	Not Guilty.	Not Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... (Sgd) C. R. Martin Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 52.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify ~~that~~ the above Court assembled on the 10th day of July 1944, and duly tried the persons named in the Schedule, and that the plea, finding, ~~and sentence~~ in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) cl
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of July, 1944.

E.B. St. Michaux

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (i) on page 76 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. cl

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2)(A4) Wt.47533/242 25,000 2/42 A. &E.W.Ltd. Gp.698

DD-51
GNR THOMSON T.

DD 51

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 24th day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 3 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[state that it is not practicable to delay the trial with reference to superior qualified officers.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~It is impracticable to appoint:—~~
~~(1) Three Officers to form the Court.~~
~~(2) A Field Officer as President~~
~~for the following reasons, namely:—~~

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.G. GOLDIE	12 Fd Regt RCA

Members.

Rank.	Name.	Regiment.
Capt.	J.W. BENNETT	13 Fd Regt RCA
Lieut.	J.C. VIETS	14 Fd Regt RCA
Waiting Member Lieut.	D.A. WILSON	3 A Tk Regt RCA

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.A.S. Todd) Brigadier,
Commanding C.R.A., 3 Cdn. Div.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-6172 Gnr. Thomas THOMSON "B" Svy Bty., 1 Cdn Svy Regt RCA.	(1) Sec. 40 A.A.	Not Guilty	Not Guilty	
	(2) Sec. 8 (1) A.A.	Not Guilty	Not Guilty, 26 April 43 A/Lieut-Colonel Mayor Pres.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ..... (Signed) A/Lieut-Colonel Mayor.
(P.A.S. Todd) Brigadier,
Commanding C.R.A., 3 Cdn Div. *President.*
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 26 day of April 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

Only {*(3. ~~The interpreter~~) *(4. ~~The officers under instruction~~)}

were duly sworn.

Signed this 26 day of April 1943.

A/Lieut-Colonel Mayor
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 ,

Confirming Officer.
(P.A.S. Todd) Brigadier,
C.R.A., 3 Cdn. Div.

Promulgated and extracts taken in the case of

(*a*) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47767/1837 35 M. 5/41 KJL/9268(2) Gp. 698/3

CHARGE SHEET

The accused, No. D-6172 Gnr Thomas Thomson, "B" Survey Battery, 1 Cdn Survey Regiment, RCA., a soldier of the Canadian Army Overseas, being on active service, is charged with,

First Charge
40 A.A.

Conduct to the prejudice of good order and military discipline,

in that he,

in the field, on the 13th day of April, 1943, did create a disturbance in a plublic place, by fighting with two other soldiers on the street in Worthing, Sx.

Second Charge
8 (1) A.A.

Striking a superior officer, being in the execution of his office,

in that he,

in the field, on the 13th day of April, 1943, struck L/Cpl Stitcham, F.G., who, accompanied by L/Cpls Garlough, L.G., and Bell, C.T., No. 4 Cdn Provost Company A.F., was investigating a disturbance on the street in Worthing, Sx.

"B" SURVEY BATTERY R.C.A. 23 APR 1943 ORDERLY ROOM

MAJOR, RCA.
O.C. "B" SURVEY BATTERY, R.C.A.

To be tried by F.G.C.M.

B 2.
Effective Major
44

(P.A.S. Todd) Brigadier,
C.R.A., 3 Cdn. Div.
22 Apr. 43.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. D 6172 Gnr Thompson J.
"B" Survey Battery, 1 Cdn Survey Regiment, RCA, is fit
to undergo trial by Court-Martial.

Date 26 Apr 43

Signature of the Medical Officer

A/Lieut/Major
Pres

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Lathe Field on the 26th day of April 1943 by order of Brigadier P. A. S. Todd C.B.E. Commanding Third Canadian Divisional Artillery dated the 24th day of April 1943

President.

Major R. G. Goldie 12 Field Regiment R.C.A.

Members.

Capt. J.W. Bennett 13 Field Regiment R.C.A.

Lieut. J. C. Viets 14 Field Regiment R.C.A.

~~Major J. F. Gilmour~~, ~~Judge Advocate~~.

Trial of* ~~J 67229 Gnr. Thomson Edward Joseph~~ D6172 Gnr Thomas Thomson 'B' Svy. Bty ~~Victoria B Surv. Bty~~ 1 Cdn. Surv. Regt. R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt A.T. Pixley, B Survey Bty 1 Cdn. Surv Regt. R.C.A.

Counsel‡ or defending officer† Lieut. F.I. Stowey B Survey Bty 1 Cdn. Surv Regt. R.C.A.

At 1630 o'clock the Trial commences.

The order convening the Court is read, and is marked 'A', signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No. Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16838/78. 35,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9/55.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty Sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty Sir. *Answer.*

~~Are you guilty or not guilty~~ of the third charge against you, which you have heard read? *Question.*

Answer.

~~Are you guilty or not guilty of the~~ fourth charge against you, which you have heard read? *Question.*

Answer.

The accused ~~having pleaded Guilty to~~ ~~charge,~~ the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No. Sir.

The prosecutor ~~makes an opening address~~ hands in a written address which is read, marked A4 , signed by the President, and attached to the proceedings.

The prosecutor proceeds to call witnesses.

First witness for prosecution. } D81787 S/Sgt Stitelman R. F. 4 Cdn. Provost Coy

being duly sworn, is examined by the prosecutor.

On 13 Apr 43 at about 2230 we got a phone call at the Worthing Police station that there was trouble at the Literary Institute Dance Hall. I, Cpl. Gorlouf and myself with Pte Bell driving the truck we went to answer this call. Turning into Montague Street we saw three ~~soldiers~~ fighting there. We stopped the truck to break it up and found the ~~fellows~~ soldiers in the wrong. These soldiers objected to interference and called to others who were passing. The other soldiers came over and they set about the three of us. There were too many to take into custody and so we left for reinforcements. When we picked up the (2) Reinforcements, we came down towards the billet area on Brighton Road where we intercepted some of

A4

The men on their way to the billets.
Five were picked up and charged in the guard room. The first two we picked up resisted to such an extent that they had to be forced into the truck and handcuffed. (Witness points and identifies the accused as being involved in the fight)
The accused struck me in the face and on the body. The accused was not among the five who were arrested together he was arrested by ~~the~~ the Sgt.-Major after I had identified him the next morning. I am positive that the accused is the man who struck me and is the man who I identified the next morning I was struck by hand.

Cross examination

I cannot identify the accused as being ~~one of the~~ three soldiers that I saw fighting ~~at the~~ on Montague street.
On Montague street I was wearing my tunic, side-arms and hat. Later, to avoid losing my hat or losing my side arms and in a couple I removed these. I also removed my tunic and placed them in the truck.

To the Court:-

I had my tunic on when I was struck. It was moonlight and bright enough to see people, where this fight took place It was on Montague Street that I was struck.

R.P. & S (6) complied with.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. yes. Sir.

Question. Do you intend to call any other witness in your defence?

Answer. yes.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

First Witness D6172 Gnr Thomas Thomson 'B' Survey Battery, Canadian Inf Regt & RCA (The Regina) having been duly sworn states:-

When I left the dance hall there were several minor squabbles going on around in the street. The soldiers involved were both Nova Scotia Highlanders Regina Rifles and some of the B' Survey Battery. Gnr McFaul seemed to have had an argument with a Regina Rifleman and shortly after that (a minute or so) a truck came up the street. I was standing in the road and the truck pulled up just beside me — I was standing in its headlights A soldier jumped out and I asked them if they were Provost. He said "yes" I said "I think it will be all right, the boys will drop it and go home". I walked down alongside of the truck and when I turned around, I saw a soldier on the ground in front of the headlights, so I assisted him to his feet. I went over to the sidewalk then. Gnr. MacKay and a Highlander were pushing around on the sidewalk I tried to break the fighters and I received a blow in the eye from Gnr MacKay. I thought that was enough for me that night. Everything had quieted down. The truck had already gone.

D 3

Gnr. McLeod was shaking hands with a Regina. I left for camp then.

When Gnr. McKay let me I said "Gordie me Mack" and he said "I'm sorry Tommy."

When I went over to the sidewalk I called out "Break it up."

Cross Examination

When the M Ps came there were about a dozen men fighting. Before the MPs came I had previously tried to break up a fight. I have not recognized the Provost to whom I spoke that night. I did not strike anyone that night. The soldier I assisted to his feet was not an MP. I did not know.

To the Court

During the fight, I did not see any M.Ps. involved in any of the brawls.

RP 83(b) complied with.

Second Witness F-89906 Gnr. Elliot MacKay, B Survey Battery 1 Can Survey Regt RCA.

Having been duly sworn, states:-

After the dance, outside the hall, when we came out ~~the~~ I found to get into a scrap with a highlander and while we were in the scrap I saw Gnr. Thomson come in and break it up. After it was broken up, I did not see him any more

that night. I think I hit Thomson in the eye and I said that I was sorry. I do not remember if Thomson said anything. I do not remember very much about that evening.

Cross Examination by the Prosecution

I did not see any M.P.s in the fracas on Montague street. I guess I was otherwise involved. I did not see the accused involved to any extent in any fight.

R.P. 85 (b) complied with

Third Witness D10830 Gnr McFaul J.L. 'B' Sy Bty. 11th Sy Regt R.A. having been duly sworn, states:—

On 13 Apr 43 about 2330 hrs I collided with a man of the Legion Rifles on the corner of South & Montague streets. We had a scuffle and exchanged a few blows. Just before we shook hands and parted I heard Gnr Thomson's voice say "Break it up". I never saw Gnr Thomson after that. I have known Gnr Thomson for the last two years and I know his voice.

No Cross examination

To the Court

Thomson is a cook and I have eaten in his kitchen for 2 yrs.

I heard Gnr Thomson did not see him

D5

I did not see any Provost at the fight.
RP 83 (2) complied with.

Fourth Witness L 12989 4/Cpl. Bell C.T.C. 4 Cdn Provost Coy.
having been duly sworn, states:—
On night of 13 Dec 43 at about 2230 hrs I was driving a vehicle. ~~4 Provost~~ I drove with S/Cpls. Stitchman and Harlough to the corner of South and Montagne Sts. I saw two ~~men~~ fighting there. I stopped. S/Cpls Harlough and Stitchman got out to investigate I inspected the vehicle and a number of troops gathered round. I told them to get out and help break up the fight. I had had hold of one of Mackay's arm with another man from ~~B Coy.~~ 1st Svc Bgt. Fighting was going on but I could not see what was going on as I had my back towards the crowd S/Cpls Harlough and Stitchman and I got into the truck to go for assistance. I just drove from there on and did not get out of the truck.

Cross Examination:—
I did not see anybody strike S/Cpl. Stitchman.

To the Court:— I did not hear anyone talking at the fight as the motors were running when we arrived. The night was very dark.

D6

Then we drew up to Montague Str
There were about 15 all milling around the
truck. I couldn't even tell who the Provost
were in the crowd.
RP83(b) complied with.

Fifth Witness M50165 S/Cpl Garfoot L/S — 4th Provost Coy.
having been duly sworn states:—
After we arrived on Montague Str.
L/Cpl Stutchman was arguing with one
three soldiers and I went up & then
and asked what the trouble was.
I cannot identify any one in this
room as being involved in the fight.
Later on one soldier came up and
said he wanted to take these three soldiers
home but they would not like to name
I do not know who it was
Cross Examination by Prosecutor
I did not see anyone strike
S/Cpl. Stutchman.
R.P. 83(b) complied with

Sixth Witness B272811 Gnr Patterson AC 'B' Sqn 8th Bty, 1st Lt. Rgt RCA.
having been duly sworn, states:—
I saw Gnr Thomson in the dance.
After the dance I met Gnr Thomson on South
Street and walked up as far as Brighton
Road. We parted there and said good-night
I did not see the accused during the fight which I saw

D 7.

but but Mr Gulick could not make out any individuals.
Thomson told me nothing of any fight
on the way home.

Cross Examination

I did not see the accused after
the dance and before the fight. I saw
Gnr Thomson later but left him on
Brighton Road.

To the Court

I left Gnr Thomson at about 2240 hrs
we walked for only ½ block along South
street.

R.P. 83(b) complied with.

Sergt Otis 6685 Gnr. Hayward E.W. B Sy Bty 16th Sary Regt RCA.
having been duly sworn. states
On Morning of 14 Apr 43 Gnr Thomson
had an abrasion over one eye.
There was a Battery identification Parade on
that morning.
No Cross Examination
RP 83 (b) Complied with

D8

Eighth Witness
Character
Witness

D10670 B.S.M. Watson W.J. 'B' Sqn/Bty 1 Can Sqn/Bty R.C.A.
having been duly sworn states—

I have known the accused since
26 Jan 40. He was a cook in my
troop, and afterwards on Battery
H.Q. where he is employed now.
I have always found him
intelligent and honest and good
~~in his~~ at his work. He has been
with me on several small detachments
at which times I have had to leave him
on his own on several occasions
and he has always been trustworthy
~~He~~ The only time the accused has been
away from me is approximately
5 months during which time he returned
to Canada as escort to Prisoners of
War.
No Cross Examination

RP 83(b) complied with

At the request of Defending Officer, Prosecuting Officer submits MFM 6 which is marked 'G' and signed by the President.

Defending Officer makes his statement, summing up.
Prosecutor makes his statement in reply.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is not guilty of either charge. The court is reopened and the finding of not guilty on each charge is announced in open court & the accused is released.

A Lovelace major Pres.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it, is duly sworn.

Evidence of character, &c.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question. Have you compared the contents of the above statement with the regimental books? *Answer.*

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If in consequence of the nature of the evidence of the accused in a disciplinary case, or otherwise, the finding of the Court renders him liable to any additional punishment, or to any addition to that to be awarded by the Court the President must call the attention of the Court to the circumstance, and the Court must reopen and the matter and consider of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence.

The Court sentence the accused

SUMMARY OF EVIDENCE

In The Case Of

D-6172, Gnr. THOMSON, T.

First Witness, sworn, states:

"I am D-81787, L/Cpl. STITCHMAN, F.G., of #4 Cdn. Provost Coy. At approximately 2230 hrs, 13 Apr 43, we were called to the Literary Institute dance hall. On the way there, at SOUTH and MONTAGUE Streets, we saw three soldiers fighting. L/Cpl. GARLOUGH and I got out of the car and I asked what the trouble was. The three of them started shoving me around and became abusive. I can only identify Gnr. THOMSON (points to him) as one of the three. When L/Cpl. GARLOUGH appeared, one soldier struck me and another yelled for help. We then had to fight our way through ten or eleven soldiers and got back to the truck and went for reinforcements. We then went back to MONTAGUE and SOUTH Streets and, finding no one there, headed EAST along WARWICK Street. We parked and questioned a total of six soldiers who came along from time to time. Five of these we arrested as they were identified as having been involved in the disturbance either at the dance hall or in the street. Several of us questioned the men, advised them of their arrest and, if they did not enter our vehicle freely, we put them in. Both men of the first two (points to Gnrs. McFAUL and PAULSON) resisted and were handcuffed after we got them in the vehicle. The second pair entered the vehicle without resistance as did the fifth man. We then delivered the five men to their unit Guard Room where we took particulars and advised that charges would be laid.

"On reconsideration, I identify these men (points to Gnrs. WOLFE and PAULSON) as the first two arrested. The two men who were handcuffed were Gnrs. McFAUL and PAULSON (points to them).

"I should like to withdraw my reconsideration in favour of the first statement that Gnrs. McFAUL and PAULSON were the first men arrested. It would take at least 20 minutes to walk from the unit Guard Room to the dance hall."

Cross examined by Gnr. McFAUL:

"I assisted in arresting the second pair. I wore no tunic and no hat."

(SGD) D-81787, L/Cpl. STITCHMAN, F.G.,
#4 Cdn. Provost Coy.

Second Witness, sworn, states:

"I am Lieut. A. G. FAULKNER, Battery Administrative officer, of "B" Survey Battery, RCA. I hand you, herewith, AFB 252 and statement of evidence in the case of D-6172, Gnr. THOMSON, T., received from the Provost." (Exhibit "A" and "B").

(SGD) A. G. FAULKNER, Lieut., RCA.

Third Witness, cautioned and sworn, says:

"I am D-6172, Gnr. THOMSON, T., of "B" Survey Battery, RCA. At approximately 2200 hrs, 13 Apr 43, I entered the Institute dance hall and stood there listening to the music. After the National Anthem had been played at 2230 hrs the crowd started going out. A minor fracas broke out; I walked between an M.P., whom I now believe to be L/Cpl. LESTER, and a soldier to break it up. Outside, on the street near the dance hall, several minor arguments broke out. A truck with three M.Ps. came along; I told one that everything was OK and to leave it alone. We

..... To Page 2.

Third Witness, D-6172, Gnr. THOMSON, T. (Continued):

"passed along and I picked up a soldier who was lying on the ground and told him to go home. I then went to the sidewalk and walked between two soldiers who were tussling, one was Gnr. MacKAY and the other a NORTH NOVA SCOTIA HIGHLANDER, and received a hit in the eye. I then decided to go home; things were quieting down."

(SGD) D-6172, Gnr. THOMSON, T.,
"B" Survey Battery, RCA.

Taken down by me these 21st and 22nd days of April, 1943, in the presence of the accused.

Rule of Procedure 4 complied with.

FIELD,
22 APR 43.

(SGD) H. T. AIREY, Capt., RCA,
"B" Survey Battery, RCA,
1 Cdn. Survey Regt., RCA.

CERTIFIED TRUE COPY
R Faulkner Lieut RCA

H C Fan
MAJOR, RCA.
O.C. "B" SURVEY BATTERY, RCA.

"B" SURVEY BATTERY RCA
23 APR 1943
ORDERLY ROOM

aff

COPY

STATEMENT OF EVIDENCE IN THE CASE OF

D-6172 Gnr. THOMSON, T.
"B" Bty, 1st Cdn Svy Regt RCA 1 Cdn Corps (att: 3 Cdn Div)

Sir:

1. At approx 2230 hrs, 13 Apr 43, pursuant to instructions received from NCO i/c Patrol, I proceeded to MONTAGUE STREET, WORTHING, SX. accompanied by L/Cpls. GARLOUGH, L., and BELL, C.

2. Arriving at MONTAGUE STREET it was found that a fight was in progress between 3 soldiers, already charged. One of these called to some passing soldiers, one of whom was recognized as being the m/n soldier.

3. I ordered the soldiers to stop fighting, whereupon Gnr. THOMSON struck me. It was impossible to arrest Gnr. THOMSON at the time, due to overwhelming odds, but on 14 Apr 43 I proceeded to the m/n unit lines to attend and Identification Parade and was there able to pick him out as the soldier who had struck me.

4. Throughout the affray a/m, Gnr. THOMSON used abusive language towards me.

5. Gnr. THOMSON was placed under Close Arrest by his Bty Sgt Major at the Identification parade. His particulars were taken from his pay book and he was warned that he would be charged accordingly.

(SGD) D-81787 L/Cpl. Stitchman, F.G.,
#4 Cdn. Provost Company A.F.

B SURVEY BATTERY RCA
23 APR 1943
ORDERLY ROOM

MAJOR, RCA.
O.C. "B" SURVEY BATTERY, RCA.

CERTIFIED TRUE COPY
[illegible] Lieut RCA

Attention is drawn to CGO 125/42

Army Form B 252
(See King's Regulations)

CHARGE

1st Cdn Svy Regt. RCA — Regiment
1 Cdn Corps (Att: 3 Cdn Div) — Battery / Squadron / Troop or Company
"B" Bty

CHARGE against No. D-6172 Rank Gnr.

Name THOMSON, T.

Place WORTHING BX Date of Offence 13 Apr 43

OFFENCE(S) (1) Did create a disturbance in a public place.

(2) Did strike ex Military Policeman while in the execution of his duty.

(3) Did use abusive language to ex military Policeman while in the execution of his duty.

Contrary to Army Act

Names of Witnesses: Pte. Trywhitt-Drake, F.G.
1/Cpl. Stitchman, F.G.
RA Cdn. Provost Company R.E.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Released from close arrest & placed under open arrest. Remanded to 3 Bde. H.Q. for [illegible] Cpl. Remanded for summary of evidence. [illegible]

Remanded for [illegible]

[illegible] Adjutant 1st Cdn Svy Regt RCA
for O.C.

(A)

Reg. No. W21972/580. 2,500,000. 7/41. K. & H., Ltd. 0667/41

STATEMENT OF EVIDENCE IN THE CASE OF

D-6172 Gnr. THOMSON, T.
"B" Bty, 1st Cdn Svy Regt. RCA 1 Cdn Corps (att: 3 Cdn Div.)

Sir:

1. At approx 2230 hrs, 13 Apr 43, pursuant to instructions received from NCO i/c Patrol, I proceeded to MONTAGUE STREET, WORTHING, SX., accompanied by L/Cpls GARLOUGH, L. and BELL, C.

2. Arriving at MONTAGUE STREET it was found that a fight was in progress between 3 soldiers, already charged, one of these called to some passing soldiers, one of whom was recognized as being the m/n soldier.

3. I ordered the soldiers to stop fighting, whereupon Gnr. THOMPSON struck me. It was impossible to arrest Gnr THOMSON at the time, due to overwhelming odds, but on 14 Apr 43 I proceeded to the m/n unit lines to attend an Identification Parade and was there able to pick him out as the soldier who had struck me.

4. Throughout the affray a/m, Gnr THOMSON used abusive language towards me.

5. Gnr THOMSON was placed under Close Arrest by his Bty Sgt. Major at the Identification parade. [illegible]. His particulars were taken from his pay book and he was warned that he would be charged accordingly.

/EG

J.G. Stitchman
.....L/Cpl.
D-81787 L/Cpl Stitchman, F.G.
#4 Cdn. Provost Company A.F.

CDN. PROVOST COY (A.F.)

"B" SURREY BATTERY RCA 23 APR 1943 hrs ORDERLY ROOM

(B)

I, the undersigned, ~~desire~~/do not desire to have an officer assigned by the Convening Officer to represent me at the trial.

Thomas Thomson

Date 14 Apr. 43

8 SURVEY BATTERY RA
23 APR 1943
ORDERLY ROOM

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No. A4305 Cfn. Thoms M.H. 2 Cdn Inf. Tps Wksp RCEME Regiment

is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer.

* Insert "fit" or "unfit."

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Dunley Hill	10-10-41	Gnr.		Sect.15(1) AWL from 2359 hrs 10-10-41 till 2230 hrs 13 Oct 41 (Absent 1 day 22 hrs 31 mins)	Sgt.Watson L/Bdr.Serviss Bdr.Jamieson	10 days C.B. and to forfeit 5 days pay	15 Oct 41	Lt.-Col. G.M.Carrie	Forfeits 2 days pay FR&I 149(1)(a)
Field	26-8-42	Gnr.		A.A.Sec.15(1) AWL from 2359 hrs 26 Aug 42 to 2330 hrs 28 Aug 42 (Absent 1 day, 23 hrs, 30 mins)	Bdr.Johnson L/Bdr.Poole	10 days C.B. and forfeits 5 days pay	1 Sep 42	Major Kirk	Forf. 2 days pay FR&I 149(1)(a)
Field	24-12-42	Gnr.		A.A.Sec.15(1) AWL from 2359 hrs 24 Dec 42 to 1300 hrs 25 Dec 42 (Absent 13 hrs 1 min)	Bdr.Quinn Gnr.Deschene	7 days C.B. Forfeits 3 days pay	26 Dec 42	Major W.C.Fair	Forfeits 1 days pay FR&I 149(1)(a) Total forf. — 4 days pay.

23 APR 1945

APR 2 6 1943

CERTIFIED TRUE COPY OR EXTRACT.

MAJOR, RCA.

O.C. "B" SURVEY BATTERY, R.A.

No. D-6178 Name Thomson, T. Sqn., Battery, or Company — Corps RCA — Date of enlistment 6 Dec 39 — G.C. Badges Nil — Service or Proficiency Pay N/A — M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature O.C. Company, etc. J.W.Cape, Major — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of prior dispensing with trial	By whom awarded	Remarks
	NO ENTRIES FROM PREVIOUS SHEET DESTROYED 6 JUN 40 ON COMPLETION OF 6 MONTHS SERVICE								
Dunley Hill	14-6-41	Gnr.		Sect.15(1) A.A. AWL from 2359 hrs 14-6-41 till 2320 15-6-41 (Absent 23 hrs 21 mins)	Sgt. Watson L/Sgt. Simpson L/Bdr. Soper	7 days C.B. & to forfeit 4 days pay	17 Jun 41	Major E.R. Suttie	Forfeits 1 days pay PRAI 140(1)(a)
Field-Cartera Corner Place	30-6-41	Gnr.		A.A. Sect.15(1) AWL from 1200 hrs 30 Jul 41 until 2150 hrs 31 Jul 41 (Absent 1 day, 9 hrs, 50 mins)	33M McCaffrey L/Sgt. Whelan Gnr. Green L/Bdr. Henry	14 days C.B. and to forfeit 5 days pay	1 Aug 41	Major W.D. Kirk	Forfeits 2 days pay PRAI 140(1)(a)
Dunley Hill	10-8-41	Gnr.		A.A. Sect.15(2)-Failing to appear for kitchen duty at 0600 hrs-- appeared at 0640 hrs.	Sgt. McKeown L/Bdr. Ledoux	5 days C.B.	16 Aug 41	Major W.D. Kirk	

G. C. Goldie Major pres.

(PTO)

40-118

Tpr Thomson v.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-76900 Tpr Victor THOMSON, X-4 List CAC, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

sixty (60) days field punishment

(Sgd) ..... Judge-Advocate, if any. 17 Jan 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 20 Jan 45 (Sgd) ..... Commanding 2 C.B.R.G. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

D76900 Tpr Victor Thomson, X4 list CAC 9 CBR Bn — JAN 29 1945 — CAPT. & ADJT., 9 BN. 2 C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-118
2 FEB 1945 C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (To Revise of AFA81) 40-P-6-6-(2099)-(H)(44) 4/38B

Convened by Order of Brig G S N Gostling Comd 2 CBRG dated 12 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-76900	Tpr	Victor	THOMSON	X-4 List CAC, 9 CBR Bn

PROCEEDINGS REVIEWED

R H Hartley Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 17 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED. Citations do NOT include all relevant fmn ROs. For guidance BY PRES OR JA. The Schedule referred to throughout is on p 4. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J E L CASTONGUAY	CIC	11 CBR Bn
Member	Capt	N R Edwards	CIC	11 CBR Bn
Member	Capt	G T Moore	CIC	11 CBR Bn
Judge-Advocate				
Prosecutor	Lt	R D Guest	CAC	9 CBR Bn
Defending Offr	Lt	A A Peterson	CAC	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D-76900 Tpr Victor THOMSON before arraignment make(s) (no) (1) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(1) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 C.B.R.G. 206 P4

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 2.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fill here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. ~~The Prosecution~~ is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes as a witness. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. Yes.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~not guilty~~ charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes in mitigation of punishment.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (C). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

E & B

3/17 MFM 6
(AFB 122)
40/FAN/130 (54479)

No. D-76900 Name THOMSON V. Sqn, Battery, or Company — Corps CAC — Date of enlistment — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET ORIGINAL NOT AVAILABLE		10S 7 DRBm.	28 Nov 44.		

(C.L.Nelson) Capt & Adjt
9 Bn, 2 C.B.R.Gp.

(P10)

CHARGE SHEET

The accused, D-76900 Tpr, Victor THOMSON, X-4 List CAC on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Candian Army Overseas, who is charged with

FIRST CHARGE SEC 64(2)(c) ARMY ACT

WHEN ON ACTIVE SERVICE, BEING A SOLDIER ACTING AS SENTINEL WAS DRUNK ON HIS POST.

in that he

in the Field, on 23 Dec 44, at 2130 hours, when sentry at the front gate of the entrance to the Seminary, Ghent, was drunk.

SECOND CHARGE (ALTERNATIVE CHARGE) SEC 17 ARMY ACT

WHEN ON ACTIVE SERVICE, WHEN ON DUTY, DRUNKENNESS.

in that he

in the Field, on 23 Dec 44 at 2130 hours, when on Guard Duty was drunk.

(H.W.Rick),Lt.-Col.,
Commanding
9 Bn, 2 C.B.R.Gp.

In the Field

9 Jan 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G S N Costling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
12 JAN 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-76900	Tpr		Victor	THOMSON	X-4 List CAC, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 12 JAN 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) J E L CASTONGUAY (Must be named. RP 106.) CIC, (Unit.) 11 CBR Bn

MEMBERS.

Captain (Rank.) to be detailed by OC 11 CBR Bn (Named or detailed. RP 106.) 11 CBR Bn (Unit.)

Lieut (Rank.) to be detailed by OC 10 CBR Bn (Named or detailed. RP 106.) 10 CBR Bn (Unit.)

WAITING MEMBER.

Captain (Rank.) to be detailed by OC 11 CBR Bn (Named or detailed, if any. RP 106.) 11 CBR Bn (Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 12 JAN 45

(Signed personally. RP 105 fn 2.)

(G S N Gostling) Brigadier (Rank.)

Commanding 2 CDN BASE RPT GP

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/F & S/1697 (8143)

(See overleaf for oaths and notes for use on trial.)

fit.

MEDICAL OFFICER'S CERTIFICATE

(KR(Can)Para 557)
CMHQ GL 173

I certify that I have this day examined D.76900 (Number)

TPR. THOMSON. V. (Rank) (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court Martial

Station FIELD. J.H.Martin Capt RCAMC (Sgd) Medical Officer

Date JAN. 16-45. (Unit) 9C.B.R.BN.

MEDICAL OFFICER CERTIFICATE

(KR(Can)Para 557)
CMHC CL 173

I certify that I have this day examined 076900 (Number)

Pte (Rank) Thomson V. (Name) and in my opinion he is

~~fit unfit~~ to undergo trial by Court Martial

Station FIELD

Date 17 FEB 45

J.H. Martin Capt RCAMC (Sgd)
Medical Officer
(Unit) 9 C.B.R. Bn.

D 76900 - Tpr. Thomson V.

First Witness for the Prosecution :- Lt. E.H. Capstick, R.C.E., 9th Bn 2 C.B.R.G. having been duly sworn states as follows :-

At about 2130 hrs I was duty officer on my way to the front gate. On investigating I found the accused staggering about and talking incoherently to a soldier he had stopped. He was in my opinion under the influence of liquor and not capable of doing his duty as guard properly. He was replaced by another guard at 2145 hrs, I went to the defaulters at 2255 hrs. and told A/Cpl. Radcliffe who was in charge at that time to place Tpr. Thomson under close arrest. This was done.

Q - 1 Is the soldier in question in this room now

a Yes

Defending Officer

Q - 1 - Will you tell the court why in your opinion you thought the accused was drunk.

a - He was talking a lot louder than was necessary

Q - 2 - Did you personally speak to the accused between the time you first saw him and when you ordered his arrest.

a - Yes

Q - 3 - What was the conversation

a - I said to Trooper Thomson is drunk and you are making a damn fool of yourself at the front gate where all the civilians can hear you He replied, that he was not drunk and that he thought he was doing his duty properly. I said, You will hear more about this and I left the guard room. This was about 2145 hrs.

Q - 4 When you first saw the accused questioning this soldier, did you make any enquiry as to what was going on, on the spot.

a - No.

Q - 5 ~~You said it appears to you that having the accused in your mind naturally, that he was drunk~~

Q - 5 - Did it occur to you that the loud voices could have been caused from an argument.

A - No.

Q - 6 - Why did one hour and twenty-five minutes elapse during the time you first saw the accused and when you made his arrest.

A - It was not my intention at first to place Tpr. Thomson under close arrest and I spent that time looking for the Sgt of the piquet in order to place the matter before him.

Q - 7 - Did you consider at that time the accused was not a serious enough case to place him under arrest

A - I figured that the responsibility for Thomson's condition rested on the shoulders of the Sgt of the piquet and that Tpr Thomson could remain in the piquet room until I found him.

Second Witness for the Prosecution:- A-92717 T/Cpl. Carnegie E. M. having been duly sworn states as follows:-

At approx 22.30 hrs I was on duty at the Bn Guard Room T/Cpl. Radcliffe and Tpr. Coughlin escorted Tpr. Thomson to the entrance of the Guard Room and was placed under close arrest. I placed the man in the cell, took the particulars and entered it in the occurrence book in the guard room. The man was identified by his M.B.M. I Pt. I as Tpr. Thomson V.

Prosecuting officer

Q - 1 - Did the accused at any time offer any resistance

A - No Sir

Q - 2 - At what does the offence stop

A - At the entrance to the Guard Room

Q - 3 - Would you say at the time the accused was under the influence of liquor

A - His breath smelled of liquor

Q - 4 - Did the accused in fact come room

A - Yes Sir, true.

Q - 5 - After being placed in the guard room did the accused cause any trouble

A - None what so ever.

No 3

Defending officer

Q - 1 - Are you willing to say on oath the accused was drunk

a - No

Q - 2 - Did you place the accused in a cell by himself

a - No

Q - 3 - Would it have been possible to place the accused in a cell by himself

a - No.

Q - 4 - Did you remove from the accused removes his boots

a - No I didn't remove his boots.

Q - 5 - When a person under the influence of liquor is brought to the guard room, do you normally remove his boots and remove any weapons etc.

a - Normally the boots are removed from all persons of 21:30 hrs

Q - 6 - What was the nature of resistance shown by the accused and why

a - The resistance the accused was offering, it appeared as if he didn't want to come in. Why, I cannot say.

Q - 7 - In your opinion did the accused appear to be drunk

a - Yes, when I gave him his blankets, he made his bed and layed down.

Court

Q - 1 - In your opinion was the accused able to carry out his duties as sentry

a - No Sir

Q - 2 - What is in your mind, constitutes a man that is drunk

a - a man that is about to spew out.

Q - 3 - Do you consider that the accused was incapable carrying out his duties because he was under the influence of liquor

a - Yes.

Defending officer

Q - 1 - Did you see the accused at any time attempt to carry out his duties.

a - No

The Court can only go on your opinion that he was incapable of carrying out his duties

Page

Third Witness for the Prosecution is No 65723 L/Cpl. Radcliffe H.E. Regimental Police 9 Bns 2 C.B.K.R. having been duly sworn states as follows:-

At approx 2255 hrs the Orderly Officer of 23 Dec 44 came to the guard room where I was on duty and asked me to place Sgt Hayes and Tpr. Thomson under close arrest. At approx 23.25 hrs. I went over to the main gate guard room and picked up Tpr. Thomson and escorted him to the Guard Room and placed him under close arrest.

Prosecuting Officer

Q - 1 - Did you go to the main gate alone to pick up Tpr. Thomson

A - No Sir. I had a Tpr. along with me.

Q - 2 - How did you find the accused when you arrived there

A - He was sleeping in his bed.

Q - 3 - Did he offer you any resistance

A - No Sir, he offered no resistance

Q - 4 - Would you say Tpr. Thomson was under the influence of liquor

A - Yes, because he was unable to walk to the Guard Room

Q - 5 - Did you have to help him to the Guard Room

A - Yes Sir, we had an arm on each shoulder and took him to the Guard room.

Q - 6 - Is the soldier in question in this court room

A - Yes Sir, there.

Defending Officer

Q - 1 - Did you awaken the accused out of a sound sleep.

A - Yes Sir.

Q - 2 - Would you swear the accused was drunk

A - No Sir.

Q - 3 - Did it appear to you the accused couldn't walk due to being tired and fatigued

A - No Sir

Court

Q - 1 Do you think the accused was capable of carrying out his duties as a Sentry

A - No Sir

Q - 2 - Do you think it was due to the fact he was drinking

A - Yes Sir

Page

South African Witness for the Prosecution: B102582 Tpr. Schular R.E. 9 GB. K.R.C.
having been duly sworn, states as follows:-

Prosecuting Officer
Q-1 - On the night of 23 Dec 44 were you on guard
A - Yes Sir.
Q-2 - Did you see Sgt Hayes place the accused on guard that night
A - Yes Sir
Q-3 - At what time
A - 2000 hrs

Defending Officer
Q-1 - Did or did not the accused approx one hours later open the door and asked to be relieved
A - He did
Q-2 - When the accused was relieved ~~about~~ approx one hour later, did he or did he not appear ~~obviously~~ drunk
A - He was not drunk Sir
Q-3 - Were you on guard approx the same length of time the accused was on.
A - Yes Sir
Q-4 - How many hours guard duty was that
A - Approx 72 hours
Q-5 - How many hours sleep did you have during the 72 hrs duty.
A - Approx 15 hrs sleep.

Court
Q-1 When the accused was asked to be relieved would you say he was under the influence of liquor
A - No, he appeared to be sick.
Q-2 When the accused was posted by Sgt Hayes, was he ~~Sober~~ under the influence of liquor
A ~~NOT~~ I don't know
Q-3 Do you know if the accused had been drinking prior to being posted or after being posted
A - I don't know
Q-4 - When Sgt Hayes posted the accused on sentry duty, was he under the influence of liquor
A - I don't know

Prosecuting officer
Q-1 - Were you on guard duty for the same length of time as 72 hrs continuously.
A - Two hours on and four hours off Sir.

Statement of the Accused :- O 76900 Tpr. Thomson V.

having been duly sworn states as follows :-

On 23 Dec 44 I came of Guard at 1200 hrs. and had to go back on Guard at 2000 hrs. I stayed around Camps in the Guard room all afternoon. At appro 1900 hrs. I came out of the Guard room and went just outside the gate and sat down on a round stone thing. I was sitting there smoking a cigarette when a Belgian soldier came up and spoke to me. We spoke about different things. It was cold the Belgians was going on guard and not allowed to take intoxicating liquor. He told me that it was only wine his grandmother had made and it wasn't strong at all. He said you could drink the stuff all day and it wouldn't bother you. I had a drink with him. We talked for about 15 minutes and I had one more drink. I knew it was getting a little late so I told him I had to go back to the Guard House. I went back to the Guard house to wait for my turn to go on post. At 2000 hrs. the Sgt of the Guard put us on our post at the front gate. A little while later I started to feel sick and told the guard that I was going to be relieved that I felt sick. I went up to the Guard room, opened the door and yelled in Sgt Hayes will you relieve me, I feel sick. So I went back to my post. A few minutes later a soldier came in as it was the duty of the guard to stop soldiers coming in and going out for identification. I stopped this fellow coming in and asked for his identification. He said, What do I look like a paratrooper ?. I told him I did'nt care what he looked like. And one word led to another, but I finally told him to give me his identification, that if he didn't, I would place him in the guard house. He thought at his pay book which I took off of him, opened it up and asked him for his name and number. He opened it, and it was satisfactory. I gave him back his pay book and he left. A little while later I was relieved on guard. I went into the guard room, spoke to the Orderly Officer, and said I was sick. Next thing I remember someone was shaking me up. Then after a few minutes I got my head cleared of sleep, and they informed me that I was under close arrest. We then went to the ~~Guard room~~ Detention Room.

Page 1

The R.P.'s had put me in a cell. I took my overcoat and got me some blankets. I looked around as there was no bunk there I could do I made my bed a gote rug.

Prosecuting Officer

Q - 1 - Were you on for the full 72 hrs

a - yes.

Q - 2 - How long were you on and how long off.

a - Two hours on and four off.

Court

Q - 1 - When Sgt Hayes put you on guard were you quite well

a - yes Sir

Q - 2 - Were you taking any effects from what you had been drinking in the afternoon

a - No Sir.

First Witness as to Character :- W.O.A. Peterson - 9 Bn C.B.R.C. having been duly sworn states as follows :-

I have known the accused for approx five years. For about six years of that time we were both Sgts. and I have seen his behaviour both in the mess and in public. During the most of our acquaintance I have mostly seen or heard anything that is detrimental to his character until this unfortunate occurred.

Second Witness as to Character :- D 76900 Pte. Thomson V. 9 Bn C.B.R.C. having been duly sworn states as follows :-

When I was in the R.M.R. I was Sgt in the motor troop. I was then sent down to #1 C.A.C.R.U. on vacation for three months as a motor instructor. I stayed there for approx five months. I was instructor on 3" motor for a month or so. In the meantime the R.M.R. were broken up. I was then left in C.A.C.R.U. when I was told that I could go to any Recce Regt. At the time we were informed that we needed 15 confirmed Sgts for the 8th Recce. I applied at the office and was paraded to the Major and I was sent to the 8th Recce. When we arrived at the 8th Recce we were asked as many N.C.O.'s there was no place for me as a motor N.C.O. and I was placed in a Squadron mess and above the establishment of N.C.O.'s. I paraded to the Squadron Leader to return to C.A.C.R.U. as I was a specialist N.C.O. and there was no job for me in the 8th Recce

The Squadron Cmdr said he couldn't do anything for me. Some days later the C.S.M. paraded me in front of the Squadron Cmdr. on the grounds that I was not doing my job as an N.C.O. I was then paraded in front of the C.O. and eventually the Brigadier who told me he had no alternative but to reduce me to the ranks, as my C.O. and Squadron Cmdr did not want me as an N.C.O. I was returned to C.A.C.R.U. as a Tpr.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

18 Jan 45.

Summary of Defending Offrs.

The accused has made no effort to deny his having taken a drink. However he had no reason to suppose any bad effect would result.

Of the 4 witnesses not one has said accused was drunk.

The 1st witness did not even ascertain by inspection that the accused was drunk. He actually acted on what he heard which was a loud voice. He obviously did not think the accused was a serious enough case to arrest on the spot but did it 1/4 hr & 25 min later. The officer who ordered the arrest, didn't even ask why the accused was talking in a loud voice to ascertain if he had, this might not have occurred.

The arresting provost should neither lack or a knowledge of their job. Although the accused is declared to have shown no intent they did not comply with Para 447 sub para (a). A fit body can be used as a weapon

4/1/45 TO 1/1890 rel

PLEASE WRITE ON BOTH SIDES

and they failed to utter any protest whatever
or the accused. This leads me to believe
that even they didn't consider him to be
a serious case.

One prosecution witness stated
he had been carried, another that he had
run into trees. Surely a discrepancy exists.

The accused had been on guard
for almost 72 hours out of which he had
only 16 hours sleep. The guard room is
about 16 x 8 & in it slept 12 men.
~~nearly~~ all of the time surely
anyone would would be unusually tired.
So must he that after going to sleep
and being suddenly awakened one would
not be entirely pleased to go to the
guard room. Hence the discrepancies &
grogginess.

We have it in evidence that the
accused ought to be relieved. The guard
left us about this we no Cpl. If there
had been this relief would have been
carried out and this would not have
occurred.

In the opinion of the prosecution
in their opinion only, the accused
was not capable of performing his duty.
They didn't see him on guard at any
time. When the D Off. came along

his not performing his duty of examining pupils and planes.

Once in the Det room the accused made his bed and went to sleep. Drunk don't generally go there to make their bed.

This whole affair is a result of Circumstances due to

Irregular procedure by the D.C.
" " " " Provost.

Fatigue due to conditions existing in the guard room.

Absence of proper supervision whilst on guard.

There is no definite evidence that the accused was drunk. The smell of liquor is not proof.

I request on the accused's behalf a verdict of not guilty.

Allan B. Watson
Lt.

Jan 19 45

Plea of Mitigation.

D 76900 Tpr Thompson V has served in the Canadian Army for five years. During this time he has risen to Sergeant which rank he held for about a year. During the five years he committed no crime and was a good NCO & soldier until this crime occurred. I would like to remind the court that this offence was committed under the influence of alcohol and to a certain extent was beyond Thompsons control. I beg the court to be as lenient as possible under these circumstances.

Allan A Peterson
Lt.

EX: A 9223.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-76900	Tpr	Victor THOMSON	X-4 List CAC 9 Bn, 2 C.B.R.Gp.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For [illegible] ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused since the present time is under sentence of ..... imprisonment, commencing on the ..... day of .....~~ 5

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 23 days in military custody, *i.e.*, NO days in open arrest, 23 days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 23 yrs 2 days

6. The date of his attestation is 18 Jan 40

~~enlisting or re-engaging for the present engagement~~

7. The service which the accused is allowed to reckon is 4 yrs 313 days

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

~~(a) as the substantive rank of .....~~

~~(b) in the one substantive rank of .....~~

~~(c) in the acting rank of .....~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(23459) W1.29208/1873 60,000 9/42 " "

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		~~NIL~~		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 16 day of Jan 45

CAPT. & ADJT.

9 BN. 2 C.B.R. GP.

SUMMARY OF EVIDENCE

in the case of

D-76900 Tpr, Victor THOMSON., X-4 List CAC on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, WHEN ON DUTY, DRUNKENNESS. A.A. Sec 19.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS Lieutenant E.H. Capstick, RCE on strength 9 Bn, 2 C.B.R.Gp., having been duly sworn, states:-

"I am Lt E.H. Capstick, RCE of 61 Coy, 9 Bn 2 C.B.R.Gp., I was duty officer at 9 Bn H.Q. on 23 Dec 44. At about 2130 hours when I was on my way to the piquet room, I heard loud talking at the front gate. On investigating, I found the accused D-76900 Tpr Thomson, V. staggering about and talking incoherently to a soldier he had stopped. He was in my opinion under the influence of liquor and was not capable to doing his duty as guard properly. He was replaced by another guard at 2145 hours, I went to the Detention at 2255 hours and told L/Cpl Radcliffe, who was in charge at that time to place Tpr Thomson under close arrest. This was done.

The accused declines to cross-examine this witness.

E.H. Capstick Lt

(E.H.Capstick)Lieutenant

SECOND WITNESS A-42212, L/Cpl CARNEGIE, E.M., Cdn Pro Corps on strength 9 Bn, 2 C.B.R.Gp., having been duly sworn, states:-

"I am A-42212 L/Cpl Carnegie, E.M., of 9 Bn, 2 C.B.R.Gp. At 2330 hours I was on duty at the Bn H.Q. guard room when L/Cpl Radcliffe and Tpr Coughlin escorted Tpr Thomson to the guard room to be placed under close arrest on instructions from the Orderly Officer, Lieut Capstick of 9 Bn. I admitted Tpr Thomson and locked him in a cell, and booked him in the records of the guard room.

At the time of appearance at the entrance to the guard room Tpr Thomson was offering some resistance to being brought in and at that time in my opinion Tpr Thomson was under the influence of liquor and incapable of performing his duty. We gave him blankets and he went to sleep immediately.

The accused declines to cross-examine this witness.

E M Carnegie

A-42212 L/Cpl Carnegie, E.M.

THIRD WITNESS M-65723 L/Cpl Radcliffe, H.E., Regimental Police 9 Bn, 2 C.B.R.Gp. having been duly sworn, states:-

"I am M-65723 L/Cpl Radcliffe, H.E., 9 Bn, 2 C.B.R.Gp. On 23 Dec 44 at approximately 2255 hours I was on duty at the guard room when the duty officer came to the guard room and ordered Tpr Thomson, whom I now recognize to be placed under close arrest. At approximately 2330 hours I went over to the front gate guard room accompanied by Tpr Coughlin. Tpr Thomson was asleep when we entered the guard room. We awoke him, and escorted him to the Bn guard room. In my estimation there is no doubt that he was under the influence of liquor because he was not capable of walking to the guard room by himself."

The accused declines to cross-examine this witness.

H. E. Radcliffe

M-65723 L/Cpl Radcliffe, H.E.

The accused was questioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused having been duly sworn, states:-

"I am D-76900 Tpr Thomson, Victor., On 23 Dec 44 I went off guard at 1200 hours and did not have to go back on until 2000 hours. I stayed around camp all afternoon. At approximately 1900 hours I was still around the guard room and went just outside the gate. As I was one of the guard, the guard on duty did not stop me from going out. I was sitting outside smoking a cigarette when a Belgian soldier came along in high spirits. He offered me a drink and I had one with him, about 15 minutes later I had another one with him before he left. Then I went back to the guard room to wait my turn for guard."

"At 2000 hours I went on guard, I started to feel a little sick and the stuff I had had must have been stronger than I thought it would be. I stopped men going in and going out as they had to have weapons and ammunition as per order. The guard came along and relieved me as I was not feeling so good."

The accused does not call any witnesses for the defence.

D-76900 Tpr Thomson, V

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused, and that Rules of Procedure 4(c),(d),(e),(f) ~~and (g)~~ have been complied with.

(Norman Cardon) Lieutenant
Officer detailed to take
the Summary of Evidence.

In the Field
23 Dec 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

D-76900 Tpr Thomson, V., X-4 List CAC on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:-

WHEN ON ACTIVE SERVICE, WHEN ON DUTY, DRUNKENNESS.
AA Sec 19

The Commanding Officer directs that the evidence be taken on oath.

FOURTH WITNESS

B-36602 Sgt Hayes, J.H.D., X-4 List CAC on strength 9 Bn 2 C.B.R.Gp. having been duly sworn, states:-

"I am B-36602 Sgt Hayes, J.H.D. On the night of Dec 23 while acting in the capacity of Guard Commander I placed Tpr Thomson on guard at the front gate of the entrance to The Seminary. His tour of duty was from 2000 hrs to 2200 hrs."

Witness cross-examined by the accused, as follows:-

Q.1. At the time before I was relieved off guard do you remember me asking to be relieved as I was feeling very sick?

A.1. At the time you called in I was not in the Guard Room as I had gone to my room to take some pills as I was very sick myself.

The accused declines to cross-examine the witness further.

B36602 Sgt Hayes J.H.D.

B-36602 Sgt Hayes, J.H.D.

The accused was questioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Additional Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that Rules of Procedure 4(c),(d),(e), and (f), have been complied with.

(Norman Cardon)Lieutenant
Officer detailed to take
Summary of Evidence.

In the Field

8 Jan 45.

134. U

Pte THOMSON. W.

134-U

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A"

Order convening the Court

F.J. Gilmour
Major
DAG

On Active Service, this Twenty-sixth day of December, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint~~
~~(a) More Officers to form the Court~~
~~(b) A Field Officer as President~~
~~(c) Three Officers having more than one year's seniority~~

~~for the following reasons, namely:~~

In my opinion, military exigencies, namely, the dispersion of units, and difficulties of communication and other difficulties render it inexpedient to observe the provisions for those rules inconsistant with Appendix "A" to D.R.O. 782 on the trial of the person named in the annexed schedule.

96

Rank.	*President.* Name.	Regiment.
Major	F.J. Gilmour	D.A.A. & Q. 2 Cdn Div.
	Members.	
Rank.	Name.	Regiment.
Major	W. Lavigne	R de Mais
Lieut	A. Ostiguy	R de Mais
Capt.	WAITING MEMBER J. Wright	Calg Highrs.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (G.V. Whitehead) Brigadier
Commanding 5 Cdn Inf Bde.
Convening Officer.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of December 42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of December 1942.

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 524 of 1918 have been complied with.

* See footnote (b) on page 702 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier mentioned in the margin be kept in custody~~ ~~until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 30 day of Dec 1942.

Brig.
Confirming Officer. BDE.

Promulgated and extracts taken in the case of D81096 Pte. Thompson, W.

(a) (Dated) 31 Dec 42 (Signed) (R. D. CANTLIE) LT. COL. O.C. 1ST. BN. THE BLACK WATCH (R.H.R.) OF CANADA.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41735) Wt. 40113—493 200 m. 1/40 P. St. G. 540

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D/81096 Private THOMPSON William R.C.R. a soldier of the Canadian Army Overseas.	FIRST CHARGE A.A. Sec 15 (1) (see charge sheet attached)	Guilty	Guilty	
	SECOND CHARGE A.A. Sec 15 (1) (see charge sheet attached)	Guilty	Guilty	
			To undergo detention for 80 days.	

J. Fairmouse Major Pres

G. Whitehead

COND B CDN. INF. BDE.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) G. Whitehead
(G.V. Whitehead) Brigadier
Commanding 5 Cdn Inf Bde.
Convening Officer (*e*)

(*Signed*) J. Fairmouse Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The accused D-81096 Pte. William Thomson, W., 1st Bn The Black Watch (RHR) of Canada, Overseas, a soldier of the Canadian Army, Active Force, is charged with:-

FIRST CHARGE
Army Act
Sec. 15 (1)

While on Active Service, absenting himself without leave,

in that he,

"In the Field" absented himself without leave from 2300 hrs 26 Nov 1942 until 1000 hrs 27 Nov. 42. (Absent 11 hrs)

SECOND CHARGE
Army Act,
Sec. 15 (1)

While on Active Service, absenting himself without leave,

in that he,

In the Field" absented himself without leave from 2300 hrs 27 Nov 42 until 1300 hrs 20 Dec. 42. (Absent 22 days 14 hrs)

SIGNED "IN THE FIELD"

THIS 26 DAY OF Dec 42

Lt.-Col.
Officer Commanding,
1st Bn The Black Watch (RHR)
of Canada O/S.

To be Tried by FGCM
26 Dec 42

Brig
COMD 5 CDN INF BDE

B-3
Major

MEDICAL OFFICER'S CERTIFICATE

I have this day examined D.81094 Pte Thomson, W. of the 1st Bn The Black Watch (RHR) of Canada, O/S and find him fit to undergo trial by Field General Court Martial.

DATE 28 Dec 44

J. M. Chard Capt.
M.O. 1st Bn The Black Watch (RHR) of Canada, Overseas.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field on the 28 day of December 1942 by order of Brigadier G V Whitehead Commanding 5 Cdn Inf Bde dated the 26 day of December 1942

President.

Major F. J. Gilmour HQ. 2 Cdn Div

Members.

Major W. Lavigne R de Mais
Lieut A. Ostiguy R de Mais

Judge-Advocate.

Trial of* D-81096 Pte William Thomson 1st Bn The Black Watch (RHR.)

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~ , waiting ~~member takes his~~ place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. L. P. Candler RHC

Counsel‡ or defending officer† Capt. E. Motzfeldt RHC

At 1020 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W10829/7E. 35,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9/55.

F. J. Gilmour Major

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to 1 & 2 charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of both charges

†The summary (or abstract) of evidence is read, marked "B" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. My defending officer will read a statement

The Defending officer

~~The accused~~ in mitigation of punishment ~~says~~

~~[or~~ hands in a written statement, which is read, marked "Z", signed by the President, and attached to the proceedings.]

J Gilmour Major Pres

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

No.

Evidence as to character.

H. Johnson
Major
Pres

H.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

4/5

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lt. L Pte Candler RHC is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes a TB 2 4 6 + Cert Wdng 7 Mr 7 M 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked G & H signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

[Instruction.—If in return to the notice of the service of the accused on a supplemental court of alteration, the finding of the Court renders him liable to any additional punishment to or above to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. No

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

(5)

H Thomas Maj

F

Sentence.

Sentence.

The Court sentence the accused To undergo detention for 80 days

Gilmour
Major
P.O.S.

ABSTRACT OF EVIDENCE
in the case of
D-81096 Pte. Thomson, W. - 1 R.H.C.
taken by Lieut. L.P. Candler at the direction of Commanding Officer, 1 R.H.C. in accordance with D.R.O. 772.

FIRST WITNESS

D-82273 L/Sgt. Gauthier, E.W. 1st Bn The Black Watch (RHR) of Canada, O/S having been duly sworn states:-

"I was Company Orderly Sgt on Nov. 26 and at 2300 hrs on that day I called the roll and found that D-81096 Pte. Thomson, W. was absent. At 1000 hrs on Nov 27th on which day I was still Company orderly Sgt., Pte. Thomson reported back to me. At 2300 hrs on the same day I called the roll at Tattoo, and Pte. Thomson was absent.

SECOND WITNESS

D-71733 Sgt. Cummings, C.P. 1st Bn The Black Watch (RHR) of Canada O/S having been duly sworn states:-

"20 Dec 1942, I was Company Orderly Sgt. of Support Coy. At 1300 hrs Pte. D-81096 Thomson, W. reported back to me and was placed under close arrest."

THIRD WITNESS

D-81267 C.S.M. McFarlane, J.R. 1st Bn The Black Watch (RHR) of Canada, O/S having been duly sworn states:-

"I am C.S.M. Support Coy . On Tattoo report 26 Nov 42 D-81096 Pte. Thomson, W. was reported absent without leave At 1000 hrs Nov. 27th 42 it was reported to me that Pte. Thomson had returned. At Tattoo report the same night Pte. Thomson was again reported as having absented himself. At 1300 hrs on 20 Dec. Pte. Thomson reported back to the Company Orderly Sgt. during the time from 2300 hrs 27 Nov. 42 to 1300 hrs 20 Dec. 42 he did not attend any parades, muster, roll call, but remained continually absent without leave. This was checked by Daily Reveille and Tattoo reports.

I do hereby certify that R.P. 4(e) has been duly complied with.

L.P. Candler Lieut.

L.P. Candler,
Officer detailed to take
summary of evidence by C.O.

"D"

D 8/0 96 St. Thomson, W.

Plea for mitigation of punishment

St. Thomson pleads for mitigation due to the fact that he committed the offence with which he is charged whilst he was under mental stress. The ~~young~~ lady whom he had planned to marry had ~~a short time before~~ in the beginning of Nov. 42 broken off her engagement with him. ~~She~~ The reason for her action were ~~false~~ caused by the following circumstances.

In May 1942 St Thomson put in an application for marriage and, counting on the application being approved, set the date for his wedding as 15 Sep 42 – Nothing was said to him about the application being approved or otherwise. The plans for his wedding went ahead and he and Miss Joan Thom, his fiancee, ~~sent~~ received wedding presents from their friends and relatives.

Pte Thomson, when he first applied for permission to marry, was on strength of C Coy, 1 Bn the Black Watch, but was shortly afterwards transferred to the 4th Platoon.—

In the beginning of Sep. 42, being worried about his permission to marry, he went to his old Coy to enquire and it was then discovered that the application had never been forwarded to 51 I.B. HQ for approval.—

Pte he then filled another application, but found that, when explaining the reason for postponement to his fiancée and her parents, they seemed to become doubtful as to his sincerity.

They did however agree to a postponement.—

At the beginning of Nov 1942 Pte Thomson saw the padre of his unit, who told him that the C.O was holding up the permission. Pte Thomson was further informed that the reason for this holding up was [illegible] youth.

On explaining to his fiancee what had happened she broke off her engagement with him.—

He went back to his unit tried to patch up his engagement by writing and telephoning her several times, but to no avail.—

He was extremely unhappy and felt that he had been treated unfairly. These circumstances brought about a frame of mind which caused him to become absent without leave. During the period of his being A.W.L. he was often under the influence of drink and did not clearly see the consequences of his act.

L Whitfield Capt.
1 RHC

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled xx "In the Field on the 19th day of December 19 42, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-81096 Pte. Thomson, W. Support Coy, 1 R.H.C.

DECLARATION.

The Court declare that D-81096 Pte. Thomson, W. Support Coy 1 R.H.C., did illegally absent himself without leave "In the Field" at 2300 hrs 27 Nov. 42 and that he is still absent on the 19th day of Dec. 42, he was deficient and is still deficient the articles listed below.

1 Badges cap, hackle			9	1 Sweater, jacket		8	6
2 Canada Shoulder prs			11	1 Knife table			9½
1 Bag, kit		5	3	1 Razor		1	10½
1 B.D. blouse	1	7	8	1 Shirts, flannel		9	2
1 B.D. Trousers	1	7	11	2 Vests, woolen		10	2
1 Bonnet Tam'O'shanter		4	2	2 Towels, hadd		1	11
1 Boots, ankle pr	1	1	6	2 Vests, cotton gym		3	0
1 Braces, pr		1	3½	2 Drawers, cotton		4	1
1 brush, boots, blacking			8	2 Shorts, gym PT		3	10
1 brush, button			8	2 Singlets, gym		3	10
1 Brush, shaving		1	4	Formation patches			2
1 Brush, tooth			4½	Unit patches			1
1 Cap. comforter		1	1½	Bags, ration			1½
1 Greatcoat	3	17	0½	Carrier, waterbottle		3	3
1 Comb, hair			2	Eyeshield A/G 2			9
2 Discs, identity			2				
2 Drawers, woolen		10	6				
1 Dressing, 1st Field		1	1		£11	14	10½
1 Holdall			9				

Names of President and Members

President: Lieut J.P. Candley
Members: Lieut I.H. Lewson
Lieut D.A. Law

Signature of Commanding Officer E Candley Lt.-Col.
1st Bn The Black Watch (RHR) of Canada.
CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(10361) Wt.34518/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(19448) Wt.45720/760 225,000 1/40 " " Forms/B115/56

(Substitute for A.F.B. 296 or M.F.B. 365)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No. D-81096 Name Pte. Thomson, W. Unit 1st Bn The Black Watch (RHR) of Canada

Age 22 Married or Single Single No.of Dependents None

Date of Attestation 7 Sep. 39

No.of Days Spent in Close Arrest (to date of trial)

Civil n/a Military 7 Hospital n/a Total 7

Date of Promotions, appointments, and confirmation of rank, if any-

N-A

A Certified True Copy of F.P.M.6 must accompany this form

(Officer i/c Records)
1st Bn The Black Watch (RHR)
of Canada Unit

Dated xx "In the Field"
This 28 day of Dec 1942
(To be dated and signed as of date of trial)

"G"

No. D81096 Name Thomson, W. Sqn., Battery, or Company 'C' Bty Corps 1 R H C

Sheet destroyed 7 March 1940

Date of last entry in Company Conduct Sheet [illegible] Home

No. and date of last drunk Nil

Period not reckoning towards freedom from extra fine

Date of enlistment 7 Sept 39 G.C. Badges

Sheet No. 1

Signature O.C. Company, etc. Maj JAQUAYS

Service or Proficiency Pay Nil

Character

M.F.M. 6 A.F.B. 199. 175M.—7-41 (1210-29) H.Q. 1772-29-1032

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto	29/4/40	Pte		AWL 0830 hrs 29/4/40 to 2130 hrs 30/4/40	C.S.M. W.H. Willoughby	5 days C.B.	1/5/40	Mjr. J. AQUAYS	For 2 days leg.
Montreal	4-7-40	Pte		WOAS AWL from 0845 hrs 4-7-40 to 0845 hrs ~~0845~~ 8-7-40 AA Sec 15 (1)	Sgt. Heater	Admn. Forfeits 4 days Pay	8-7-40	J.D. CLEGHORN	
Albrook Barracks	26/12/40	Pte		WOAS. AWL from 0600 hrs 26 Dec 40 to 2059 hrs 1 Jan 41 AA Sec 15 (1)	J.J. Norenko J. Bray Cpl				
Aldershot N.S.	3-2-41	Pte		WOAS. AWL from 2359 hrs 31-1-41 to 1800 hrs 3-2-41 AA Sec 15 (1)	Cpl Bowney, J. L.	7 days C.B. 3 days Pay forf.	4-2-41	Lt. J.P. Griffin	Forfeits 3 days Pay FR 9 1/49 (2)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot Bks	1 Mar 41	Pte		W.O.A.S. A.W.L. from 1800 hrs 1 Mar 41 to 2059 hrs 3 Mar 41 after being warned for guard duty necessitating a substitution. AA Sec 15 (1)	D81012 Cpl Morrison, R	14 days C.B.	4 Mar 41	Maj Jaquays	Forfeits 3 days Pay
Aldershot	5 Mar 41	Pte		AA 22 W.O.A.S. when in lawful Custody escaping in that he absented himself at 2230 hrs 5 Mar 41 to 1800 hrs 24 Mar 41	G.S.M. Wellington, W.H. Sgt. Wilson, W.	28 days F.P.	25 Mar 41	Lt-Col K.G. BLACKADER	Forfeits 19 days Pay by Art 9 K.R. 9 (1) (a) Total 3 inf. 47 days Pay.
Stone Cross	13 Mar 41	Pte		W.O.A.S. A.W.L. from 1800 hrs 13 Mar 41 to 1915 hrs 16 Mar 41 after being warned for Night duty AA Sec 15 (1)	D81013 Sgt. Meeks, L.V.	7 days C.B.	17 Mar 41	Capt B.R. Ritchie	Forfeits 4 days Pay 7 K.R. 9 (1) (a)
In the Field	9 Mar 42	Pte		W.O.A.S. A.W.L. from 0845 hrs to 0850 hrs 9 Mar 42 in that he was late for Parade on 9 Mar 42. AA Sec 15 (2)	D81746 Sgt Griffin, T.	2 days C.B.	11 Mar 42	Lieut A.R. Boswell	

M.F.M. 6
APR 1939

No. 281096 Name Thomson, W. Sqn., Battery, or Company 'C' Coy Corps 1 R.H.C. Date of enlistment 7 Sep 39 G.C. Badges Nil Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 11 Mch 42 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. G. L. McLAURIN Capt. Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	26-3-42	Pte		W.O.A.S. A.W.L. from 2359 hrs 26 Mar 42 to 1100 hrs 28 Mar 42 (about 1 day 11 hrs) AA Sec 15 (1)	D81214 Cpl Simpson, T. D82030 Pte Nerd, W.	7 days F.P. & a Forf 9 7 days Pay	30-3-42	Lt Col S.D. CANTLIE	Forf 9 7 days Pay 7 R & P 14 (1) (b) + 2 days by by 7 R & P, 14 (1) (b) Total Forf 9 days Pay
In The Field	27/4/42	Pte		W.O.A.S. neglect to the Prejudice of good order & military discipline in that he was not shaven at 0745 hrs AA Sec 40	D81077 L/Sgt Neptune, G.M.	3 days C.B.	28-4-42	Mjr. B.R. Ritchie	
Field	16/5/42	Pte		W.O.A.S. A.W.L. from 2330 hrs 16/5/42 & 2115 hrs 17/5/42 (about 22 hrs 15 mins) AA Sec 15 (1)	D81835 Cpl Moreike, J. D82099 Cpl Heavyside, T	7 days C.B.	19-5-42	Mjr B.R. Ritchie	Forfeits 1 days Pay for absence

P.T.O.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	20/8/42	Pte		W.O.A.S. A.W.L. 2330 hrs 20/8/42 to 0730 hrs 21/8/42 (about 22 hrs) AA Sec 150	D81613 Cpl Bindrow, R D81351 Cpl Mc Williams, S.E	2 days Inf. Pay 3 days C.B.	21/8/42	Capt. A.L. McLAUKIN	Forfeits 2 days Pay 1149 (2)

Certified true copy [illegible]

SA-40.

Cpl. Thomson, K.R.

RECEIVED 15 MAY 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 5H-40

FIELD GENERAL COURT-MARTIAL

CFA66 (in lieu of AFA3) 40-P & S/1608 (40/01)

4/38B

Convened by Order of Brig J.C. Jefferson Comd 10 Cdn Inf Bde dated 27 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B142779	Gnr. 14/5/45	William Ross Thomson		2 Fd Coy R.C.E.

PROCEEDINGS REVIEWED
16 May 45
[illegible]

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 27 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. AV 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President Major C.B. Johnston Cdg. R.
Member Lieut. R.O. Rose, U.S.N.R. J.C.
Member Lieut. W.C. Allward, 10 Cdn Inf Bde Sig Sqn
Judge-Advocate Capt. R.D. Finnigan, J.C. 1 Cdn Corps
Prosecutor Capt. W.N. Dew Lne 2 Welsh R.
Defending Offr Capt. J.W. Field, Lne 2 Welsh R.

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused ~~_____~~ before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160
5/11/45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B/42479 Gnr (A/Sjt) Thomson W.R. 3 Heavy Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.) (1)

~~At present under sentence for~~ ..... beginning on (date) ..... (2)
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital. (3)
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

~~To be reduced to the~~ To be reduced to the rank and precedence as if his appointment as Lance Sergeant had never been made and to be severely reprimanded

(Sgd) ..... Judge Advocate, if any.

Date awarded 27 Mar 45 (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (4)
(I. AA 57A. Delete if not used.)

(Sgd) ..... Brig

Date 29 Mar 45. Commanding 10 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

B/42479 Gnr (A/Sjt) Thomson W.R. 30 Mar 45 [signature] Capt.
Adjt., Lincoln & Welland Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative to para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(6) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. Yes one character witness.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Can. Boc. 2 Edn. 21 Army Gp.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Obj (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly. —

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused [illegible] Cpl (A/Sgt) Thomson GR, Line & Weld R, a non-commissioned officer of the Can Army Overseas, is charged with:

FIRST CHARGE
(Sec 40 AA)

[illegible] ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he in the field at approx 2330 hr 21 Feb 45 threatened a military policeman by pointing a pistol at him.
(Sec 40 AA)

SECOND CHARGE
(Sec 11 AA)

[illegible] OF ACTIVE SERVICE DISOBEYING A PART I ORDER

In that he in the field at approx 2330 hr 21 Feb 45 was carrying a pistol of Canadian Government issue contrary to Part I Order No 58 dated 16 Jan 45.
(Sec 11 AA)

Field
22 Mar 45

[illegible] Cond Line & Weld R

To be tried by Field General Court Martial.

In the Field
24 Mar 45

(J C Jefferson) Brig
Comd 10 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGC/M may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B142479	Cpl	Sjt	William Ross	THOMSON	Linc & Welld R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint an Offr to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Maj	C B ROBERTSON	Alq R

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Lt	L C GROSE	A & S H of C
Lt	W C ALWARD	10 Cdn Indep MG Coy

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.
Capt	A V Soley	HQ 10 Cdn Inf Bde

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.
Capt	R P MILLIGAN	4 Cdn Armd Div

On Active Service in the Fd

in HOLLAND (Country.)

Date 24 Mar 45

J. E. Jefferson (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 10 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

C B Robertson Maj

MED OFFR'S CERTIFICATE
(Can) Pam 27

B142479 A/Sjt Thomson W R

I certify that I have this day examined No. _____

of Lincoln & Welland Regt. and in my opinion he is fit to

undergo trial by court-martial.

J. H. Mallory Capt RCAMC
(MO)

Place Field

Date 27 Mar 45

Character Witness. for accused.

Maj. JA Dunlop Lt. Weld R. sworn states.

I have known the accused for approximately 17 yrs. On action since we came to France 25 July 1944, at that time he was a Private Soldier he is now an acting Sgt. he is a very capable Sgt. and is considered one of the best fighting Sgts. in the Regt.

On at least four instances I know he has led his platoon in action after his Officer became a casualty he was recommended for decoration for this action during operation Elephant. and that matter is still pending, as far as character evidence is concerned I know that Sgt. Thompson has had no previous crimes on the continent and is a very fitting Sgt. and worthy of the best praise I can give him. at this day. Comd.

RP 83(B) complied with

PLEA FOR MITIGATION in defence of
B.142479 Cpl A/Sgt THOMSON W R Lincoln & Welland Regiment.

The NCO on trial by this court is what I consider a victim of circumstance. Firstly because he is one of the best leaders in action that this Regiment has and secondly there would not have been the slightest chance of a thing like this happening if he had been in a sober mind.

In revueing the history of this NCO, Sgt Thomson came to the continent when the Regiment arrived last July. He was a private soldier at that time and has been promoted to A/Sgt.due to his ability as a fighting man. He has been in every action the Regiment has had for the last 8 months. During the last month I was in action with this NCO and was able to see first hand the work that he did and cannot speak too highly of his efforts. During the Kapelsche Veer action he not only lead a section or a platoon but brought the remnants of the Combined Company into action. For this he has been recommended for decoration.

As Sgt. THOMSON states in the Summary of Evidence he had been celebrating and consequently was not in complete control of his actions. At the time of his apprehention Sgt. THOMSON was walking home in company with a person with whom he had been celebrating. He shouted at the passing car which happened to be a Provost vehicle.

The action that took place to my mind was caused by too much authorative action on the part of the Provost and too little thought on the part of both because they were both NCOs involved. Sgt. THOMSON was in no condition for a scuffle as he was immediately toppled to the ground and was releived of his web-belt and his pistol. In this connection I can state here that the pistol did not have a round in the chamber as we all know that it takes a steady two hands to cock this type of weapon.

To the second charge of carrying unauthorized weapons let me point out that it was only 3 weeks after the Kapelsche Veer action which took place only 10 miles away. The part I Order exhibit B was published prior to the Kapelsche Veer action but all ranks were still carrying their weapons every where they went o n the date of this incident. It is only natural that a man who has seen as much action as Sgt. THOMSON should avail himself of a pistol if the opportunity arose.

In conclusion gentlemen in the course of passing sentence on this NCO please take into consideration his age of only 20 years with 25 months service behind him and that it is his first crime while being on the continent. If this man is demoted it will mean bringing in somebody that is less competent and if he is given a reprimand he will carry on as being one of our outstanding NCOs.

SUMMARY OF EVIDENCE

In the case of B142479 Corporal (A/Sjt) William Rose THOMSON, Lincoln & Welland Regiment, a non-commissioned officer of the Canadian Army Overseas, charged with:

(1) When on Active Service, Conduct to the Prejudice of Good Order and Military Discipline

(2) When on Active Service, Disobeying a Standing Order

The Co directs that the evidence be taken on oath.

FIRST WITNESS

H19039 Sjt W S Mark, 7 Cdn Pro Coy.

Document purporting to be signed statement of the evidence of H19039 Sjt W S Mark, 7 Cdn Pro Coy, was read over to the accused, marked Exhibit "A" and attached hereto.

I certify that in my opinion, owing to the exigencies of the service including the time and expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

W H Gow Capt
Signature of Officer Taking Summary.

I do not demand the attendance of this witness for cross-examination.

W R Thomson
Signature of Accused.

Certified true copy of Part I Order No 58 marked Exhibit "B" and attached hereto.

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused: "I desire to give evidence under oath."

The accused, B142479 Cpl (A/Sjt) Thomson WR, Lincoln & Welland Regiment, sworn, states:

"I am B142479 A/Sjt Thomson WR, PI Sjt No 14 Pl, C Company, Lincoln & Welland Regiment. On 21 Feb 45 I went to Tilburg about 1300 hrs. I had been drinking quite a lot and started home about 2200 hrs. I was trying to get a ride back to Loon-op-Zand and a jeep passed me and I shouted at it. I must have been quite drunk because I did not realize I had committed all these offences."

W R Thomson
Signature of Accused

The accused declined to call witnesses in his own behalf.

I certify that RF 4 (d) (e) (f) and (g) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 17th day of March 1945.

W H Gow Capt
Signature of Officer
Taking Summary

Certified true copy
Murray Rogers
(R L ROGERS) Capt
Adjt Linc & Welld R

In the case of.
L/Sgt. THOMPSON W.R.
LINCOLN & WELLAND
REGT.
4th CDN.ARM'D DIV.

EVIDENCE

While on duty 21st Feb.45 at approx.2335 hrs in company with F-5189 L/cpl.PALMETER J. in the town of Tilburg. we were proceeding along SPOOR-LAAN. in a 5 Cwt when I heard someone whistle and then on passing I heard the m/n N.C.O. shout"You silly cocksucking Son of a Bitch" We immediately stopped the veh.and on going back I asked the a/m soldier who he was swearing at. I informed him that I was a Provost Sgt. at this he stated that he did not give a Fuck if it were General Crerar. At this time he had his right hand on a pistol which he carried in an open holster on his right hip.He was in a very surly mood. and on being questioned further he suddenly drew the pistol from the holster and stuck it in my stomach. I disarmed him and p placed him in close arrest, and escorted him to Det.HQ. On questioning the m/n N.C.O. in regard -s to his carrying a pistol he stated that he was told to carry one. The pistol (9mm) Serial No.IT5528. is not on charge to him.He stated that he had picked it up at the front.

The m/n soldiers particulars were obtained and he was escorted to his Unit and a body receipt obtained.

.....SGT.
W-190389 .S.MARK
REMARKS No7 Cdn.Prov.Coy
Tilburg Det.

I have read over and corroborate the above statement.

.....L/cpl.
F-5189 PALMETER J.
No. 7 Cdn.Prov.Coy

Exhibit "B"

Army Form B 252
(See King's Regulations)

CHARGE T11.-29-30-31-32

LINCOLN & WELLAND REGT. — Regiment

"C" COY — Battery / Squadron / Troop or Company

4th CDN.ARM'D DIVISION

CHARGE against No. B-142479 Rank L/Sgt.

Name THOMPSON M.R.

Place TILBURG Date of Offence 21 Feb.45

OFFENCE W.O.A.S.

(1) THREATNING A MILITARY POLICEMAN ie in that he did point a pistol at him.

(2) IMPROPER POSSESION OF A W/D PISTOL.

(3) USING OBSCENE LANGUAGE.

(4) OUT AFTER CURFEW ie 2300 hrs daily in the town of Tilburg.

Names of Witnesses :— H-19039 W.S.MARK SGT. No.7 Cdn.Prov.Coy Tilburg Det.

SGT
H-19039 W.S.MARK No.7 Cdn.Prov.Coy
W-5189 L/Sgt.PALMETER J. No.7 Cdn.Prov.Coy

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded *Adjutant.*

P.T.O

3000 W1W1543/2562 1,757,000 3/44 K & H., Ltd. G662/47.

Exhibit B

LINCOLN A VILLAGE REPT

PART I ORDERS

BY

MAJOR J F SWAINE - ACTING OFFICER COMMANDING

Last Issue No 6, 6/12 Jan 45 45-63 Issue No 7, 16 Jan 45

50. DISPOSAL OF WEAPONS

Personnel of this Unit will not leave their billets without their personal weapon in their possession. Carbine weapons will not be considered sufficient, and the arms as at present will be worn at all times. The wearing of carbine weapons will not relieve personnel of the obligation to be armed with the weapon shown on the War Establishment as being issued to them. Officers will carry a pistol of .45 or .38 Government issue type. They will carry the weapon appropriate to their vacancy on the W/E. The sole exception to this rule will be the Day Sergeant, who may wear a pistol when on duty. It will be deemed to be an offence under Sec 6 (9) of the Army Act for any person to retain in his possession a pistol of Government issue (whether the Government concerned be our own or Allied) unless it has been issued to him by the C/O or his representative as to a person entitled to a pistol on the W/E.

(Signed)

Capt. & Adjt.

/GR
Issued 1600
6/Unit

Certified true copy of
Part I Order No 50, from
Issue No 7, dated 16 Jan 45.

[signature]

16 Jan 45 (A L [illegible]) Capt. Adjt
Officer Having Custody of Original.

Summary of Evidence

In the case of B 172479 Corporal (A/Sgt) William Ross Thompson Lincoln & Welland Regt. a non commissioned officer of the Canadian Army overseas, charged with.

(1) when on Active Service conduct to the prejudice of good order and Military Discipline

(2) when on active service, disobeying a Standing Order

(3) when on Active Service, Conduct to the Prejudice of Good Order and Military Discipline

The C.O directs that the evidence be taken on oath.

First Witness H-19034 Cpl W.S Mark 7 Can Pro Coy

Document purporting to be signed statement of the evidence of H-19034 Cpl W.S Mark 7 Can Pro Coy, was read over to the accused, marked exhibit "A" and attached hereto.

I certify that in my opinion, owing to the exigencies of the service including the time and expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

[illegible] Lieut
Signature of officer taking summary.

I do not demand the attendance of this witness for cross-examination

W R Thompson
Signature of accused.

Certified true copy of Part I Order No 58 marked Exhibit "B" and attached hereto.

The accused was warned as follows

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused "I desire to give evidence under oath"

The accused B 142779 A/Sgt Thomson W R PA Sgt No 14 PA C company Lincoln & Welland Regt. sworn states

I am B 142779 A/Sgt Thomson W R PA Sgt No 14 PA C company Lincoln & Welland Regt. on 21 Feb 43. I went to Lithuny about 1600 hrs. I had been drinking quite a lot and started home about 2220 hrs. I was trying to get a ride back to base - op. Sand and a jeep passed me and I shouted at it. I must have been quite drunk because I did not realize I had committed all these offences

W R Thomson
Signature of accused.

The accused declined to call witnesses on his own behalf

I certify that RPA (A) (C) (I) and (B) have been complied with.

Taken by me in the field in the presence and hearing of the accused this 17 day of March 1943.

[illegible] Capt.
Signature of officer taking summary.

FAIR NOTICE ONLY

1. The prosecution intends to call the following witness, who was not called on the taking of the Summary of Evidence, at your trial by Field General Court Martial.

Capt R L [illegible]
Lincoln & Welland Regt.

2. A copy of his statement is attached hereto.

To the Field
22 Mar 42

[signature] Capt
Lincs & Welland Regt
Prosecutor

TO: The Accused:
[illegible]79 Cpl (A/Sjt.) Thomson W H
Lincs & Welld R.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number. *Rank.* *Name.* *Regiment (or as the case may be).*

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, pre-eminence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, *or*

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and ..... days in military custody, making a total of ..... days, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is .....

6. The date of his commencement / attestation specified in his record of service / attestation paper is .....

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... service.

9. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ....., and in his regiment (*or corps or department*) the rank of ..... dated .....

(*25800) W1.24898/1750 20,000 10/42 A. & E. W. Ltd. Gp.698
(24906) W1.25924/1499 12,000 2/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. [illegible] Rank A/Sjt Name [illegible] of [illegible] Regiment (or as the case may be).

(INSTRUCTION– A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		The accused has had no previous trials or convictions by Court Martial		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of Mar 45

Capt.,
Adjt., Lincoln & Welland Regt

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	[illegible] corporal 2 months, years,	1 Jan 44
In the rank of	Actg Sjt 1 mths, " "	1 Feb 44
In the rank of	Confirmed Sjt " "	27 Mar 44
In the rank of	A/L/Sjt 1 mths " "	2 Dec 44
In the rank of	Confirmed Sjt 2 months years,	29 Jan 45

(INSTRUCTION.—*If any matter in any of the above five columns cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph inserted amended accordingly.*)

MFM 6
(AFB 122)
40/PAS/126 (3488)

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Ipperwash	30 May 44	LAC	1	AWL from 2200 hrs. 30 May 44 until 2030 hrs. 3 Jun 44 absent 3 days 12 hr. 30 min. See 15 (1)	L/Cpl Wilson E.A.	2 days pay	3 Jun 44	Lt-Col J.A. Wilson	Forfeit 2 days pay
Field	31 May 44	Pte		AWL 2200 hr 31 May 44 to 1125 hr 2 Jun 44, absent 1 day 13 hr 25 min. See 15 (2) (a)	L/Cpl Wilson E.A.	2 days pay	2 Jun 44	Lt-Col J.A. Wilson	Forfeit 2 days pay
Field	3 June 44	Pte		AWL 2215 hr 3 Jun 44 to 1100 hr 5 Jun 44. absent 1 day 12 hr 45 min. See 15 (2) (a)	SERGEANT Schuler	10 days pay	5 Jun 44	Lt-Col J.A. Wilson	Forfeit 10 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Field
1 Mar 45

I wish to have it stated as my defending officer
for my forthcoming Field General Court Martial.

W. R. Thomson

111 P.

Cpl. THORBURN, J.A

O. H. M. S.

M. F. B. 270
10003M-12-40-(8608-09-70)
H.Q. 1772-30-37

Correspondence to be PINNED here.

111.P

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court

On Active Service, this Second day of October, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [And that it is also practicable to delay the trial in reference to superior qualified officers.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[I am unable to appoint —

(1) Three Officers to form the Court;

(2) a Field Officer as President;

(3) Three Officers having more than one year's service.)

for the following reasons, namely: —]

In my opinion military exigencies, namely the dispersion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed Schedule.

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	G.R. Matthews	3 Gnrs R

Members.

Rank.	Name.	Regiment.
Capt.	A. Morin	Fus M R
Lieut.	W.W.Willson	Camerons of C
WAITING MEMBER Lieut.	H.K. Robertson	Can. Scottish R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H.A.Young) Brig

Commanding 6 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H 19867 Cpl. Thorburn, J.A. Camerons of C	First Charge Conduct to the prejudice of good order and military discipline, in that he, at Fittleworth, West Sussex, on the 27th day of Sep 42, said, with reference to Lieut. G.P. Kidd, being an officer of his Company, "Who is that phoney cocksucker with the glasses? He is a fruit. That is the opinion of the Company," or words to that effect. (A.A.Sec. 40)	Not guilty.	Guilty. Reverted to rank of Private and to undergo detention for period of 90 days. 6 Oct 42. G.R. Moorhouse Maj^a.	I confirm but remit fine of 7 days. [signature] Brig. 7 OCT 1942

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No.

Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [signature] (H.A. Young) Brig. Commanding 6 Cdn Inf Bde — (Signed) G.R. Moorhouse Maj^a. President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of Oct. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 6 day of October 1942.

G.R. Moorhouse Maj^a.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*c*) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 7th day of Oct. 1942

[signature] Brig.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 9 Oct 42 (Signed) [signature] D.A.A.G. for GOC 2 CDN INF DIV and GOC Camerons of C.

Promulgated and extracts taken in the case of

(Dated) 12 Oct. 42 (Signed) D.J. Mack Capt. for S.C. D.C.I.S.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41739) Wt. 40113—893 200 M. 1/42 F. St. G. 540

CHARGE SHEET

The accused, No. H 19867 Corporal Thorburn, James Alexander, "C" Company, 1st Battalion, Queen's Own Cameron Highlanders of Canada, Canadian Army (Overseas) is charged with:-

First Charge
Sec.40 A.A.

Conduct to the prejudice of good order and military discipline

in that he

at Fittleworth, West Sussex, on the 27th day of September, 1942, said, with reference to Lieut. G.B. Kidd, being an officer of his Company, "Who is that phoney cocksucker with the glasses? He is a fruit. That is the opinion of the Company," or words to that effect.

To be Tried by Field General Court Martial.

D.G. Cunningham Lt.-Col.
(D.G. Cunningham)
Comd. Camerons of Canada.

To be tried by Field General Court Martial

(H.A. Young) Brig
Comd 6 Cdn Inf Bde

D.M. Maclaren Maj

MEDICAL OFFICER'S REPORT

I certify that No. H 9867 Cpl Thorburn J. A
of 2 Sig Coy is in a good state of health,
and fit to undergo Trial by Court Martial.

J. E. Buser Capt
Medical Officer

Station In The Field

Date 9-10-42

M.F.B. 246
40T A 8572

D.D.M.S. 1st Cdn Corps

PROCEEDINGS of a Field General Court Martial held at Fus. M. R.

on the 6 day of October 1942 by order of Brig. H. A. Young,

Commanding 6th Cdn Inf Bde,

dated the second day of October 1942.

President. Major G. R. Matthews, S. Sask. R.

Members. Capt. A. Morin, Fus. M. R.

Lieut. W. W. Willson, Camerons of Canada.

Trial of No H 19807 Cpl. Thorburn, J. A. Camerons of Canada.

The order convening the Court, the charge-sheet and the Summary of evidence were laid before the Court and Rules of Procedure 22 & 23 complied with.

The accused was brought before the Court.

Prosecutor - Lieut. N. S. Bergman, Cam. of Canada.

Defending officer - Lieut. R. H. Lane, Cam. of Canada.

Prosecutor is a graduate lawyer.

At 1015 hours the trial commences.

The order convening the Court is read and signed by the President.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer their names.

Question by President to the accused: Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer: No Sir.

The President and members are duly sworn.

The Waiting Member is sworn as an officer under instruction.

The Charge Sheet was read to accused and accused arraigned upon charge.

Are you guilty or not guilty of the charge against you, which you have heard read?

Answer: Not Guilty Sir.

Question to Defence: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer: No Sir.

The Prosecutor does make opening address and proceeds to call witnesses.

First Witness for Prosecution

H 19006 Sgt Condy J, Camerons of Canada, being duly sworn, is examined by the prosecutor.

Q. Did you see the accused go on parade on the morning of 27 Sep 42.

A. Yes Sir.

Q. Can you tell the Court the circumstance of the accused going on parade that morning.

A. On Sunday , 27 Sep 1942. "C" Coy moved off for Church parade about 0900 hrs. We made a left wheel down asphalt road past company lines. Cpl Thorburn and Pte Morrello came over the bank and joined the company on the march. Pte Morrello filled in the blank file and Cpl. Thorburn took up position of right hand man in last section of threes.
Mr. Kidd and myself were in rear of company. About fifty yards further down the road Mr. Kidd, platoon officer of 15 platoon stopped to speak to another officer coming from the opposite direction. A little further on Cpl Thorburn turned his head and said " Who is that phoney cocksucker with the glasses?" I told Cpl Thorburn that was one of our company officers and he said, "It is a good thing he is in 15 platoon"
I then said to Cpl Thorburn, "that is no way to speak about one of your company officers and him an N.C.O. should know better."
His next remark was "He is a fruit. That is the opinion of the company". On returning to camp from church parade I reported this to C.S.M. Keenan, C.
I placed the accused under open arrest.

Q. What platoon was Cpl Thorburn in on 27 Sept. 42.

A. I think he was in 14 platoon.

Q. Can you tell Court whether he was in 15 platoon or not.

A. Cpl Thorburn was never in 15 platoon.

Q. Can you tell Court circumstances surrounding Mr. Kidd coming to the regiment.

A. Yes Sir. Mr Kidd has been with unit about a month and I think by the badges he was a Calgary Highlander, but I'm not sure.

Q. Did he come from another Unit to the Camerons.

A. Yes Sir

Q. Did he come before or after Dieppe.

A. After Sir.

Cross Examined by Defence

Q. Sgt, you said that you placed Cpl Thorburn under arrest having notified the C.S.M.

A. Yes Sir.

Q. Can you tell me what time you placed him under arrest?.

A. Before 1000 hrs Sir.

First Witness Cont'd

Q. Do you realize the seriousness of this charge.

A. Yes Sir.

Q. Why did you not put Cpl Thorburn under arrest immediately?

A. The Sgt-Major was in charge of the parade at the time. I reported to him and he instructed me to place the accused under arrest.

Q. Did you see Cpl Thorburn to speak to after returning from church and prior to when you placed him under arrest.

A. No Sir.

Q. How long have you known Cpl Thorburn.?

A. About a year Sir.

Prosecutor does not re examin. this witness.

Second Witness for Prosecution. H 19200 Cpl McClellan H.M. Camerons of Canada , being duly sworn is examined by the prosecutor.

Q. Did you attend church parade on the morning of 27 Sept. 42.?

A. Yes Sir.

Q. Do you remember circumstances surrounding accused joining that parade?

A. He had cut himself shaving and as a result he was late on parade.

Q. How do you know he cut himself?

A. I saw him shaving Sir.

Q. Had the parade moved off when he joined it?

A. Yes Sir.

Q. Did the accused make any conversation of comment when he joined the parade?

A. He mentioned he did not expect to be on parade, as he couldn't get his face to stop bleeding.

Q. Did he say anything else?

A. Not that I remember Sir.

Q. Have you any recollection of any conversation he held at that time although you don't remember the words used?

A. I was telling him about some dry cleaning I had had done.

Q. Do you remember Sgt Condy speaking to accused?

A. No Sir.

Q. Do you realize the penalties for perjury?

A. I have an idea Sir.

Q. Do you remember being in conversation with the R.S.M. and myself yesterday?

A. Yes Sir.

Second Witness cont'd.

Q. Did you at that time make any reference to remarks made by Sgt. Condy to accused.

A. Yes Sir.

Q. Tell the Court what those remarks where.

A. Sgt. Condy Sir seemed to be checking Cpl Thorburn for something he had said, and Cpl Thorburn turned around to answer him Sir.

Q. Did you hear any of the words used?

A. No Sir.

Cross-examined by Defence:

Q. Where you near Cpl Thorburn during the time these statements were supposed to have been made.

A. I was on his left hand side on the parade Sir.

Q. You say you weren't paying much attention .

A. Yes Sir.

Q. Do you think then that if the words " Cocksucker or fruit" had been used you would have heard them.

A. He may have said the words, but I wasn't paying much attention to him and they sat sort of passed by.

Q. Did you hear Cpl Thorburn call Mr. Kidd a cocksucker?

A. No Sir. I couldn' swear that I did.

Q. During this time do you remember Sgt. Condy remonstrating with the accused?

A. Sgt. Condy said something to accused because I remember Cpl Thorburn turning around to answer.

Q. Do you remember what Cpl Thorburn said?

A. No Sir I don't.

Q. Do you know at what time accused was put under arrest?

A. It was after lunch Sir.

Re examined by Prosecutor:

Q. Where you present when Cpl Thorburn was placed under arrest?

A. No Sir.

The Prosecution is closed.

Defence

Q. Do you apply to give evidence yourself as a witness?

A. Yes Sir.

Q. Do you intend to call any other witness in your defence.

A. No Sir.

First Witness for Defence.

H 19867 Cpl Thorburn, J. A. being duly sworn, is examined by the Defending officer.

Q. Do you know the officer referred to, namely Mr. Kidd?

A. Yes Sir.

Q. Have you known him long?

A. Since he came to "C" Coy of the battalion about five weeks ago.

Q. During that time have you been with Mr. Kidd on Company exercises and schemes?

A. Yes Sir, I went out as his platoon Sgt on several exercises.

Q. Have you any reason to feel badly towards Mr. Kidd?

A. None whatsoever Sir.

Q. Have you ever used the word "phoney" or "fake" towards any officer.

A. It is a general term in the battalion now Sir when speaking of any one in the battalion.

Q. How is that term generally used. Does it denote antagonism or close association?

A. It is used in a friendly attitude. No harm meant by it.

Q. Have you used it towards any officer without meaning disrespect?

A. Yes Sir, I have.

Q. At what time where you placed under arrest?

A. At 1225 Sir.

Q. Did you see Sgt. Condy to speak to between time of church parade and arrest.

A. Yes Sir, I had conversation with Sgt. Condy when parade dismissed.

Q. Did he make any reference to having you placed under arrest at that time?

A. No Sir.

Cross-examined by Prosecution.

Q. Will you tell Court how long it has been the custom in the Camerons of Canada to call all officers and men fakes and phoneys.

A. In the battalion since I came back to it from the Holding unit after Dieppe raid.

Q. Do you consider people left behind on the beaches at Dieppe, fakes and phoneys?

A. No Sir.

Q. I presume you have a great deal of respect for people in Bn who came back from that raid.

A. I have Sir.

Q. Do you suggest that the terms fake and phoney denote respect and close comeradeship?

First Witness
for
Defence cont'd.

A. I wouldn't say close comeradeship Sir.

Q. Would you say respect?

A. No Sir I don't think I would.

Q. What platoon are you attached to.

A. 14 platoon Sir.

Questioned by Court.

Q. Do you feel terms fake and phoney are being used in a disrespectfull way.

A. No Sir, not the way they are being used.

Q. Do you know who in particular is referred to in that way?

A. It is generally used Sir in regards to a senior.

Q. May that mean any senior.

A. Yes Sir.

Q. Might a senior who was very well thought of by officers and men be referred to in that way?

A. Yes Sir he might.

Second Witness (Character)

Lieut. R. H. Lane Camerons of Canada being duly sworn states:

I am Cpl Thorburns acting company commander. I have known him since 1939. During that time I have not known Cpl Thorburn to behave in any way other than as a good soldier and N.C.O. should.
Since he has no previous charges against him and ever since exercise "Jubilee" I have been in close contact with him, and have found him an excellent N.C.O. He was in fact recommended for a commission.

Defence makes a closing address.

I myself have heard and used the word fake when referring to others and I think every other officer in the Camerons has also done so. This term was originally used by officers referring to their senior officers. It has now become quite prevalent throughout the Bn and I'm quite sure it is many times used now without disrespect.
Regarding Cpl. Thorburns service in the Bn, he has been in the Bn roughly eight years and is now in line for promotion. That this charge was brought against him was a great surprise to me. I submit that the evidence against the accused is not sufficient.

Prosecution Responds:

In making a closing address it is necessary to sum up evidence which has been presented to the Court. We have the Rule of Procedure in this case Para 44 page 63.
I maintain evidence given by Sgt. Condy has not been shaken or disproved in any way. The accused was called as a witness under oath and admitted that on many occasions he had used the word fake and phoney. In his original evidencehe inferred that they were terms without disrespect. On cross-examination he admitted they were not terms of respect. At no time in his evidence did he deny making the statements which are alleged in the charge. No reference has been made to the use of the words Cocksucker or Fuck which in reality made this conversation into a very

serious charge.
The rule of evidence where corroboration is necessary merely states that t
the evidence of a witness should be corroborated in some material way,
and the law says if we find that the witness told the truth in part of
his evidence we can then assume his whole story is true. Cpl
McClellan corroborates Sgt. Condy in a material respect, when he said
"Sgt Condy seemed to be checking Cpl Thorburn for something he had
said, and Cpl Thorburn turned around to answer him".

I submit therefore that the charge has been definitely proven. The
Court must also bear in mind these remarks were made with reference to an
officer who had come from another unit to take the place of someone who
had returned from Dieppe, and in view of this the Court will probably
understand that it is more difficult for a strange officer to take a bold
of a platoon than it would be for one who had served some considerable
time with the unit. I would like the Court to consider circumstances
under which remarks were alleged to have been made, by an N.C.O. of
long standing whose duty it is to train rienforcements in tradition
of unit and instill in their minds proper respect for superior military
authority.

Court closes for Consideration of finding.

The court having been re-opened the accused is again brought in.

Lieut N. S. Bergman prosecutor is duly sworn.

Q. Have you any evidence to produce as to the character and particulars of service of the accused?

A. I produce Substitute for A.F.B. 290 and certified copy of N.F.M.C.
(These are signed by president and attached to proceedings.)

Q. Is the accused the person named in the statement which you have read?

A. Yes Sir

Q. Have you compared the contents of the above statement with the regimental books?

A. Yes Sir.

Q. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries.

A. Yes Sir.

No cross examination by defence.

Q. to the accused. Do you wish to address the Court or make any statement in mitigation of punishment.

A. Defence in mitigation states: I should like to dwell on Cpl Thorburns record since 1939. It has been of the best. We have no reason to believe despite this charge, that he has been an inefficient N.C.O. As I said this morning he was recommended for OCTU and regarding that I'd like to say that unless we had felt sure his character was of the highest , that recommendation would never have gone in. This recommendation did not get Cpl Thorburn on the OcTU but we still feel that we shall recommend him again for next one. Such has been the confidence of the coy cmdr. in him. I feel that this record proves without doubt that Cpl Thorburn has been an excellent soldier and that this should be taken into consideration by the Court in passing sentence.

Court closes to consider sentence.

Abstract of Evidence in the case of H 19867 Corporal Thorburn, James Alexander, "C" Company, 1st Battalion, Queen's Own Cameron Highlanders of Canada, Canadian Army (Overseas).

First Witness

H 19006 Sergeant Condy, J., 1st Battalion, Queen's Own Cameron Highlanders of Canada, will be called to give evidence as follows:-

I am a Platoon Sergeant in "C" Company, Queen's Own Cameron Highlanders of Canada. At or about 0900 hours, Sunday, 27th of September, 1942, "C" Company was proceeding along the road which runs beside "C" Company lines at Fittleworth, West Sussex. An Officer of "C" Company, Lieut. G.P. Kidd, and myself, were in the rear of the Company. Cpl. Thorburn joined the Company on the road at the dining hall, and took up a position on the right rear. Cpl. McLellan was on his left.

About 50 yards further on, Mr. Kidd stopped to speak to another officer who was coming from the opposite direction. About 10 yards further on, Corporal Thorburn turned his head to the left and said, "Who is that phoney cocksucker with the glasses?" My answer was, "That is one of your Company Officers." Cpl. Thorburn then said, "He is a fruit". I then told Cpl. Thorburn that he, as an N.C.O., should know better than to pass such remarks about a Commissioned Officer. He then said, "That is the general opinion of the Company."

On returning to the camp after the Church parade, I reported the incident to C.S.M. Keenan, and placed Cpl. Thorburn under open arrest.

Cpl. Thorburn was referring to Mr. Kidd when he made these remarks His remarks were not addressed to anyone in particular. I know he referred to Mr Kidd because he said, "It's a good thing he's in 15 Platoon.", or words to that effect. I don't recall if these last remarks were said at the beginning or end of the conversation. Mr. Kidd is Platoon Commander of No.15 Platoon, but he was too far away to hear what Cpl. Thorburn was saying. The words "fruit" and "cocksuck" are used to denote a person with homo-sexual tendencies.

C. H. Johnson Lieut.
Officer Taking Abstract of Evidence

In The Field
29th Sept. 1942.

M.F.M. 6
A.F.H. 123
9051—8-39 (1587)
H.Q. 1772-43-18

No. H19867 Name Thorburn, J.A. Sqn., Battery, or Company Rec. Corps Camerons of Canada I.T.C., CASF Date of enlistment 5-12-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No. 2 | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Second Sheet destroyed 6-6-40	No cases of drunkenness.				
				CERTIFIED A TRUE COPY R.B MacNeill Lieut. R.E. McNeill Adjutant, Camerons of Canada.					

(P.T.O.)

(Substitute for A.F.'s 206)
or N.F.'s 206

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

CPL.
No. H 19867 NAME THORBURN, J.A. UNIT CAMERONS OF CANADA, CDN. ARMY (O.S.)

AGE 25 MARRIED OR SINGLE Married NO. OF DEPENDENTS 2

DATE OF ATTESTATION 5 December 1939

NO. OF DAYS SERVED IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL 0 MILITARY 9 HOSPITAL 0 TOTAL 9

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

15-12-40 L/Cpl with pay 8-4-41 A/Sjt without pay

7-5-40 A/Cpl with pay 22-10-41 L/Sjt. with pay

7-5-40 Confirmed Cpl with pay 28-11-41 A/Sjt. with pay.

A CERTIFIED TRUE COPY OF N.F.M. 0 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

R.B. MacNeill Unit
(R.B. MacNeill)
Adjutant, Camerons of Canada.

Dated at In the Field
This 6th day of October 1942
(To be dated and signed as of date of trial)

G.W. Rawlinson Major

I hereby acknowledge receipt of one copy of the following documents:-

Charge Sheet
~~Abstract~~ of Evidence

J.A.S. Abstract

Cpl Thorburn J.A.
H 19867 Cpl. Thorburn, J.A.

I request that an officer be appointed to represent me at my Trial. I request the services of Lieut W.S Bergman, if he is available.

Cpl Thorburn J.A.
H 19867 Cpl. Thorburn, J.A.

A Matthews Maj

SERVICE SHEET

F.G.C.M. - Trial: H-19867 Cpl J.A. Thorburn, Camerons of C.

Date of trial: 6 OCT 42

President of Court: Major G.R. Matthews, S.Sask R.

1. For the information of the officers asked to sign below, the following irregularities are noted:-

(a) Convening order is not signed by the president of the Court. (See M.M.L. p.742).

(b) The full name of the accused is not set out in the schedule on page 2 of A.F.A.3.

(c) R.P.40(A) is not complied with, i.e., the rights of the accused with respect to his giving evidence were not explained to him.

(d) Sentence is irregularly expressed. (See M.M.L. p.758, para (r)(1)).

(e) The minute of confirmation is irregularly expressed. (See second specimen minute M.M.L. p.760).

(f) Documents attached to the proceedings are not marked with reference letter. (See M.M.L. p.769, para 25).

(g) It is not understood why there are two minutes of promulgation at the foot of page 3 of A.F.A.3, since only one accused is named in the schedule.

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters, please.

O. C. Cameron of C.	
Adjutant Cameron of C.	
President of the Court	
A.D.J.A. 2 Cdn Div	
Staff Officer for Convening Officer	
Staff Officer for Confirming Officer	

(A.W. Embury) Major,
D.J.A., 1 Cdn Corps.

DISTRIBUTION:

C.M.H.Q.
A.D.J.A. 2 Cdn Div.
File

17 D. Sp. Thornton, L.A.

B-2002H Spr. Thornton,L.A.
No.1 Cdn Eng Hldg Unit

Orig

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED

23/10/41

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 5th day of September, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to order the trial for the reasons mentioned above~~;

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*~~I also direct as follows~~:—

*(1. ~~Three Officers to form the Court~~)

*(2. ~~A Field Officer as President~~)

*(3. ~~Three Officers having not less than five years' service~~.)

*~~The following persons named~~—

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	M.C. Upper	No.1 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.W. Black	No.1 Cdn A.S.C. Hldg Unit
Lieutenant	J.R. Turner	No.3 Cdn Inf Hldg Unit
Lieutenant	W.D.S. Careless	No.1 Cdn A.E.C. Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

[signature] Major

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-29024 SPR. THORNTON, L.A. No.1 Cdn Eng Hldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty Guilty nea	Guilty ~~Six Months~~ Detention. McCapper Majr and to undergo ~~stoppages to pay to the amount~~ of $71/14/6. McCapper Majr TO UNDERGO DETENTION FOR A PERIOD OF SIX MONTHS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £1-14-6, COSTS OF APPREHENSION. McCapper Majr	Finding & sentence confirmed but ~~six~~ days of sentence remitted J.H.H. Nelson Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.H.H. Nelson Brigadier (Signed) McCapper Majr
Commanding Cdn Base Units Cdn Army. *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twelfth day of Sept 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 12th day of Sept 1941
McCapper Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison until further order.~~)

Signed this 18th day of Sept 1941.
J.H.H. Nelson Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of B-29024 Spr. Thornton L.A.

(*a*) (Dated) 26 Sept 41 (Signed) F.A. Crich Lieut.
ADJUTANT
No. 1 Cdn. Engineer Holding Unit C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21753) Wt. 40133—893 500 m 3/42 P. St. G. 640

CHARGE SHEET

The accused, No.B-29024 Sapper Leslie Arthur Thornton, No.1 (Cdn) Engineer Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 15(1)
Army Act

Absenting himself without leave,

in that he,

at Louisburg East Barracks, BORDON, Hants., absented himself without leave from 2200 hrs. on the 14th day of August 1941 until apprehended by the Canadian Military Police in CASTLE GATE, NEWARK, at 1615 hrs. on the 26th day of August 1941, thereby incurring costs of apprehension amounting to £1-14-6.

(L.F.Barnes) Lt.-Col.,
Officer Commanding,
No.1 (Cdn) Engineer Holding Unit,
Canadian Army (Overseas).

COVE, Hants.,
3rd. Sept.1941.

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Base Units.

Bordon, Hants
This 8th day of Sept 41.

Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT COVE, Hants., ON THE 12th DAY OF Sep. 41.

TRIAL OF:- No. B-29024, Spr. Thornton, L.A., No. 1 Cdn. Eng. H.U.
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lt. S.W. Hawreliak (Unit) 1 Cdn. Eng. H.U.
Defending Officer:- (Name) Lt. W.A. McDill (Unit) 1 Cdn. Eng. H.U.
At 1000 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1.- No, sir.
The President, members ~~xxxx

SUMMARY OF EVIDENCE

Summary of evidence in the case of S-22024, Sapper
Lealie Arthur Thornton, No.1 (Cdn) Engineer Holding Unit,
a soldier of the Canadian Army (Overseas).

Evidence taken on oath by order of Lt.-Col.T.P.Barnes,
Officer Commanding No.1 (Cdn) Engineer Holding Unit.

FIRST WITNESS: S-16088, Opl. Fry, G.W., No.1 (Cdn) Engineer Holding Unit
having been duly sworn states:

I, S-16088, Opl. Fry, G.W., a section Sgt., #1 section
"A" Coy., No.1 (Cdn) Engineer Holding Unit, reported
S-22024, Spr. Thornton, L.A., absent from 1400 hrs 14 Aug 41.
I have called the section roll which was taken daily, at reveille,
noon and 1800 until the 23, on which date I was assigned
to another job. I reported him absent daily from 1400
14 Aug 41 until 23 Aug 41.

G.W.Fry

The accused declines to cross-examine this witness.

SECOND WITNESS: S-13228, L/Cpl. Newbury, L.E., No.1 (Cdn) Engineer Holding
Unit, having been duly sworn states:

I, S-13228, L/Cpl. Newbury, L.E., A/Sec. Sgt. No.1 Sec.
"A" Coy. No.1 (Cdn) Engineer Holding Unit, reported
S-22024, Spr. Thornton, L.A., absent on the Absentee report
from 23 Aug 41 until 30 Aug 41 when he was shown as
having reported A.W.L. w.e.f. 1615 hrs., 1400 hrs.
Sec. roll call reveille, 0730 hrs., 1800 hrs.
2200 hrs. daily and his name was not answered to.
Spr. Thornton was on the A.W.O.L. list when I took
charge of the section on 23 Aug 41.

L/Cpl. 26 Aug 41 Lewis

L.E Newbury

The accused declines to cross-examine this witness.

THIRD WITNESS: 2/Lieut. R.A.Mantle, A/Asst/Adjutant, No.1 (Cdn) Engineer
Holding Unit, having been duly sworn states:

I am A/Asst/Adjutant of No.1 (Cdn) Engineer Holding
Unit. I produce the following documents which I have
satisfied myself refer to the accused:

(a) A.F.B. 252 and statement of evidence as submitted by
the Canadian Military Police, as Exhibit "A".

(b) Statement of Ex ensign, Apprehension and Return,
marked "Exhibit "B".

R.A. Mantle 2/Lieut.

The accused declines to cross-examine this witness.

W.R. Carpenter Major

SUMMARY OF EVIDENCE

I certify, that, in my opinion the attendance of:-

A/Spl. Pring, W.
A/Spl. Edwards, R.E.

is, owing to the expense and loss of time involved, not readily procurable and written statements of their evidence signed by them have been read to the accused and are attached hereto as exhibits.

Lieut.

I do not require the attendance of these witnesses for the purpose of cross-examination.

Spr.

The accused, after being duly cautioned as provided by R.P.4(2) desires to make a statement, reserving his defence.

Certified that R.P.4(C)(D)(E) and (F) have been complied with.

Taken down before me in the presence and hearing of the accused at Bullecourt Barracks, CCVL, Kantr., this 3rd. day of September, 1941.

Lieut.

R.W. Lawrellas, Lieut.
No.1 (Cdn) Engineer Holding Unit
Canadian Army (Overseas).

Major

CHARGE (copy) SECRET. Army Form B 252 (See King's Regulations)

ROYAL CANADIAN ENGINEERS. Regiment

No: 1 Canadian Engineers Holding Unit. Battery / Squadron / Troop or / Company

CHARGE against No. B.29024. Rank Spr.

Name THORNTON.L.A.

Place NEWARK. Date of Offence ? ?
15(1). 2200hrs 16 Aug 1941

OFFENCE A.O.A.S. Absent from ? ? until apprehended by the Military Police in CASTLE GATE at 1615 hours on 26.8.41. 9 days 18 hrs 15 mins
(2) Stating a falsehood to a N.C.O. of the Military Police.

Signed: J.Murray. Major. A.P.M. D.A.P.M. Corps.

CANADIAN MILITARY POLICE
LONDON AREA.

Names of Witnesses:—

L/Cpl.PRING.W. C.M.Police. (P)
L/Cpl. EDWARDS.R.W. C.M.Police. (P)
102 PROVOST COMPANY.

Signature of O.C. Battery, Squadron, Troop or Company: Remanded for Court Martial 2 Sept 1941

Punishment Awarded: Remanded for Court Martial

By whom Awarded: O.C.

M.15. Adjutant.

35/36. W1-W3840/300. 1,000,000. 10/40. K. & H., Ltd. C.4571/41

Statement of **EVIDENCE** in the case of,

No: B.29024. Spr THOMSON.L.A.
No:1 Canadian Engineers Holding Unit.
ROYAL CANADIAN ENGINEERS.
COVE.Nr FARNBOROUGH. HANTS.

At NEWARK on the 26th August 1941 at 1615 hours, I was on duty in CASTLE GATE, where I saw the above named soldier.
I asked him for his pass, this he failed to produce and when questioned he replied, "I am on leave and have lost my pass and money at the Union Jack Club LONDON".
I asked him the location of his unit and he replied, "I am in SCOTLAND".
I obtained his particulars, verified same from his Pay Book M.L., arrested him and he was conducted to the Company Office of 102 Provost Company where he was questioned further and he said, "I will tell the truth I am absent and am stationed at FARNBOROUGH".
He was conducted to the GUARD detention ROOM of the R.E. Bowbridge Road, where he was handed over to the N.C.O. i/c GUARD to be detained.

Signed:.N.Pring. L/Cpl.
C.M.Police. (P)

KELHAM.
27.8.41.

REMARKS

Sir, I was present with L/Cpl.N.PRING at the time and place mentioned, and corroborate the above statement.

Signed:.R.W.Edwards. L/Cpl.
C.M.Police. (P).

KELHAM.
27.8.41.

The man has no Complaint
A.T. Capt.

CHARGE SECRET. Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ENGINEERS. Regiment
No: 1 Canadian Engineers Holding Unit. Battery / Squadron / Troop or / Company

CHARGE against No. B.29024. Rank Spr.

Name THORNTON, L.A.

Place NEWARK: Date of Offence ? ?

OFFENCE W.O.A.S. Absent from ? ? until apprehended by the Military Police in CASTLE GATE at 1615 hours, on 26.8.41.
(2) Stating a falsehood to a R.C.O. of the Military Police.

2 AUG 1941 Major.
A.P.M.
I Corps.

Names of Witnesses:—
L/Cpl. PRING, N. C.M.Police. (P)
L/Cpl. EDWARDS, R.W. C.M.Police. (P)
102 PROVOST COMPANY.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded Adjutant.

M.15.

(8576) W.L.W.2844/3870. 1,000,000. 10/41. K. & H., Ltd. (A6774).

Statement of **EVIDENCE** in the case of,

No: S.29024. Spr. THORNTON.L.A.
No: Canadian Engineers Holding Unit.
ROYAL CANADIAN ENGINEERS.
COVE. Nr FARNBOROUGH. HANTS.

At NEWARK on the 26th August 1941 at 1615 hours, I was on duty in CASTLE GATE, where I saw the above named soldier.

I asked him for his pass, this he failed to produce and when questioned he replied, "I am on leave and have lost my pass and money at the Union Jack Club LONDON".

I asked him the location of his Unit and he replied, "I am in SCOTLAND".

I obtained his particulars, verified same from his Pay Book. M.1, arrested him and he was conducted to the Company Office of 102 Provost Company, where he was questioned further and he said, "I will tell the truth I am absent and am stationed at FARNBOROUGH".

He was conducted to the GUARD detention ROOM of the R.E. Bowbridge Road, where he was handed over to the N.C.O. i/c GUARD to be detained.

KELHAM.
27.8.41.

N. Pring L/Cpl.
C.M.Police. (P)

Sir,

I was present with L/Cpl.N.PRING at the time and place mentioned, and corroborate the above **REMARKS** statement.

KELHAM.
27.8.41.

R.T.Edwards L/Cpl.
C.M.Police. (P)

Ref: K.R.& O.(Can.)539

Regt.No: B-290024

Rank: Spr.

Name: Thornton L.A.

Regt: No.1 C.Hn.Tnd. Hold. Unit.

Unit:

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from Newark on Trent

DATE	PARTICULARS	AMOUNT		
29 Aug. 41.	Escorts return fare from London (portion) to Newark on Trent.	0.	9.	3.
	Prisoners single fare to London from Newark on Trent.	0.	9.	3.
	Prisoners single fare from London to			
	Escorts expense for bed,meals,bus fares and meals for the prisoners. (portion.)	0.	16	0.
	TOTAL -- £	1.	14.	6.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

N. C. Byrd. CAPT.

O.C. Nos. 6 COMPANY. Capt.
D.A.P.M. Canadian
CANADIAN PROVOST CORPS.

NOTE.

No reimbursement for this account is to be sent to our office from your goodself,as the amount has been paid from petty cash and charged to Public Funds.
If the accused is found guilty a stoppage of pay should be put through your units Part 11 Orders.

Major

I, the undersigned, request that an Officer be present to represent me at my Trial.

I request that Lieut. A. Tredrill or _____ represent me if possible.

B29024
Spr. L. A. Thornton

LIST OF WITNESSES

List of Witnesses in the case of B-30024 Sapper Leslie Arthur Thornton. No.1 (Cdn) Engineer Holding Unit, A soldier of the Canadian Army (Overseas)

For the Prosecution:-

B-16066, Cpl. Fry, H.W. No.1 (Cdn) Engineer Holding Unit

B-15239, L/Cpl. Newbury, C.E., No.1 (Cdn) Engineer Holding U.

c/Lieut. H.A.Mantle, No.1 Cdn Engineer Holding Unit
L/Sgt. Spring, F. C.M.Police
L/Cpl. Edwards, H.W. C.M.Police

For the Defence:-

Nil.

LIST OF EXHIBITS

In the case of B-30024, Sapper Leslie Arthur Thornton, No.1 (Cdn) Engineer Holding Unit, A soldier of the Canadian Army (Overseas).

A. A.F.B. 200 (One sheet) of Evidence submitted by the Canadian Military Police.

B. Statement of Expenses of Apprehension and Return

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No B29024 Spr. Thornton L.

of Nfld. Can. Engr. R. C.E. and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Sarnia

Date 22 Sept. 1941

Medical Officer.

No. 2 Rd Constr Coy RCE (6 Fd Sqn)

OFFICER i/c RECORDS
No. 1 Can. Engineers Holding Unit C.A.

No. B39024 Name Thornton, Ed. | Sqn., Battery, or Company | Corps | Date of enlistment 7/9/39 | G.O. Badges | Signature O.C. Company, etc. | Character

Date of last entry in Company Conduct Sheet 30/12/40 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Proficiency Pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
North Bay	31/12/40	Sgt.	Nil	AWL While on Duty.	Lt Beatty	14 Days C.B.	16/1/41	EJ Young	Forfeits 1 Days Pay
CN 7/2/41	1 hrs	soldier	completed 6 Mos. agreement in accordance with	PO 21 CABJ's (Overseas) the above					
Transferred from		Chief	which was destroyed 7/3/40						
Toronto	16/5/40	Sgt.	Nil	AWL	CPL VANNIER	7 Days C.B.	17/5/40	EJ Young	1 Days Pay
Toronto	30/6/40	Sgt.	Nil	AWL 1 DAY 1 HRS	SPR. BROWN.	7 DAYS C.B.	1/7/40	EJ Young	2 Days Pay
Aldershot	31/7/40	SPR.	Nil	AWL 2 DAYS 10 HRS	Lt-A. St Leger.	7 DAYS C.B.	6/8/40	EJ Young	
ALDERSHOT	31/7/40	SPR.	Nil	AWL 21 HRS 10 MINS	CSM GRANT	7 DAYS C.B.	5/7/40	EJ Young	
BORDON	1/8/40	SPR.	Nil	AWL 2 DAYS 14 HRS	CAPT EVANS R.C.	RESTRICTED FOR 1 MONTH	1/8/40	EJ Young	20 Days Pay
BORDON	26/9/40	SPR.	Nil	AWL 16 HRS. 30 MINS.		6 DAYS C.B.	1/10/40	EJ Young	
CXSHOTT	31/10/40	SPR.	Nil	BREAKING OUT OF BARRACKS		7 DAYS C.B.	7/10/40	EJ Young	
CXSHOTT	31/10/40	SPR.	Nil	AWL 3 DAYS 2 HRS		14 DAYS C.B.	26/11/40	EJ Young	3 DAYS PAY
CXSHOTT	30/12/40	SPR.	Nil	AWL 3 DAYS 2 HRS	Lt-A. St Leger.	7 DAYS C.B.	28/11/40	EJ Young	2 DAYS PAY
CXSHOTT	2/2/41	SPR.	Nil	WAS ABSENTING himself W/O leave from 6 PM 31/1/41 to 6 AM 2/2/41	CPL HERRON	7 DAYS PAY	2/2/41	EJ Young	Forfeits 2 Days Pay
					CSM GRANT	Reduced to L/C	13/2/41		Total forfeitures of Pay 18 Days
					CSM Grant	Reprimanded			
						Days Pay			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Southall	6/7/41	Spr.	Nil	1130 9/8 Absenting himself Without Leave from 2359 hrs 6/7/41 to 0001 hrs 7/7/41. Total absence 5 hrs	Cpl. Corbett	Deprived of 3 Days Pay and Confined to Barracks for 3 Days	10/7/41		Forfeits 3 days Pay & Pay 3 Days C.B.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

P-89084, Spr. Thornton, L.A. of the No.1 (Can) Engineer Holding Unit

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental and Squadron, Battery or Company Conduct sheets are to be produced in Court with this statement but are not to be annexed, to the proceedings.

See Para. 664, K.R. 1955.

	*Within last 12 months.	*Since Enlistment.
For Absent without leave	5 times	Ten(10) times.
For Breaking out of Barracks	1 times	One(1) times.
For	times	times.
For	times	times.

*The numbers hereinstated should correspond with the number of *Entries* in the Conduct sheets, previous to the most serious offence in each entry, and to any recorded special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 43048/624 50,000 2/62 W. S. Ltd. 51—0004

W R Stephen Major

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of Sept 1941

OFFICER i/c RECORDS
No. 1 Cdn. Engineers Holding Unit C.A.

W. C. Hunt Major

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for
beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges

for days in Civil Custody,

and 17 days in Military Custody.

Total 17 days.

Of which days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs. 9 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 7th Sept. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs. years' service.

9. The accused is entitled to reckon 2 yrs. years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of or entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , and in his regiment (*or* corps dated
, dated
or department) the rank of

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or statement of Officer supposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

Continued overleaf.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

GGG-23

PTE THORDARSON D.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.10244 Pte. David Alexander Thordarson, S. Sask. Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY / Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one hundred and twenty days. —

(Sgd) Trial Judge Advocate, if any. 11 MAR 44 Date awarded. (Sgd) J.P.C. Gauthier Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court.

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) Harry Foster Brig

Date 12 March 44 Commanding 6 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-10249 PTE. THORDARSON D.A.	13 March 44	J.M. Stewart Captain Assistant S. Sask. R. O.A. (O)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. G66-23

CFA96 (in lieu of AFA3) 40-P-45-8/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig H.A. Young Comd 6 Can Inf Bde dated 4 MAR 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-10244	Pte.	DAVID ALEXANDER	THORDARSON	S SASK R

PROCEEDINGS REVIEWED

Date 28 Mar 44

A/AJAG

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 11 MAR 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ as interpreter? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J.P.C. GAUTHIER	FUS MR
Member	CAPT	R.W. KELLY	S SASK R
Member	CAPT	E.R. TANBOT	CAMS OF C.
Judge-Advocate	CAPT	E.K. McDOUGALL	H.Q. 2 Cdn Inf Div
Prosecutor	Capt	H.C. Maxwell Goodall	S. Sask. Regt
Defending Offr	Lieut	R. Pulley	S. Sask. Regt.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans YES. (MARKED "A") DOCUMENT (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (his) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (not) so informed, and he (they) (has) (have) (changed) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "B", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" and Ex "D" respectively.(3)
(*1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES. There are Def Objects (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 94(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. H10249 Pte. David Alexander THORDARSON, South Saskatchewan Regiment, being a member of the Canadian Army Overseas, is charged with N.O.A.S.

First Charge
Sec 18 (4)
Army Act.

Stealing property belonging to a person subject to military law -

in that he

in the Field, on 23 February 1944, stole a pen and pencil, the property of L64114 Pte. McNeil, W.D. South Saskatchewan Regiment, a person subject to military law.

Alternate Charge

Sec 40.
Army Act.

Conduct to the prejudice of good order and military discipline

in that he

in the Field, on 23 February 1944, was improperly in possession of one pen and pencil, the property of L64114 Pte. McNeil, W.D., South Sask Regt.,

(J.R. Mather) Major
T/Officer Commanding,
South Sask Regt., C.A.(O).

In the Field

5 Mar 44.

To be tried by Field General Court Martial.

(H.A.Young) Brigadier
Commander
6 Cdn Inf Bde

In the Field
9 Mar 44

Charges approved under KR (Can) 540.

6 Mar 44

E.M. McDonald Capt
ADJ A 2 Cdn Div.

J.P.C. Lauthier Maj. A.A.G.

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAS) 40/P&S/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H 10249	Pte	DAVID ALEXANDER	THORDARSON	S. Sask R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Mar 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary (Naval) Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJ (Rank.)	J.P.C. GAUTHIER (Must be named. RP 106.)	Fus MR (Unit.)

MEMBERS.

CAPT	R.W. KELLY	S. Sask R
CAPT (Rank.)	E.R. TALBOT (Named or detailed. RP 106.)	CAMERONS OF C (Unit.)

WAITING MEMBER.

LT (Rank.)	A. FOISY (Named or detailed, if any. RP 106.)	Fus MR. (Unit.)

JUDGE-ADVOCATE.

CAPT (Rank.)	E.K. Mc DOUGALL (Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in U.K. (Country.)

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 9 MAR

Commanding 6 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

J.P.C. Gauthier Maj. A Pres.

MEDICAL OFFICERS CERTIFICATE
(K.R. (Can) Para 557)

I certify that I have this morning examined No. H10249 Pte.
Thordarson, D.A. of South Saskatchewan Regiment, and in my
opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station. In the Field

Date. 11 Mar 44.

F. W. Hayter Capt
Medical Officer R.C.A.M.C.

MEDICAL OFFICERS CERTIFICATE
(K.R. (Can) Para 557)

I certify that I have this morning examined No. H10249 Pte.
Thordarson, D.A. of South Saskatchewan Regiment, and in my
opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station. In the Field

Date. 11 Mar 44.

F. W. Hayter Capt
Medical Officer R.C.A.M.C.

Ppcl.

"A"

10 Mar 44.

Statement of H10249 Pte. Thordarson, D.A.

Sir:

I took the pen and pencil set for the following reasons;

I was broke, I had not been on pay parade because when going on leave they paid me £6-10-0 and I had between 5 and 6 dollars left in my paybook. I had put in for some money and at the time we were on a scheme and I was not called on pay parade.

Someone took cigarettes, bars and some other stuff from my kit, which left me with no smokes and no money. I took the pen and pencil set so I could get some smokes.

That is all I have to say.

Thordarson D.A.

(D.A. Thordarson) Pte. H10249.

ppd

Statement in Palliation

Accused is now entitled only one small crime. He needed money. All his cigs + chocolates had been taken from him. He needed money. Wants all due to a mistake in his pay book. He has every honour to, admitted the Prosecutor + asks for the leniency of the Court.

J.P.C.

SUMMARY OF EVIDENCE IN THE CASE OF H10249 Pte. THORDARSON, D.A. SOUTH SASKATCHEWAN REGIMENT, A SOLDIER OF THE CDN ARMY OVERSEAS.

TRIAL

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for the Prosecution: L64114 Pte. McNeil, W.D., S.Sask.R., C.A.(O) having been duly sworn states;

I am L64114 Pte. McNeil, W.D.

On the morning of the 23 Feb 44 my fountain pen was in a tin box sitting on a shelf in the corner of my room. I wrote out a laundry ticket with it that morning, and put it back in the tin box on the shelf. That night I went to get it to write a letter, but could not find either the pen or my pencil. I reported the loss to Sgt Chenier of "A" coy. The next I heard about it was when Pte Gould met me in the billet, I think it was on the 28 of Feb, and told me something funny was going on, as a French chap from the Fus M.R. had given him some money to give to Pte Thordarson for the sale of a fountain pen. There were three or four of us around at the time including a L/Cpl who reported the matter to Sgt Johnson, A/CSM of "A" coy.

I can identify the pen and pencil because they are both gray with black stripes; the name of the make is ECLIPSE. There is no spring in the plunger of the pen and you have to push the plunger right down and pull it up again. The pen has a glass window near the nib so you can see if there is any ink in it. The nib writes well on one side but scratches on the other side. The end of the pencil where the lead goes in is very loose.

(Pen and pencil set is produced and witness identifies)

Cross examined by the Accused

Q1 - You say the pen and pencil set was in a tin box. Is that correct ?

A1 - It was when I left that morning, I remember putting the pen back in the box and replacing it on the shelf.

W D McNeil

(W.D. McNeil) Pte. L64114

Second Witness for the Prosecution:- D63373 Pte. Dube, J.Y. Fus M.R., C.A.(O). having been duly sworn states;

I am D 63373 Pte. Dube, J.Y.

I met Pte Thordarson one night in the Canadian Legion, I'm not sure of the date. I did'nt know him well, but have met him a couple of times at the Assembly Hall.

He asked me to sell a pen and pencil for him and I said I would. I then went on to a pub and sold them to a chap for 10 shillings. I went back to the Legion but could'nt find Thordarson. I saw a man with S.S.R. flashes on and asked him who he was. He said he was the shoemaker in "A" coy. I asked him if he would do me a favor and give seven shillings to Pte Thordarson in payment of a pen and pencil set which Thordarson had given me to sell. The pen and pencil had the same markings in light and dark colours, but I can't say in English what they were.

(Witness identifies pen and pencil)

J. Yves Dube

ACCUSED DECLINES TO CROSS EXAMINE (J.Y. Dube) Pte. D63373.

Third Witness for the Prosecution:- L12966 L/Cpl. Duquette, A. S. Sask. R., C.A.(O) having been duly sworn states;

I am L12966 L/Cpl. Duquette, A., L/Cpl. of Regt'l Police. On the 23 Feb 44, Sgt Johnson of "A" coy informed me that there had been a pen and pencil set stolen from Pte McNeil of "A" coy. Sgt MacPhail and I immediately proceeded to "A" coy billets and made enquiries of some of the men in the said billets. About three or four days later I got information from Sgt Johnson that Pte Dube of the Fus M.R. had given seven shillings to Pte Gould to give to Pte Thordarson in payment ~~of~~ for a pen and pencil set which Dube had sold for him. We went to see Pte Dube and he told us that he had sold the pen and pencil set and had given the money to Pte Gould. Then we proceeded to recover the set from a civilian, Mr Sims, to whom Dube had sold it.

Two days later I went to see Pte Thordarson, and after cautioning him, asked him if he had seen this pen and pencil set before. He said yes, he had seen it lying in the hallway. I asked him whether he was speaking true or not. He said yes. Then I told him to tell me the truth and tell me exactly where he had seen the pen and pencil set before. He then told me that he had seen in in the corner of a room occupied by Pte McNeil and three other chaps. I asked him to tell me what happened after that, and he said he had given the pen and pencil set to Pte Dube of the Fus M.R. to sell for him, and that he had received seven shillings which had been left with Pte Gould for him. I had the pen and pencil set with me at the time and Pte Thordarson identified them as the ones he had given Pte Dube to sell for him.

(Witness identifies pen and pencil set)

ACCUSED DECLINES TO CROSS EXAMINE

A. Duquette

(A. Duquette) L/Cpl. L12966.

Fourth Witness:- L13298 Pte. Gould, E.H., S. Sask. R., C.A.(O). having been duly sworn states;

I am L13298 Pte. Gould, E.H.

Last Monday night, 28 Feb 44 in the Canadian Legion I was handed seven shillings ~~xx~~ by Pte Dube of the Fus M.R. and was asked to give it to Pte Thordarson. In the ensuing conversation I understood Pte Dube to make the remark that it has something to do with a fountain pen. On returning to my billet I handed the seven shillings to Pte Thordarson; during the transaction several of the boys standing around seemed curious and started asking questions. It was then that I found out about a pen being missing. Sgt Johnson, the A/CSM of "A" coy was there and questioned me about the transaction.

ACCUSED DECLINES TO CROSS EXAMINE.

(E.H. Gould) Pte. L13298.

E. H. Gould

The accused having been duly cautioned in accordance with R.P. 4 (e) says;

"I want to make a statement on oath"

The accused, H10249 Pte. Thordarson, D.A., S.Sask. R., C.A.(O). having been duly sworn ~~xxx~~ states;

On the 23 Feb 44, I was on "lines" and at approx 1430 hrs was in the room occupied by Pte McNeil, putting on the fire. When I lifted the coke pail I saw a pen and pencil set lying on the floor in a corner. I fixed the fires and then picked up the pen and pencil set and put it in my tunic pocket. They were there until the night of the 27th, when I wrote two or three letters with them while I was on quarter guard. Pte McNeil was there and he never said anything ~~xxxxx~~ although I don't know if he saw me with them. On the following night the 28 Feb, I was in the Legion talking to Pte Dube of the Fus M.R., I was writing a letter at the time and he asked me if I wanted to sell the pen and pencil. I hesitated and then said yes. I gave him the pen and pencil and he said he would be right back. I stayed at the Legion until 2130 hrs but he did not return so I went back to my billet. About 20 minutes later Pte Gould said to me "you're just the man I want to see". I walked over to where he was and he said "here's seven shillings that were given to me by _____." The name he said was "Jubilee" so I hesitated before taking the money as I did'nt know anybody by that name. A little later he said the name was "Dube" of the Fus M.R., so then I took the money. That's all that was said about the matter until the night of the 3rd Mar when L/Cpl. Duquette called me down to the bathroom and asked to see my paybook. He gave it back to me and and asked if I had ever seen the pen and pencil set before. I said "Yes". He then took me over to the Coy Comms room and ~~xxx~~ got Sgt Johnson. Then L/Cpl. Duquette asked me questions while Sgt Johnson wrote them down. He then told Sgt Johnson to get an escort and take me over to the guard room.

THE ACCUSED DOES NOT WISH TO CALL WITNESSES IN HIS DEFENCE AT THIS POINT.

D.A. Thordarson

(D.A. Thordarson) Pte. H10249

Certified that R.P. 4 complied with.

In the Field

5 Mar 44.

H.C. Maxwell

(H.C. Maxwell) Capt.,

Officer detailed to take the Summary.

J.P.C. Gauthier Maj. A.J.A.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2697)

H-10249 Thordarson David Alexander — INF. (O) — 9Jun 43.

No.	Name	Sqn., Battery, or Company	Corps	Date of enlistment	G.C. Badges	Service or Proficiency Pay	Character
		No. and date of last drunk	Period not reckoning towards freedom from extra fine	Sheet No. ONE.	Signature O.C. Company, etc.		

Date of last entry in Company Conduct Sheet	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Field	12 Dec. 43.	Pte.	Nil.	Conduct to the PREJUDICE OF GOOD ORDER AND MILITARY DISIPLINE (did appear on Church Parade With dirty boots) A.A.Sec. 40.	Sgt. Holiday, S. L/Sgt. Moore, G.E.	5 Days C.B.	13 Dec. 43.	Capt. wr AITKEN.	

Certified true copy
10 Mar 44

J.H.C. Gauthier Maj. & Bres.

N

M.F.B. 355
2251—5-41 (572-9)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H10249	Pte	Thordarson, D.A.	S. Sask. R.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets of the accused~~ Regimental ~~and Squadron Books~~ Service and General of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 40	once times	once times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct None

~~There are no entries in the conduct sheets of the accused~~ or,

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. —or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 37 days in military ~~air force~~ custody, making a total of 37 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 20 yrs, 29 days

6. The date of his commission specified in his record of service is ~~attestation paper~~ attestation paper

7. The service which the accused is allowed to reckon towards discharge is 8 months

8. The accused is entitled to reckon 8 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any air force ~~decoration~~ military or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number H10249 Rank Pte. ~~Rank~~ Name Thordarson, D.A. of South Saskatchewan Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~5th~~ 11 May 1944 day of March 1944

J. M. Stewart Captain
Assistant Adjt. Gen. Br. C.Ae (O)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J. H. Hamilton Maj. A Pres.

COUNTER NUMBER 590168

HOUR 2140

OPERATOR'S INITIALS

RELIEVING OPERATOR

FF H3

GNR THORNE CA

Correspondence to be PINNED here.

H.Q. R.C.A. CDN. CORPS
Received
29 MAY 1943

A.D.J.A, 1 Cdn Corps FF 1/3
A.2
Ziegler Major

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 20 day of May, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Corps R.C.A.M.C., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~hereunder named~~ appointed or detailed hereunder.

* Omit if not applicable.

~~*I am unable to appoint~~
~~(e.g. Three Officers to form the Court.)~~
~~*(e.g. A Field Officer as President.)~~
~~(e.g. Three Officers having more than one year's service.)~~
~~for the following reasons, namely:—~~

President.

Rank.	Name.	Regiment.
Major	J.H. Ziegler	45 Cdn Gen Tpt Coy RCASC

Members.

Rank.	Name.	Regiment.
Captain	L.A.D. STEPHENS	1 CDN W.I. SECT I.C.
Lieutenant	T.C. Lukes	12 Cdn Fd Coy RCE

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.A. McCusker
Commanding (E.A.McCusker) Brigadier
D.D.M.S. 1 Cdn Corps.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G-44202 Gunner Clifton ~~ALEXANDER~~ THORNE 1 Light Anti-Aircraft Regt, R.C.A.	First Charge Sec 40 A.A.	GUILTY	Guilty	26 May 43 I confirm the findings and Sentence of the Court. E A McCusker. E.A. McCusker, Brig. D.D.M.S., 1 Cdn Corps.
	Second Charge Sec 40 A.A.	GUILTY	Guilty	
	Third Charge Sec 40 A.A.	GUILTY	Guilty	
	Fourth Charge Sec 41 A.A.	GUILTY	Guilty	
	Fifth Charge Sec 41 A.A.	GUILTY	Guilty awarded 60 days detention and stoppage of pay of £ 26-3.6 (40 days pay of rank) to make cost of damages to military vehicles J.A. Ziegler Major 24 May 1943.	
	(as per charge sheet attached)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*)

(Signed) E. A. McCusker. (Signed) J.A. Ziegler Major
(E.A.McCusker) Brigadier
Commanding D.D.M.S. 1 Cdn Corps. *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24TH day of MAY 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. ~~The officers under instruction~~

* Omit if not applicable.

were duly sworn.

Signed this 24TH day of MAY 1943.

J.A. Ziegler Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further order.)~~ E.A.M.

Signed this 26 day of May 1943.

E. A. McCusker.
Confirming Officer.

Promulgated and extracts taken in the case of G 44202 Gnr. Clifton Alexander Thorne

(*a*) (Dated) 28 May 43. (Signed) ..... Lieut.-Col.
Commanding 1 Light Anti-Aircraft Regt. R.C.A.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41729) 20M. 40(12)—1/43 1000 st. 1/40 P. St. G. 840

B2.

CHARGE SHEET

in the case of

G.44202 Gnr. THORNE, Clifton Albert, 1 Lt. A.A. Regiment, R.C.A., Canadian Army Overseas.

The accused, G.44202 Gnr. THORNE, Clifton Albert, 1 Lt. A.A. Regiment, R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE:

Sec 40 AA

Conduct to the prejudice of good order and military discipline,

in that he,

in the Field, on 27 Apr 43, improperly and without permission or authority used a Chevrolet Utility Van, GLB.552, the property of the Canadian Army (A.F.)

SECOND CHARGE:

Sec 40 AA

Conduct to the prejudice of good order and military discipline,

in that he,

in the Field, on 27 Apr 43, did improperly use W.D. petrol.

THIRD CHARGE:

Sec 40 AA

Conduct to the prejudice of good order and military discipline,

in that he,

in the Field, on 27 Apr 43, became involved in a road accident with 5-cwt W.D. No. CM.4239846, while driving Chevroler Utility Van GLB.552, causing damage to the 5-cwt. CM.4239846 to the extent of £4.0.0. and to the Chevrolet GLB.552 to the extent of £32.14.0. Total amount of damage - £36.14.0.

FOURTH CHARGE:

Sec 41 AA

Committing a civil offence, that is to say, driving a motor vehicle on a road in a manner which was dangerous to the public, on the London-Brighton road near Redhill, Surrey, on 27 Apr 43, contrary to Sec. 11(1) of the Road Traffic Act 1930.

FIFTH CHARGE:

Sec 41 AA

Committing a civil offence, that is to say, failing to report a road accident,

in that he,

on 27 Apr 43, after becoming involved in a road accident, did not give his name or address to any person having reasonable grounds to require, and failed to report the accident to a Police Station or Police Comstable within 24 hours of the occurrence, contrary to Sec. 22 Road Traffic Act 1930

(W.H. Taylor) Lieut.-Col.
Commanding
1 Lt. A.A. Regiment R.C.A.

In the Field
May 1943.

To be tried by Field General Court-Martial.
(L.A. McCusker) Lt.-Col.
D.D.L.S. 1 Can Corps.
Field. 20 MAY 43.

"H"

G-44202

I certify that I have this morning examined [illegible] and in my opinion he is fit to undergo trial by court martial.

Date: 24-5-43

Medical Officer
2 Lt. A.A.Reidmann RCA

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a * FIELD GEN Court-Martial held at FIELD on the 24TH day of MAY 1943 by order of BRIGADIER E.A. McCUSKER.

Commanding DDMS. 1 CDN CORPS.

dated the 21ST day of MAY 1943.

President.

MAJOR J.H. ZIEGLER 45 CDN GEN HPT COY RCASC

Members.

CAPT L.A.D. STEPHENS 1 CDN W.I. SECT I.C.

LIEUT T.O. LUKES 12 CDN FD COY R.C.E.

~~Judge-Advocate~~

Trial of* G.44202 GNR. CLIFTON ALBERT THORNE 1 L.A.A. REGT. R.C.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not~~ available to serve owing to

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 24.

The accused is brought before the Court.

Prosecutor,† LIEUT. J.J. TAUGHER 1 L.A.A. REGT. R.C.A.

Counsel‡ or defending officer† LIEUT. F.I. RITCHIE, 1 L.A.A. REGT. R.C.A.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked A 2 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO SIR.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

(2799) Wt.W32663/1111. 45,000 sets. 11/42. K. & H., Ltd. (445/3) Forms A 9/2.

B

The President, members and ~~judge Advocate~~ are duly sworn

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read?

Question to the accused.

Answer. GUILTY SIR

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Answer. GUILTY SIR

Are you guilty or not guilty of the third charge against you, which you have heard read?

Question.

Answer. GUILTY SIR

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question.

Answer. GUILTY, SIR

ARE YOU GUILTY OR NOT GUILTY OF THE FIFTH CHARGE AGAINST YOU, WHICH YOU HAVE HEARD READ

Answer. GUILTY. SIR

The accused having pleaded Guilty to ALL charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea or "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of FIRST, SECOND, THIRD, FOURTH AND FIFTH CHARGES.

†The summary (or abstract) of evidence is read, marked G signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

NO SIR.

Answer. The accused in mitigation of punishment says :—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. No Sir.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

LIEUT J.J. TAUGHER is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES SIR. MFM 6+ AFB 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked J+J signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES SIR.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES SIR.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* YES SIR.

[Instruction.—If by reason of the nature of the service of the accused as a supernumerary, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

~~Cross-examined by the accused.~~

Question to the accused.

Do you wish to address the Court? *Answer.* YES MY DEFENDING OFFICER WILL SPEAK. ATTACHED STATEMENT MARKED K.

The Court is closed for the consideration of the sentence.

The defence for the accused addresses the court and states -

The accused Jim Thorne has been on active service overseas since Dec 40 and in all that period has kept his sheet absolutely clean That is all I have to say sir.

Certified that R.P. has been complied with

K.

"G"

SUMMARY OF EVIDENCE

in the case of

G.44202 Gnr. THORNE, C.A., R.H.Q., 1 Lt.A.A.Regiment R.C.A., Canadian Army Overseas.

---

taken under oath at the direction of the Commanding Officer.

FIRST WITNESS for the Prosecution

Supervisor L.M. Anderson Y.M.C.A., attached to 1 Lt. A.A. Regiment R.C.A., having been duly sworn states:

"I am Supervisor L.M. Anderson, Y.M.C.A. attached to 1 Lt.A.A.Regiment, R.C.A.

Gnr. Thorne is attached to me as military helper. His duties are those of batman and general duties around the Y.M.C.A. On the morning of 27 Apr 43 Thorne was waiting for me in my room, when I returned from breakfast. We started to walk to the Y.M.C.A. together and on the way down he made the statement, quote "Andy, I smashed your car up" unquote. We continued on to the Y.M.C.A. where the car was parked and I saw that the car had been smashed all along the left hand side. I reported the accident to Lt.-Col. Taylor the C.O. and the Y.M.C.A. field Headquaters, Farnborough, Hants. There was approximately 8 gals of army petrol in the tank of the car when it was taken.

The accused declines to cross-examine the witness.

(L.M. Anderson) Supervisor

SECOND WITNESS for the Prosecution

B.6906 Gnr. Cottrell, R.H.Q. 1 Lt.A.A.Regiment R.C.A. having been duly sworn, states:-

"I am B.6906 Gnr. Cottrell, R.H.Q., 1 Lt.A.A.Regiment R.C.A.

On the morning of 27 Apr 43 I was in my sleeping quarters at 0800 hrs when Gnr. Thorne told me that he had smashed up the Y.M.C.A. Utility car.

The accused declines to cross-examine the witness

(B.6906 Gnr. Cottrell A.B.)

THIRD WITNESS for the Prosecution

R.13020 S/Sgt. Reynolds, J.S. H.Q. R.C.E. 1 Cdn Corps having been duly sworn states:-

"I am R.13020 S/Sgt. Reynolds, J.S., H.Q. R.C.E. 1 Cdn Corps.

At approximately 0025 hours morning of 27 Apr 45 I was travelling in a Jeep from Merstham to Balcombe. As we were coming up the hill out of Redhill we saw lights come over the top of the hill straight in front of us. I shouted to my driver to look out and he applied the brakes, but the approaching vehicle hit us, knocking off our front wheel. I got out of the Jeep and the two men in the other vehicle also got out. The driver of the other vehicle asked if anyone was hurt and I replied "No, how about you?" He said "Bouning, just my arm" or words to that effect. His left running board was caught in the chassis of the Jeep and he got back into his car saying he would pull up and see if he could get losse. I looked at his lisence number and told my driver to write it down immediately. ~~XXXXXXXXXX~~ When he got his car loose from the Jeep he went ahead and backed up into Earlswood Rd., his companion, shouted "Stop or Hey Eddie - Stop, where the hell are you going", and went over to the car. The next thing we knew the car shot ahead and proceeded down the road in the direction of Horley paying no attention to my shouts. A police constable came up a couple of minutes afterwards and we gave him a report and assisted him to measure the width of the road, position of Jeep, position of wheel marks, using the Constable's steel tape. I reported the accident to Capt. Smith, our adjutant, the next morning.

The accused declines to cross-examine the witness

J.S. Reynolds.

(R.13020 S/Sgt. Reynolds J.S.)

FOURTH WITNESS for the Prosecution

U.1715 Spr Lilburn H.J. Field Park Coy, 1 Cdn Corps R.C.E. having been duly sworn, states:-

"I am U.1715 Spr Lilburn H.J. of Field Park Coy, 1 Cdn Corps R.C.E.

At approximately 0025 hrs. on morning of 27 Apr 45 I was proceeding south on the Brighton Road between Redhill and Earlswood. As I was coming to the top of the hill I saw a vehicle heading towards me. I got as far over to the left curb as I could andthe other car went over to my left side too and we collided. The left front wheel of the Jeep I was driving was knocked off and the running board of the other car was stuck in the Jeep's bumper. We all got out and asked each other if anyone was hurt. The driver of the other vehicle said he had hurt his arm. He got back in his car and went ahead, which pulled the running board off his car. He backe into a side road and while I was getting my accident report out, he drove away and proceeded south. I had taken the license No. of his car which was GLB 552."

The accused questions the witness as follows:

Q.1 Can you say for sure that it was the driver of the other car who said his arm was hurt?
A.1 Either the driver or the passenger who was with him, I'm not sure which.

The accused declines to further cross-examine the witness

H.J. Lilburn Spr.
(U.1715 Spr Lilburn H.J.)

FIFTH WITNESS for the Prosecution

P.C. LOWMAN, Edgar John of the Reigate Borough Division, Surrey Joint Police Force, having been duly sworn, states:

"I am P.C. LOWMAN, Edgar John of the Reigate Borough Division, Surrey Joint Police Force.

At 0035 hours on ~~xxx27~~ Tuesday 27 Apr 43, in consequence of information received, I went to the junction of Brighton Road amd Earlswood Road, Redhill, where I found an accident had occurred between a Canadian Jeep CM.4230846 and a Y.M.C.A. Saloon motor car GLB.552. The car GLB.552 had left the scene of the accident. I found the Jeep 7 feet from the south-east corner of the two roads, facing East, with its rear 5 feet from the central white line. The road at this point is 34 feet wide. On the near side of the Jeep I found a complete near side wing and running board which had been left behind by the other vehicle. At some distance from the scene of the accident I found a metal hub cap marked Chevrolet. I examined the road which was in good condition and dry, and found 2 skid marks; one was 3 feet in length, being 4 feet from the East curb of the road and the other being also 3 feet in length, one foot East of the East curb on the pavement, these skid marks having apparently been made by the car GLB.552.

At the scene of the accident I found a considerable amount of petrol on the ground as if the petrol tank of the saloon car had been punctured."

The accused declines to cross-examine the witness.

E J Lowman P.29
(E.J. Lowman) P.C. 29)

THE ACCUSED, having been duly cautioned (R.P. 4(E)), declines to make any statement.

Rules of Procedure No. 4 (C), (D) and (E) have been complied with.

Taken down by me in the presence of the accused person at Tilgate Camp, Tilgate Forest, Crawley, Sussex, this 5th day of May 1943.

(V.C. Sinclair) Lieut.
89 Battery
1 Lt. A.A. Regiment R.C.A.

No. G44202 Name THORNE, C.A. Sqn., Battery, or Company — Military Helper. Corps — Date of enlistment 25.5.40 G.

Date of last entry in Company Conduct Sheet 4.2.41 — No. and date of last drunk M1 — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. P.J. Kelly Major — Character

MFM 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	5.1.40	Gnr.		Sec.15(1) AWL from 1200 hrs 5.8.40 to 1200 hrs 9.8.40 (4days).	BSM McInnes	6 days CB	10.8.40	Lt.T.W. Summers	Forf. 4 days pay
Martinique Barracks	4.2.41	Gnr		Sec.40 Conduct to prej. of GO & WO, smoking on parade.	Sgt.Gowin L/Bdr. Armstrong	7 days CB	5.2.41	Maj. R.S. Mallett	

CERTIFIED TRUE COPY

(D.W.MacDonald) Lieut.
A/Adjutant
Custodian of the Regimental Books

Lt Ziegler Major

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G.44202	Gnr.	THORNE, C.A.	1 Lt. A.A. Regt. R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For Sec.15(1)	-	times	1	times
For Sec. 40	-	times	1	times
For		times		times
For		times		times
For		times		times

[redacted]

2. The accused has not been previously convicted, *or*

[redacted]

3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 11 days in military custody, making a total of 11 days, of which no days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is [redacted]

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 24 May 40

[redacted]

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted]

[redacted]

(*16548) W1.30246/862 70,000 12/40 A & E.W.Ltd. Gp.698
(17620) W1.48491/1951 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. R.C.A.

No. G.44202 Rank Gnr. Name THORNE, C.A. of 1 Lt. A.A. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N I L		

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of May 1943

(D.W.MacDonald) Lieut. A/Adjut.

1 Lt. A.A. Regt. R.C.A.

LIST OF WITNESSES

in the case of

G.44202 Gnr. THORNE, C.A., 1 Lt. A.A. Regiment, R.C.A.

FOR THE PROSECUTION

Supervisor L.M. ANDERSON :	Canadian Y.M.C.A. attached to 1 Lt. A.A. Regt. R.C.A.
B.6906 Gnr. COTTRELL, A.B. :	attached to 1 Lt. A.A. Regt. R.C.A.
H.13020 S/Sgt. REYNOLDS, J.S. :	H.Q. R.C.E. 1 Cdn. Corps.
U.1715 Spr. LILBURN, H.J., :	Field Park Coy., 1 Cdn. Corps R.C.E.
Police Constable E.J. LOWMAN :	Reigate Borough Division Surrey Joint Police Force.

FOR THE DEFENCE

N I L

S T A T E M E N T

I, G.44202 Gnr. THORNE, C.A., 1 Lt. A.A. Regiment, R.C.A.,
wish to have an officer appointed by the Convening Officer to represent me at the trial.

C A Thorne
(C.A. Thorne, Gnr. G.44202)

LL-16

RFN THORNE L.

II-10

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A."

Order convening the Court

C Wightman major President

On Active Service, this Twenty-ninth day of June, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

• Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

• Omit if not applicable.

JLM

JLM

JLM

Skillen Dvr 1 coy, Capt
to 9 July 1943.

(83)

	President.	
Rank.	Name.	Regiment.
Major	C. Wightman	1 C Scot R
	Members.	
Rank.	Name.	Regiment.
Capt.	W.J. Saul	R Wpg Rif
Capt.	D.B. Grosch	Regina Rif
Waiting Member Lieut	J.W. Benham	R Wpg Rif

• Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

•Signed J.M. MILDRAM Lt.-Col.,
Commanding A/Bde Comd, 7 Canadian Infantry Brigade
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H40620 Rfn. THORNE, Leo R Wpg Rif	First Charge A.A. Sec. 15(1)	Guilty	Guilty	
	Second Charge A.A. Sec. 15(1)	Guilty	Guilty	Confirmed J.M. Meldram Lt.-Col.
	Third Charge A.A. Sec. 40	Guilty	Guilty	
	Fourth Charge A.A. Sec. 15(1)	Guilty	Guilty	
	Fifth Charge A.A. Sec. 40	Guilty	Guilty 120 DAYS DET'N. and stoppage of 50-11-4 30 June 1943 C Wightman Major President	
	see charge sheet attached			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.M. Meldram (J.M. MELDRAM) Lt.-Col., A/Bde Comd — *Commanding* 7 Canadian Infantry Brigade — *Convening Officer* (*c*)

(Signed) C. Wightman Major (C. WIGHTMAN) 1 C Scot R — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter)~~
4. ~~The officers under instruction)~~ N/A

* Omit if not applicable.

were duly sworn.

Signed this 30th day of June 1943.

C Wightman Major
President of the Court Martial.

C. Certificate in case of death sentences

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the sentence named in the margin be not committed to prison until further orders.~~ N/A

Signed this 30 day of June 1943

J.M. Meldram
Confirming Officer.
(J.M. MELDRAM) Lt.-Col.,
A/Bde Comd, 7 Canadian Infantry Brigade

Promulgated and extracts taken in the case of H40620 Rfn Thorne L.

(*a*) (Dated) June 30 (Signed) N/Sgt Maj. for O.C. R. Wpg. Rif

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41758) Wt. 40115—893 500 M 5/40 P. Bk. C. Ltd.

CHARGE SHEET

The accused, H40620 Rifleman Leo Thorne., 1st Battalion, The Royal Winnipeg Rifles, A.F., a soldier of the Canadian Army, placed on Active Service in England, is charged with:-

First Charge Sec. 15 (1) Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 1500 hrs 3 June 1943 until 0730 hrs 4 June 1943 (Total of 16 hrs, 30 mins)

Second Charge Sec. 15 (1) Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, being in lawful custody, absented himself without leave from 0915 hrs 4 June 1943 until apprehended at 0045 hrs 9 June 1943 (Total of 4 days, 15 hrs, 30 mins), thus incurring costs of apprehension amounting to £0-5-8.

Third Charge Sec. 40 Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at 0045 hrs 9 Jun 43 was improperly wearing rank badges to which he was not entitled.

Fourth Charge Sec. 15 (1) Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, while in arrest, did absent himself without leave from 0530 hrs 10 June 1943 until apprehended at 0400 hrs 24 June 1943 (Total of 13 days, 22 hrs, 30 mins), thus incurring costs of apprehension amounting to £0-5-8.

Fifth Charge Sec. 40 Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at 0400 hrs 24 June 1943 was wearing rank badges to which he was not entitled.

In the Field

26 June 1943

(R.B. HOBSON) Major,
A/O.C. THE ROYAL WINNIPEG RIFLES

To be tried by Field General Court Martial

Date:

Convening Officer
A/Lt.-Col. Edw. Lt. Rifles.

APPENDIX 'B 2'

C Wightman Major
President

30 Jun 43

MEDICAL OFFICER'S CERTIFICATE

I certify that No. H40620 Rfn Thorne L., R Wpg Rif. Regiment, is fit to undergo trial by Court-Martial.

R.W. Baldwin Capt
Signature of Medical Officer

C Wightman Major

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the Field on the 30th day of June 1943 by order of

J.M. Meldrum Lt. Col.
Commanding 7 Canadian Infantry Brigade.

A / dated the 24th day of June 1943

President.

Major C.M. ~~Whiteman~~ Wightman MC 1 C Scot R

Members.

Capt.	W.J. Saul	R Wpg Rif.
Capt.	O.D. Grosch	Regina Rif.

Judge Advocate low

Trial of* H 40620 Rfn Thorne Leo, Royal Winnipeg Rifles.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court

~~The Court satisfy themselves that ~~ is not available to serve owing to~~ low

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt J.T. Carvell R Wpg Rif

Counsel‡ or defending officer† Capt H.D. Knox R Wpg Rif

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked (A) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* no.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

low.

9799. Wt.W3268/1113. 40,000 pds. 11/40. K. & B., Ltd. G66/11. Forms A 9-26

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 36 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty *Answer.*

~~are you guilty or not guilty of the fifth charge against you, which you have heard read?~~

~~Guilty~~

The accused having pleaded Guilty to 33 charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out if case not open to "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge~~ to which he has pleaded "Guilty" read ~~to him again.~~]

0.35.

The accused H40620 Pte. THORNE. L.

is found guilty of all five charges.

D Wightman Major
President

0.35. †[The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes through defending officer. Summary of same attached.

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked appendix "H", signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

EW

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

no.

Answer

Evidence as to character

Capt T. T. Carvell R.W.Kg Rifle having been duly sworn states as follows. :- "I hereby submit nominal and particulars of service of the accused. I have read over and compared these records with regimental entries and they are true and have statements as to the same."

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused ~~guilty of all five~~ charges. D.W.

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~

CAPT. T.J. CARVEL R.W.R.

is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, M.F.M. 6 and M.F.B. 355

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 'I' & 'J' signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

Cross-examined by the accused. No

[Instructions.—If by reason of the nature of the service of the accused as a supernumerary corporal, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

D.W.

F

Sentence.

The Court sentence the accused to one hundred and twenty (120) days detention Sentence.
Pass ~~forfeiture~~ of pay of £0-11-4 for costs of arrest

C. Wightman Maj
President

30 June 1943

Appendix "H"

30 June 43

The M.F.M. 6 and other evidence placed before the Court today does not give a true and accurate statement of the accused Rifleman's record.

I have had knowledge of Rfn. Thorne in the Bn since June 1940 and during our stay in Canada his conduct was exemplary.

Since coming to England his two large periods of A.W.L. were due to (a) hockey matches in Brighton and (b) female worries in London area and neither can be traced to criminal intent.

It would therefore be an important task of the Court, besides giving judgment, to make recommendation on Thorne's behalf regarding his future employment so that he may have an opportunity to regain his interest and enthusiasm, which was once at a very high level.

Capt
1st R Wpg Rif

'H'
L. Wightman Maj
Pres.

Appendix A.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. H-40620 . Rank Rfmn . . Name Thorne, L. . . . . .

Unit . B Coy. R.W.R. . . . . was arrested at London . . . . . (place)

at 0045 hrs. (hour) on 9 June 43 (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~[illegible]~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

. . . . . Capt.

(W. Forn) D. A. P. M.,
London Area

METROPOLITAN POLICE

No. 995.
(Thin Typing)

Appendix "D"

STATEMENT OF WITNESS

Hornsey *Station.* "Y" *Division.*

9th. June 19 43

Name William Walshe.

Address

Age . Occupation War Reserve Constable 504."Y".

Statement At about 12-45am. on the 9th. June 1943 at Turnpike Lane, Hornsey, London, N.8. I was called by Pte. 81817 Jolly, Cameron Highlanders of Ottowa, Stationed at Horsham, to Rifleman R. 40820 L. Thorne, Royal Winnipeg Rifles, Strood Park, Horsham whom he alleged was a Private and was wearing Sergeant's stripes without authority. I asked Thorne if he was entitled to wear the stripes and he said, "Yes. I am a Sergeant". I then asked him to produce his pay book which I examined and found that he was described therein as a Rifleman. I pointed this out to him and he said, "I have passed for Sergeant but I have not got my papers".

I then took both the soldiers to Hornsey Police Station, where Thorne admitted that he was not entitled to wear the stripes.

There was some blood on Thorne's face but he he did not make any allegation of being assaulted by Jolly.

Signature W. Walshe W.R. 504 "Y".

Signature witnessed by J Davies 19

M.P. 17400/40,000 April 1939

METROPOLITAN POLICE

Appendix "C"

STATEMENT OF WITNESS

No. 995.
(Thin Typing)

Hornsey *Station.* "Y" *Division.*

Name John Davies.

Address

9th. June 19 43

Age . Occupation Station Sergeant 13."Y".

Statement At about 12-45am. on the 9th. June 1943 War Reserve Constable 504."Y" at Turnpike Lane, Hornsey, N.8. was called by Pte. 31817, Jolly, Cameron Highlanders of Ottowa, Stationed at Horsham, to Pte. Thorne, No. H.40620, Royal Winnipeg Rifles, Stationed at Strood Park, Horsham, who was wearing battle dress with Sergeant's stripes thereon.

Jolly alleged that Thorne was a private and was not entitled to wear the stripes. Thorne informed the War Reserve that he was a Sergeant. At the Station I questioned Thorne and he stated that he lost his own tunic at his quarters so he decided to take the Sergeant's tunic and to have a night out in London. He was unable to produce a leave pass and stated that he came away without permission with the intention of going back to his Unit the first thing in the morning. Thorne alleged that he had been assaulted by Jolly and there was some blood on his mouth, but Jolly denied having struck him. I communicated with the Canadian Corps of Military Police and an escort was sent for Thorne.

Signature J. Davies S.P.S. 13."Y".

Signature witnessed by

M.P. 17400/40,000 April 1939

Appendix "D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No.H/40620. Rank Rfn. Name Thorne L. . . . . .

Unit B.Coy..R.W.Rifles. . . . . was arrested at London. . . .(Place)

at 0400. . .(hour) on 24.June.43. .(date) and that at the time of his arrest he was wearing (Military Uniform) ~~(Civilian clothes)~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
24 June 43.

. . . . . Capt.
(W. Horn) D. A. P. M.,
London Area

Appendix "E" & "F"

Army Form B 2...
(See King's Regulations)

CHARGE

R.E.M.E. | Regiment / Battery / Squadron / Troop or / Company

R.Coy. Rank Rfn.

CHARGE against No. 14620

Name Thorne L. Date of Offence 24 June 43.

Place London

OFFENCE W.O.A.S. Wm A.W.L. from until apprehended by the Can. Provost Corps at Y.M.C.A. Strand London at about 0400 hrs. on the 24 June 43. (2) Wearing the rank of Sgt. which he was not entitled to at the same time place and date.

Names of Witnesses:— [illegible] Can. Provost Corps.

L/Cpl. Anderson " " " " "

Signature of O.C. Battery, Squadron, Troop or Company

Enlistment [illegible]

Awarded [illegible]

Adjutant.

[illegible] LONDON D[illegible]

CHARGE Appendix "E" & "F"

Army Form B 2
(See King's Regulations)

R.W.R. Regiment

B.Coy. Battery / Squadron / Troop or Company

CHARGE against No. H/40620 Rank Rfm.

Name Thorne L.

Place London Date of Offence 24 June 43.

OFFENCE W.O.A.S. Was A.W.L. from until apprehended by the Cdn. Provost Corps at Y.M.C.A. Strand London at about 0400 hrs. on the 24 June 43. (2) Wearing the rank of Sgt. which he was not entitled to at the same time, place and date.

Names of Witnesses :—

Cpl. Powers No.6 Area Provost Coy. Cdn. Provbat Corps.

L/Cpl. Anderson " " " " " "

Signature of O.C. Battery, Squadron, Troop or Company

Establishment / Headquarters

Adjutant.

Statement of **EVIDENCE** in the case of:
H/40620 Rfm. Thorne L.
D.Coy. R.W.Rifles.

Sir;

At London onthe 24 June 42 at about 0400 hrs.I was on duty incompany with L/Cpl.Anderson at the Y.M.C.A. Strand,when I had the occassion to check the a/m Rfm. He was wearing the rank of a Sgt. I asked to see his pass. He could not produce one. He was A.W.L. I placed him under arrest and he was escorted to No.6./Area Prov.Coy. Detention Room where he was turned over to the N.C.O.i/c of cells to be detained.

Cpl.
(F/21329 Power R.A.)

London
24 June 43.

Sir;

I have read over and corroborate the above statement.

L/Cpl.
H/29066 Anderson G.S.)

London
24 June 43.

REMARKS

Expense Voucher Re—: Exhibit "A" Ref: K.R. & O. (Can) 539

Reg. No. #40620 Rank Pte Name Thomas, L. Unit R. W. R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount £	s	d
9 June 43	Escorts return fare from LONDON To Horsham. 1/2 portion		2	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Horsham.		2	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	8

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

Lieut. CAPT.
W. FERN D.A.P.M.
LONDON AREA.

Officer Issuing Railway Warrant and Expense money
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

Exhibit "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 440620 Rank Sgt. Name Lorne L. Unit C.A.P.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
24 June 43	Escorts return fare from LONDON To Horsham		2	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Horsham		2	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/P & S/483

Summary of evidence in the case of H40620 Rfn Thorne L., Royal Winnipeg Rifles A.F.

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st Witness for the Prosecution

H41864 A/L/Sgt Genaille J.H., Royal Winnipeg Rifles, having been duly sworn states:

"On 3rd of June 1943 I was Coy Orderly Cpl. At 1430 hrs I sent L/Cpl Slatter for Rfn Thorne who was excused duty that day. At 1500 hrs L/Cpl Slatter reported back that Rfn Thorne was not in the Coy lines. I also looked and Rfn Thorne was not available then. At Tattoo, 2130 hrs, Rfn Thorne was absent. He was still absent at Reveille, 0600 hrs 4 Jun 43. At 0730 hrs 4 Jun 43 Rfn Thorne reported to me. I asked him where he had been. He answered "Out". I placed Rfn Thorne under Open Arrest. He brought up before the Coy Commander at approximately 0845 hrs and was remanded to the Commanding Officer. He was warned to report to Coy Orderly Room at 0915 hrs to appear before the C.O. Rfn Thorne failed to report at this time. I searched the company lines and he was not in. I reported to the C.S.M. that he was absent."

The accused declines to cross-examine this witness

J.H. Genaille A/L/Sgt
Signature of Witness

2nd Witness for the Prosecution

H33075 A/L/Cpl Slatter E.T., Royal Winnipeg Rifles, having been duly sworn states:

"At approximately 1430 hrs on 3rd June 1943 I was sent by L/Sgt Genaille to find Rfn Thorne. I searched the coy lines, the washroom, and kitchen and Rfn Thorne was not in any of these places. I reported this to L/Sgt Genaille."

The accused declines to cross-examine this witness.

E.T. Slatter
Signature of Witness

3rd Witness for the Prosecution

K97752 Cpl Flegg S.B., Royal Winnipeg Rifles, having been duly sworn states:

"Rfn Thorne is in my section. I am also in charge of the hut in which Rfn Thorne sleeps. From the time when Rfn Thorne first went absent on the 3rd of June 1943 he has not been on parade and he has never slept in his hut while I was present. During this period I was on leave from 17th to 21st June 1943. Rfn Wishart took over my section during my absence.

The accused declines to cross-examine this witness.

Cpl S.B. Flegg
Signature of Witness

"G"

K.W.

4th Witness for the Prosecution

H41217 Rfn Wishart H.M., Royal Winnipeg Rifles, having been duly sworn states:

"I am second, in command of Cpl Flegg's section. During his absence from 17th to 21st June I was in charge of the section. Rfn Thorne was never on parade while I was in charge."

The accused declines to cross-examine this witness.

H.M. Wishart
Signature of Witness

5th Witness for the Prosecution

Capt. W. Fern, D.A.P.M., London Area.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence, as Appendix "A".

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

John Carwell, Capt
Officer taking Summary

6th Witness for the Prosecution

William Walshe, War Reserve Constable 504."Y", Hornsey, London.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence, as Appendix "B".

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

John Carwell, Capt
Officer taking Summary

7th Witness for the Prosecution

Sgt John Davies, Metropolitan Police, Hornsey Station, "Y" Division, London.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence, as Appendix "C".

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

John Carwell, Capt
Officer taking Summary

8th Witness for the Prosecution — H41911 Rfn Beck J.H., Royal Winnipeg Rifles, having been duly sworn states:

"On the 10th June 1943 I was a member of the Regimental Provost staff. Rfn Thorne was in my custody in close arrest. I took Rfn Thorne along with other prisoners for a shave about 0530 hrs. We all went to the latrine first where Rfn Thorne said he wanted to shit. I left him there and proceeded to the wash room with the others. I went back for Rfn Thorne and he was not there. He did not return to the Guard-Room and I reported his escape to the R.S.M. at about 0800 hrs."

The accused declines to cross-examine this witness.

Beck J.H.
.....
Signature of Witness

9th Witness for the Prosecution — H40992 A/L/Sgt Sunstrum R.S., Royal Winnipeg Rifles, having been duly sworn states:

"I was appointed Regimental Provost Sgt on 8th June 1943. After Rfn Thorne's escape on 10th June 1943 he did not return to the Guard Room until brought in under escort on 24th June, unless it was during period 18th to 20th June when I was on leave."

The accused declines to cross-examine this witness.

R. Sunstrum A/Sgt
.....
Signature of Witness

10th Witness for the Prosecution — L110147 L/Cpl Weum G.H., Royal Winnipeg Rifles, having been duly sworn states:

"I am a member of the Regimental Provost staff. From 18th to 20th June 1943, while Sgt Sunstrum was away, I was in charge of the Guard Room. Rfn Thorne did not return during that period."

The accused declines to cross-examine this witness.

G.H. Weum L/Cpl
.....
Signature of Witness

11th Witness for the Prosecution — Capt. W. Fern, D.A.P.M., London Area.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence as Appendix "D"

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

W. Fern, Capt
.....
Officer taking Summary

12th Witness for the Prosecution

F21329 Cpl Power R.A., Cdn Provost Corps.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence as Appendix "E".

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

John Carveth, Capt
.....
Officer taking Summary

13th Witness for the Prosecution

H29066
L/Cpl Anderson G.S., Cdn Provost Corps.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence as Appendix "F".

Having regard to the expense and loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

John Carveth, Capt
.....
Officer taking Summary

14th Witness for the Prosecution

H41545 CSM Buhr N.S., Royal Winnipeg Rifles, having been duly sworn states:

H40620 Rfn Thorne L. is a member of my company. His rank is Rifleman.

The accused declines to cross-examine this witness.

N.S. Buhr
.....
Signature of Witness

Theaccused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 26th day of June 1943.

John Carveth, Capt
.....
Officer taking Summary

No. H40620 Name Thorne L. Sqn., Battery, or Company B Corps Infatry Date of enlistment 11 Jun 40 G.C. Badges Service or Proficiency Pay M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert				Granted EmbarkationLeave from 8-7-41 to 19-7-41					
Wykehurst	5-2-42	Rfn		AA Sec 15(1) AWL from parade from 0930 5 Feb 42 to 1100 hrs 5 Feb 42	Sgt B. Murray	3 days C.B.	6 Feb 42	Lieut. R.R. Fultz	
Field	29-8-42	Rfn		AASec 15(1) AWL from 1000 hrs 29/8/42 until 1630 hrs 19/9/42 (14 days, 6 hrs 30 mins)	Documentary	14 days detn	19-9-42	Lt.-Col. W.J. Moogk	
Field	10-10-42	Rfn	Nil	AA Sec 15(1) AWL from 2200 hrs 10-10-42 until 0700 hrs 11-10-42 (9 hrs)	CSM Brown E.	3 days pay			

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9-12-42	Rfn		AA Sec 15(1) AWL from 2130 hrs 9-12-42 until 0630 hrs 10-12-42 (9 hrs)	Cpl Bennett W.	8 days F.P.	12-12-42	Lt.-Col.	J.M. Meldram
Field	8-2-43	Rfn	Nil	AA Sec 15(1) AWL from 2200 hrs 8-2-43 until apprehended by the Military Police at 2130 hrs 25-2-43. (16 days, 23 hrs 30 mins)	Cpl Stnu-gnell V.	28 days F.P.	27-2-43	Lt.-Col.	J.M. Meldram
Field	31-3-43	Rfn		AA Sec 40 Conduct to prejudice "dirty boots and untidy kit"	CSM McAmmond	3 days C.B.	1-4-43	Major Storey	

CERTIFIED TRUE COPY OF ORIGINAL

S/Hale Capt & Adjt

Offr Having Custody of Records.

M.F.B. 355
40/P & B/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H40620	Rfn	Thorne L.	Royal Winnipeg Rifles

1. The following is a fair and true summary of the entries in the [illegible] Field [illegible] conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the [illegible] Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec 15 (1)	4 times	5 times
For A.A. Sec 40	1 times	1 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 6 days in military custody, making a total of 6 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 yrs

6. The date of his [illegible] specified in his attestation paper is 11 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs

8. The accused is entitled to reckon 3 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or [illegible] military (or is in possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		-----N I L----		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 day of June 1943 S/Ldr Capt + Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "I" signed by the president, and annexed to the proceedings.

C. W. Tightman Major
President

No. H40620 Name Rfn Thorne L. Sqn., Battery, or Company "B" Corps Infantry Date of enlistment 11 Jun 41 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 17551—7-41 (1315-20) H.Q. 1772-30-1552

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert N.S.				Granted Embarkation Leave from 8 Jul 41 to 19 Jul 41				Lieut.	
Wykehurst	5/2/42	Rfn	Nil	A.W.L. from parade from 0900 hrs 5 Feb 42 till 1100 hrs 5 Feb 42 A.A. Sec 15 (1)	Sgt. B.C. Murray	3 Days C.B.	6 Feb 42	R.R. Fultz	
In the Field	29/8/42	Rfn	Nil	Absented himself without leave from 1000 hrs. 29/8/42 until 1630 hrs. 12/9/42. Time absent 14 Days, 6 hrs. 30 Minutes. A.A. Sec 15 (1)	Documentary	14 Days Detention Forfeits 15 Days Pay.	19/9/42	Lt. Col. Moogk	
In the Field	10/10/42	Rfn	Nil	Absented himself without Leave from 2200 hrs 10/10/42 until 0700 hrs. 11/10/42 Time absent 9 hours. A.A. Sec 15 (1)	C.S.M. Brown E.				5 days Forfeiture of Pay. Aut. Forf. 1 days pay.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	9/12/42	Pte	Nil	Charged with absenting himself without leave, in that he was absent without leave from 0130 hrs 9/12/42 until 0630 hrs. 10/12/42 (Time absent 5 hrs.) A.A. Sec 15 (1)	Cpl. Bennett	7 Days Field Punishment	12/12/42	Lt. Col. McIldrew	Forfeits 8 days Pay
In the Field	6/2/43	Pte	Nil	A.A. Sec 15 (1) A.W.L. from 0230 hrs 6/2/43 until apprehended by the Military Sergeant Police at 0130 hrs 22/2/43. Time absent 16 Days 22 hrs. 30 minutes	Cpl. [illegible] Sergeant [illegible] Documentary	28 days F.P.	27/2/43	Lt. Col J.M. McIldrew	Forfeits 28 Days Pay (F.A.M.)
In the Field	21/2/43	Pte	Nil	Conduct to the Prej. ecc. Dirty boots and untidy kit	C.S.M. Hammond	3 days C.B.	1/3/43	Major Storey	

Artified true Copy.
S/Sgt Capt. Asst
Offr having Custody of Regtl Documents

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H40620	Rfn	THORNE L.	ROYAL WINNIPEG RIFLES

1. The following is a fair and true summary of the entries in the ~~Service and Casual Expenses and Regimental Ledger~~ Field Conduct sheets ~~and Regimental Ledger~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.A. Sec 15 (1)	4	times	A.A. Sec 15 (1)	5 times
For A.A. Sec 40	1	times	A.A. Sec 40	1 times
For		times		times
For		times		times

Number of instances of ~~gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement awaiting trial on the present charge, for No days in civil custody, and 76 days in military custody, making a total of 76 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~last~~ attestation paper is 22 yrs

6. The date of his ~~last~~ attestation specified in his ~~last~~ attestation paper is 11 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 15 days

8. The accused is entitled to reckon 3 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~military~~ decoration, or ~~military~~ reward (~~military~~ ~~or military reward~~). State any ~~military~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		----N I L----		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~20th~~ 30th day of June 1943 S/Ldr Hale Capt & Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

APPLICATION FOR FIELD GENERAL COURT MARTIAL

I, H40620 Rfn Thorne L., The Royal Winnipeg Rifles, request an officer to conduct my defence at Field Court Martial in connection with charges set out in Charge Sheet dated 26 June 1943.

If possible, I should like this Officer to be Capt. H.D. Knox.

SIGNED L Thorne

WITNESSED John Cameron, Capt.

Witnesses for the Prosecution:-

H41864 A/L/Sgt Genaille J.H., Royal Winnipeg Rifles.
H33075 A/L/Cpl Slatter E.T., Royal Winnipeg Rifles.
K97752 Cpl Flegg S.B., Royal Winnipeg Rifles.
H41217 Rfn Wishart H.M., Royal Winnipeg Rifles.
H41911 Rfn Beck J.H., Royal Winnipeg Rifles.
H40992 A/L/Sgt Sunstrum R.S., Royal Winnipeg Rifles.
L110147 L/Cpl Weum G.H., Royal Winnipeg Rifles.
H41445 C.S.M. Buhr N.S., Royal Winnipeg Rifles.

Witnesses for the Defence:-

The accused declines to summon witness in his defence.

LIST OF APPENDICES

Appendix "A" - Statement of Capt. W. Fern, DAPM London Area.
" "B" - Statement of William Walshe, London Police.
" "C" - Statement of John Davies, London Police
" "D" - Statement of Capt. W. Fern, DAPM London Area.
" "E" - Statement of Cpl Power R.A., Cdn Provost Corps.
" "F" - Statement of L/Cpl Anderson G.S., Cdn Provost Corps.

LIST OF EXHIBITS

Exhibit "A" - Expense Voucher
" "B" - Expense Voucher
" "C" - Badges of Rank
" "D" - Badges of Rank

C Wightman Maj
President

SM 182

~~Gnr T Lorne RW~~

~~Tpr Dearness Jtt.~~

Gnr Wilks F.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.9933 Gnr Richard William Thorne, 7 Cdn Med Regt RCA
B.44939 Gnr Francis Richard Wilks, 7 Cdn Med Regt RCA

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
Gnr Thorne	1st AA 41	Not guilty	Guilty	
	2nd AA 40	Not guilty	Not guilty	
	~~3rd~~			
	~~4th~~			
Gnr Wilks	1st AA 41	Not guilty	Guilty	
	2nd AA 40	Not guilty	Not guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence (or a sentence commencing on (date)~~ (1)
Both accused (insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Gnr Thorne To be imprisoned with hard labour for one year

Gnr Wilks To be imprisoned with hard labour for eighteen months.

(Sgd) "R.F. Willson." 18 May 45 (Sgd) "R.G. Cowan" Lt Col
Judge-Advocate, if any. Date Awarded. President. (RP [illegible])
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) WCL
(1. AA 57A. Delete if not used.)

(Sgd) " W C Leggatt " Brig

Date 31 May 45

Commanding 2 Cdn AGRA
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B9933 Gnr Thorne R.W.	2 June 45	" F G Williams " Capt
B44939 Gnr Wilks F.R.	2 June 45	" F G Williams " Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5M-1 5M-2

FIELD GENERAL COURT-MARTIAL

CFA96 (To take place of AFA21 40/P & S/1698) 4388

Convened by Order of W.C. Leggat, Brig Comd 2 Cdn AGRA dated 12 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.9933	Gnr		Richard William	THORNE	7 Cdn Med Regt RCA
B.44939	Gnr		Francis Richard	WILKS	7 Cdn Med Regt RCA

CERTIFIED TRUE COPY
[signature]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 17 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 33/78 T 33/79 W

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is~~ (are) brought before the Court. At 1430 hours trial commences. RGC

A4. The Prosecutor produces a Medical Certificate that accused ~~is~~ (are) fit to undergo trial by court-martial.(1) RGC
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2).~~ RGC
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~either~~ of the ~~m~~ Interpreter? Ans No RGC
The Interpreter is sworn.(1) Do you object to L.25618 S/Sgt 7 Cdn Med Regt as shorthand writer? Ans No RGC
The shorthand writer is sworn.(1) Shepherd, HQ A Tps Area
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Both Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major R.G. Cowan	3 Cdn Med Regt RCA
Member	Capt R.H. King	3 Cdn Med Regt RCA
Member	Capt J Lamy	4 Cdn Med Regr RCA
Judge-Advocate	Maj R.F. Willson	HQ A Tps Area First Cdn Army
Prosecutor	Capt C.C. Locke	3 Cdn Med Regr RCA
Defending Offr	Lieut G. Geoffrion	4 Cdn Med Regr RCA

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused Gnrs Thorne and Wilks before arraignment make~~s~~ (no) ~~a~~ plea. RGC
(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. Both The accused ~~is~~ (are) arraigned (separately) on all charges in the charge sheet.(1) Either The accused ~~does~~ (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. RGC
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D" and "E"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.). As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do either you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1) RGC
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s) (2). The Court is closed, and considers the submission(3). The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? RGC
Both Ans Do neither ..... Do you intend to call witnesses on your behalf ? RGC
Both Ans No ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if ~~Guilty~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) RGC
~~On the President announcing that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2) RGC
(1. *AA 54(3) (6). RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do either or both of you wish to give evidence yourself or to call any witnesses as to your character ?(1) RGC
Ans by both accused. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (~~the~~) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex DEF&G ~~and for the purpose of sentence~~(3). RGC
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas HO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RGC

CHARGE SHEET

The accused, B44939 Gnr Wilks P.R. and B99333 Gnr Thorne R.W. 7th Cdn Med Regt RCA, soldiers of the Cdn Army Overseas, are charged with:

First Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY WITH AGGRAVATION, (CONTRARY TO SEC 23 (1) OF THE LARCENY ACT 1916)

in that they,

In the Field, in GERMANY, on the evening of 3 May 1945, when armed with rifles robbed JOHN FISHER, an inhabitant of GERMANY, of a watch and a purse containing a ring and a sum of money, at VERSMUIREN, GERMANY.

Second Charge
(Alternative)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that they,

In the Field, in GERMANY, on the evening of 3 May 1945, fraternised with inhabitants of GERMANY in a German private house at VERSMUIREN, GERMANY, by visiting and having refreshments with said inhabitants of said house.

In the Field
7 May 45

J.P. Hazard
(F.P. Hazard) Lt-Col.,
C.O., 7 Cdn Med Regt RCA.

APPROVED FOR TRIAL ON BEHALF OF THE JAG OVERSEAS PURSUANT TO KR(CAN) 540 AND OVERSEAS ROUTINE ORDER 4756(13).

In the field
13 May 45

(R.F. Willson) Major
DJA
A Tps Area, First Cdn Army.

COPY

R G C

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.9933	Gnr		Richard William	THORNE	7 Cdn Med Regt RCA
B.44939	Gnr		Francis Richard	WILKS	7 Cdn Med Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 May 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an Ordinary General Court-Martial, and that it is not practicable to delay the trial for reference to a superior authority; AND~~ W C L

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a FD Offr as President, (c) the number of officers stated herein.~~ W C L

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R.G. Cowan	3 Cdn Med Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R.H. King	3 Cdn Med Regt RCA
Capt	J. Lamy	4 Cdn Med Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	P.R. LOMAS	1 Hy Regt RA

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	R.F. Willson	HQ A Tps Area, First Cdn Army

On Active Service in the Fd

in Germany (Country.)

"W.C. Leggat" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Dat 13 May 45

(W C Leggat)
Commanding 2 Cdn AGRA
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (6142)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS' REPORT RCC

I certify that No.B.9933 Gnr Thorne R.W. of 7 Cdn Med Regt RCA is in a good state of health and fit to undergo trial by court martial

In the field
17 May 45.

"H.Hamer" Capt.
Medical Officer

RCC

MEDICAL OFFICER'S REPORT

I certify that No.B.9933 Gnr Thorne R.W. of 7 Cdn Med Regt RCA is in a good state of health and fit to undergo trial by court martial

In the field
18 May 45

"H. Hamer" Capt.
Medical Officer.

MEDICAL OFFICER'S REPORT RCC

I certify that No.B.44939 Gnr Wilks FR of 7 Cdn Med Regt RCA is in a good state of health and fit to undergo trial by court martial

In the field
17 May 45

"H. Hamer" Capt.
Medical Officer.

MEDICAL OFFICER'S REPORT RCC

I certify that No.B.44939 Gnr Wilks FR of 7 Cdn Med Regt RCA is in a good state of health and fit to undergo trial by court martial

In the field
18 May 45

"H. Hamer" Capt.
Medical Offficer.

JA: Do either of the accused feel that their interests are being prejudiced in any way by being tried jointly?
Def: No sir.

JA: You have both elected the same Defending Officer. Do you feel that your interests are in any way prejudiced by having the same Officer defending each of you?

Defending Officer questions the two accused and both wish to have Lieut Geoffrion defend them.

FIRST WITNESS for the Prosecution, Lieut H. Geldard, 7 Cdn Med Regt having been duly sworn, is questioned by the Prosecutor:

Q. You are Lieut H. Geldard of the 7 Cdn Med Regt RCA?
A. That is right.

Q. Do you remember the evening of 3 May last?
A. Yes.

Q. Will you please tell the court what happened that evening touching the matters in question?
A. The evening of 3 May 45 around 2130 hrs I was in "P" Bty Command Post when an excited German civilian came in and with the aid of an interpreter told me that three Canadians were causing a disturbance in a house. I proceeded with him and a small party including BSM Maskery and an interpreter, Gnr Ruhl, and one driver. We proceeded to the house. When we arrived, there was a kitchen in which were a party of German civilians, probably half a dozen, all very excited and nervous. Standing in the door-way leading into a hall were two soldiers with rifles. I went up and asked them who they were and one of them said he was from 7 Medium Regiment. I asked them if there were just two of them or if there was a third one. They said just two but the German civilian who accompanied us said there was a third one upstairs.

Q. Do you recognize these men of whom you speak?
A. Yes. (Indicates the accused). I then proceeded upstairs and when I came down I sent the Sgt-Major with the two men down to "Q" Bty lines and placed them under arrest.

Q. Could you tell if these men had been drinking?
A. Yes, they had been drinking.

Q. In your opinion were they drunk?
A. I would say they were.

Q. When you were in the kitchen were you given anything by anyone?
A. Later on, after we found the third man, I was given a .303 bullet that had not been fired but which they claimed had been ejected from the rifle.

Q. Who gave you this?
A. One of the civilians.

Four civilians were escorted before the court and Lieut Geldard states that either Frau Busemann or Herr Fisher gave him the bullet.

Q. Do you recognize the other two civilians here?
A. No. They may have been there. I will not swear to it.

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Cross-examined by the Defending Officer

Q. How were these two soldiers carrying their rifles?
A. One was slung over the shoulder and the other held his by his side.

Q. Exactly how?
A. Loosely in his hand.

Q. Which one had it slung and which one had it in his hand?
A. I believe Gnr Wilks had it in his hand.

Q. You are not sure which was which?
A. No.

Questioned by the Court:

Q. What time did you go into the house?
A. It was 2130 in the Command Post when the civilian arrived. Later in the house, there was a clock upstairs which stated twelve o'clock. I did not have a watch of my own.

Q. How many civilians were in the room you called the kitchen when you entered?
A. About six.

Q. Among those six, the two you identified today?
A. Yes.

Q. What did you notice in the way of furnishings in that room when you entered?
A. There was a table in the kitchen where they had been eating and they were sit ing around at one end of the table. The door where the two men were was right opposite me.

Q. What was on that table?
A. There was food and cups that had been used.

Q. Where were the two accused persons standing when you entered?
A. In the doorway leading to the hall at the foot of the stairs.

Q. Did you see them at the table?
A. No, I did not.

In the opinion of the JA and the Court is is not necessary to comply with RP 83(B).

SECOND WITNESS for the Prosecution, Frau Helena Busemann having been duly sworn, is questioned by the Prosecutor:

Q. What is your name, where do you live and how old are you?
A. Frau Helena Busemann, Veenhuizen, Germany, 27 years old.

Q. Are you a German civilian and inhabitant of Germany?
A. I am.

Q. Do you remember the night of the 3 of May last?
A. Yes, I do.

Q. Start at the beginning telling the court what you remember.
A. On the evening of 3 May 45 approximately half past nine in the evening I heard a knocking on the door and saw three soldiers. I answered "I will open up. I opened the door and the soldiers demanded Schnapps and wine.

Q. Do you see anyone in the room now whom you saw on the night of 3 May?
A. I recognize this soldier (indicates Gnr Thorne).

...../3

Q. Anyone else?
A. I am not sure. I think the second soldier on the left also, but I do not know. (Indicates Lieut Geoffrion).

Q. After the soldiers asked for Schnapps and wine what did they do?
A. I went upstairs to call Frau Richter as she spoke a little English. One of the soldiers came upstairs with me. Frau Richter handed me a bottle of schnapps.

Q. Before you went upstairs did you see where the other two soldiers went?
A. The two soldiers remained downstairs.

Q. After you saw Frau Richter what did you do?
A. I left the room and went to the bedroom of Frau Richter. Frau Richter showed the soldier her children. I remainded in the bedroom. I did not know what to do. I could hear that the soldier did not want to leave the kitchen but I left the room
Q. through the window.

Q. Why did you not go downstairs again?
A. I thought I could not pass those two that were making eyes outside and I was afraid and I remained in the room.

Q. How did you get down from the bedroom?
A. I jumped out of the window.

Q. Then what did you do?
A. I went around the house and stood outside of the window leading to the kitchen downstairs and waited for about five minutes. My brother, sister, father and mother were inside of the kitchen.

Q. Could you hear any noise?
A. I could hear people drinking something from cups.

Q. Could you see anything going on through the kitchen window?
A. They were sitting around the table on chairs.

Q. Were there any soldiers in the kitchen?
A. Two soldiers.

Q. What were these soldiers doing?
A. They said "good tea and good coffee" and I went in the kitchen afterwards.

Q. What did you do when you got in the kitchen?
A. The soldiers looked at me and I sat down.

Q. What was Herr Fisher doing?
A. He was sitting on the chair.

Q. Did the soldiers bring anything into the kitchen with them?
A. They had two rifles.

Q. When you went into the kitchen did you see these rifles?
A. Yes I did.

Q. Where were they?
A. The soldiers had the rifles with them.

Q. Did you see them do anything with the rifles?
A. Yes.

Q. What?
A. They pointed the rifles first at my brother and Herr Olstendorf.

...../4

Q. Did they do anything else?
A. Also my father, and all had to hold their hands over their heads.

Q. Who had their hands above their heads?
A. My brother, Herr Olstendorf, my father and I do not know about my sister.

Q. How were these people holding their hands? Please demonstrate.
A. She places her hands on top of her head.

Q. Did the soldiers do anything else with their rifles?
A. They cocked their rifles several times and a few rounds fell out. Two in the kitchen and one in the small room next to the kitchen.

Q. What were they doing with their rifles when they cocked them?
A. They pointed their rifles.

Q. At whom?
A. At my brother, Herr Olstendorf and my father.

Q. Did they say anything to you?
A. They asked me what was the matter with my eyes and I said "keep quiet".

Q. Did they say anything to anyone else in the room?
A. They spoke all the time but I do not understand English.

Q. Was there anything on the kitchen table at this time?
A. Cups with tea and milk.

Q. Did any of the civilians in the room give the soldiers anything?
A. One soldier demanded the watch of my father.

Q. What did this soldier do?
A. They also demanded the purse from Her Olstendorf and my brother.

Q. What is the name of your father?
A. John Fisher.

Q. What is the name of your sister?
A. Frau Freda Soor.

Q. What is the name of your brother?
A. Gert Fisher.

Q. After the soldier asked for your father'w watch did he do anything about it?
A. He took the watch and put it in his pocket.

Q. From whom did the soldier take the watch?
A. My sister took the watch out of my father's vest and handed it over to the soldier.

Q. What else did you see the soldier's do?
A. One of the soldiers picked up the bread knife from the table and made a movement across his throat.

Q. Did the soldiers then do anything else?
A. He stabbed the knife back into the plate.

Q. What did the soldiers do after that?
A. One of the soldiers left the room with the bread knife for upstairs.

Q. Anything else?
A. The second soldier locked up the door took his rifle again and pointed it against my brother and Herr Olstendorf.

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Q. Which of the soldiers that you identified in this room pointed his rifle?
A. I think this soldier left the room with his rifle (indicates Gnr Thorne).

Q. What did the soldier do after this?
A. The second soldier returned to the room and the first soldier opened the door for him.

Q. Then what did you do?
A. They locked the door again and took a seat in front of the other door leading out the house.

Q. What did they do next?
A. They pointed their rifles again at my brother, Herr Olstendorf and called us Nazis and saying we were SS. They didn't point their rifles at me.

Q. What did you do after that?
A. We all cried and told them not to shoot and they laid their rifles on the table.

Q. What did they do after they put their rifles on the table?
A. They were asking my sister and myself to come outside.

Q. Did you do anything?
A. This soldier (indicates Gnr Thorne) took my sister into the next room but my sister cried and struggled and my mother pulled her back into the kitchen.

Q. Then what did they do?
A. One soldier sat down by my mother near the kitchen door.

Q. Then what did the two soldiers do?
A. One of the soldiers left for upstairs again. They did that several times.

Q. And after that?
A. After that my mother left the house.

Q. And then?
A. One of the soldiers asked for my mother and where she went.

Q. Please tell the court what the soldiers did next?
A. Herr Olstendorf left the room.

Q. What did the soldiers do next?
A. They were excited and were asking where Herr Olstendorf went.

Q. What did they do next?
A. One of the soldiers was playing around with his fountain pen but we did not know what they wanted. I thought he wanted to write something.

Q. Then what?
A. The second soldier left for upstairs again.

Q. They what did they do?
A. The one soldier which remained pointed his rifle against us again.

Q. Do you know which soldier pointed his rifle?
A. The shortest one.

Q. Then what did the soldiers do?
A. The second soldier came back into the kitchen.

Q. Then?
A. Shortly after this appeared the other soldiers.

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Q. What do you mean by the other soldiers?
A. The helpers, the officer and two or three more.

Q. What did they do?
A. The two soldiers in the kitchen were astonished how these people got there.

Q. Then?
A. We told them our story and handed over the rounds of ammunition which we found on the floor.

Q. What did the two soldiers do then?
A. I do not know what they were speaking or what they did.

Q. Did you see them again?
A. They were standing around for awhile between the kitchen and the hall way door.

Q. And then did you see them do anything?
A. No.

Q. At about what time did the officer and the soldiers arrive?
A. Approximately quarter to one.

Q. How long do you think these soldiers had been in the kitchen?
A. I figure from half past nine until half past twelve.

Q. Did any one else in the room give the soldiers anything else besides a watch?
A. Herr Clistendorf and my brother gave their pocket books but we found them later on again.

Q. You said there were tea cups on the table. Did you see anyone during the evening drink?
A. My sister filled up the cups.

Q. Did anybody drink from the cups?
A. I saw the shortest one drink from the cup and I saw milk on his lips.

Q. Did you see anyone else drink anything or eating?
A. One soldier was eating a little bit of bread but it did not taste good.

Q. Can you point out the soldier who was drinking or eating?
A. I think so (identifies Lieut. Geoffrion).

Cross-examined by the Defence:

Q. Am I the short soldier who pointed a rifle at you?
A. I am not sure. He was the shortest one and I can identify him for sure.

Q. Can you identify the tall one for sure?
A. Yes. I remember his face (indicates Gnr Thorne).

Q. Where were you when the watch was taken from your father?
A. I was sitting beside my sister and my father.

Q. Do you remember an enquiry on this matter?
A. It was approximately the same as what I told the court now.

Q. In that enquiry did you not say "My father told me that he had been robbed by two soldiers while I was out?"
A. Yes, he said that afterwards.

Q. Were you in or out when the robery was committed?
A. I was upstairs. That was in the very beginning.

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Re-examination by the Prosecution:

Q. Were you in the room when your father's watch was taken?
A. Yes.

Q. What room were you in when your father told you that he had been robbed?
A. Also in the kitchen.

Q. Did your father tell you what had been taken from him?
A. Yes.

Questioned by the Court:

Q. How did the soldiers make themselves understood when they asked you what was wrong with your eyes?
A. I indicated that I had something wrong with my heart and that I was sick.

Q. How did you know what they meant?
A. I think the soldier saw that I did not look well and that something must be wrong with me.

Q. Did the soldiers speak in German or English?
A. In English.

Q. Do you understand English?
A. No.

Q. How did you understand what the soldiers were talking about?
A. I could really not understand anything else except the schnapps and coffee. I was just thinking. I think the soldiers thought I looked very bad and sick because I just had jumped out of the window.

Q. Do you remember telling the court that the soldiers noticed something about your eyes? What was that?
A. I said I was sick and I have something wrong with my heart.

Q. Was there anything wrong with your eyes that night?
A. Maybe I looked kind of sick because I am pregnant for four months already.

Q. You have told the court that the pocket books were later found. Were you in the room when the pocket books were found?
A. Yes.

Q. Where were the pocket books found?
A. I found my brother's on the floor and I found Herr Olstendorf's lying on the dupboard in the kitchen.

Q. Was your father's pocket book recovered?
A. No.

Q. Do you stay at the home of John Fisher?
A. Yes.

Q. Are you his daughter?
A. Yes.

The Prosedutor announces that the witness Herr Olstendorf is not available. The defence states that he does not require the production of the witness for cross-examination. The prosecutor states that he has served notice under RP 7(6) to the defence that he intends to produce Frau Soor in lieu of Herr Olstendorf. The Defending Officer accepts this and states that he has no objection.

THIRD WITNESS for the Prosecution, Frau Freda Soor, having been duly sworn is questioned by the Prosecutor:

...../8

Q. What is your name and how old are you?
A. Frau Freda Soor, 32 years old.

Q. Are you a daughter of Herr Fisher?
A. Yes.

Q. Do you live in his house?
A. No.

Q. Are you a German civilian and an inhabitant of Germany?
A. Yes.

Q. Do you remember the night of 3 May last?
A. Yes.

Q. Starting at the beginning will you tell the court what you remember about that night?
A. Three soldiers came in the kitchen.

Q. Do you recognize in this room any of the soldiers that came to your kitchen that night?
A. Witness identifies Gnr Thorne and Lieut Geoffrion.

Q. Where were you at this time?
A. In the kitchen of my father's house.

Q. Was there anyone else in the kitchen with you?
A. My father, my mother, my brother, Herr Olstendorf and my sister.

Q. Are Herr Fisher and Frau Fisher your father and mother?
A. Yes.

Q. Is Gert Fisher your brother?
A. Yes.

Q. Is your sister Frau Helena Busemann?
A. Yes.

Q. Did you see the three soldiers come into the room?
A. Yes.

Q. Were these soldiers carrying anything?
A. Two of them had rifles.

Q. What did the soldiers do?
A. First of all they demanded Schnapps.

Q. Then what?
A. And they wanted to shoot us.

Q. Please explain what you mean by that last phrase "they wanted to shoot us."
A. We had no Schnapps and they demanded schnapps or they would shoot.

Q. What did the soldiers do?
A. They were cursing us and threatening us and made us hold our hands above our heads.

Q. Did they do anything with their rifles?
A. They opened their bolts, loaded their rifles, unloaded their rifles and some rounds fell on the floor.

Q. Did they do anything else with their rifles?
A. No they just pointed their rifles at us and it looked like they would shoot at any minute.

Q. At whom did they point the rifles?
A. First at my brother and Herr Olstendorf, my father and also at me.

Q. How many soldiers threatened you?
A. Two.

Q. What happened to the other of the three soldiers?
A. He went upstairs right away to Frau Richter.

Q. You have said that the soldiers made you put your hands on top of your heads. Who made you do this?
A. My brother, Herr Olstendorf and myself.

Q. Did the soldiers ask for anything else besides Schnapps?
A. Yes, tea and coffee.

Q. Did they get any tea and coffee?
A. Yes.

Q. What did they do with the tea and coffee?
A. They drank the tea and one of them drank milk too.

Q. Did the soldiers ask for anything else besides schnapps, tea and coffee?
A. They asked for the time.

Q. Did they ask for anything else?
A. No.

Q. After the woldiers made you sit with your hands above your heads what did they do then?
A. They opened their bolts, loaded their rifles and aimed at us.

Q. Did the soldiers make anyone in the room do anything?
A. They laid their rifles on the table and indicated with their fingers to come outside. I was already in the next room but my mother pulled me back.

Q. Did the soldiers make you do anything else?
A. No. I could also not understand what they wanted.

Q. Did the soldiers ask your father for anything?
A. Yes. They asked for my father's watch and they were aiming the rifle at me so I took my father's watch out and handed it over to one of the soldiers.

Q. From where did you take your father's watch?
A. From the pocket of a vest which hung on the chair in the kitchen.

Q. Did your father have the vest on at the time?
A. No, he wanted to go to bed.

Q. Did the soldiers ask for anything else from anyone in the room?
A. I do not remember that.

Q. You have said the soldiers pointed their rifles at the persons in the room. Did they threaten you in any other way?
A. No.

Q. Did they ask Herr Olstendorf for anything?
A. For his purse.

Q. Did they ask anybody else for a purse?
A. And my brother too.

Q. What did they do?
A. They searched the pockets.

Q. Did you see either of the soldiers in the room now point their rifles at anyone?
A. I say the soldiers only one time and the light was not very good, and I am not sure now.

...../10

Q. I produce a watch for identification. Can you identify it?
A. Yes, it is my fathers (Exhibit received in evidence and marked Exhibit "A", for identification only).

Q. After you had given the watch to the soldiers what did they do?
A. They put the watch in their pocket.

Q. And after that?
A. All the things which they had in their pockets they took out and looked them over.

Q. And what did they do with the rest of the time they stayed in the kitchen?
A. They were sitting and also cursing and I don't know any more.

Q. How long did the soldiers tay in the kitchen?
A. Three hours.

Q. Why did the soldiers go?
A. Herr Olstendorf went to get some other soldiers and they took them back to their quarters.

Q. What did the soldiers do with the pocket books which they took from Herr Olstendorf and your brother?
A. There was no money in them and they gave them back.

Q. Was your father sitting in the chair on which his vest was hanging?
A. No I was.

Q. Where was your father at this time?
A. Next to me on a chair.

Q. Why did you give these soldiers your father's watch?
A. They threatened to shoot me.

Cross-examined by Defending Officer:

Q. When the soldiers took your father's watch where was Frau Busemann?
A. In the kitchen and she helped me loosen the chain. We were so excited we didn't know what to do.

Q. Which of the two soldiers asked for the watch?
A. Witness indicates Lieut Geoffrion.

Q. Which of the two soldiers pointed the rifle at you?
A. Witness indicates Lieut Geoffrion.

Q. Which of the two soldiers took the watch?
A. Witness indicates Lieut Geoffrion.

Q. What was the other soldier doing at this time?
A. He went upstairs.

Q. Where was the third soldier?
A. He was always upstairs until the officer and the other men came.

Q. How many soldiers were in the room when your father's watch was taken?
A. I think two. I am not sure about it any more.

Q. You just said the other soldier went upstairs. Will you tell the court whether he was upstairs or downstairs when your father's watch was taken?
A. I can't remember now. It is quite a long time already. I was so excised and afraid and can't remember every detail.

Q. Do you remember whether Frau Busemann was upstairs or downstairs when the watch was taken?
A. She was present and helped me undo the chain from the button whole of the vest.

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Q. At the time your father's watch was taken were there at least two soldiers in the room?
A. I don't remember exactly.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B)

FOURTH WITNESS for the Prosecution, Herr John FISHER, having been duly sworn is questioned by the Prosecutor:

Q. You are Herr John Fisher and you live in Veenhuizen, Germany?
A. Yes.

Q. You are a German civilian?
A. Yes.

Q. Do you live in Germany?
A. Yes.

Q. Is Frau Fisher your wife and are Frau Busemann and Frau Soor your daughters?
A. Yes.

Q. Is Gert Fisher your son?
A. Yes.

Q. Do you remember the evening of 3 May last about 9 o'clock?
A. Yes.

Q. What happened?
A. They knocked on the outside door?

Q. Who is "they".
A. The shortest one of the soldiers.

Q. Is there anyone in the room now who you saw on the evening of 3 May?
A. The witness identifies Gnr Thorne and Gnr Wilks.

Q. Are these the soldiers that came to your door that evening?
A. Yes, I think the two soldiers were there.

Q. Where did you meet the soldiers first?
A. I came out of the barn which is part of the house and my daughter Frau Busemann went upstairs to Frau Richter.

Q. What was the first thing you saw the soldiers do?
A. The first soldier grabbed in my trouser pocket and pulled out my purse and he also asked for wine and shcnapps.

Q. Which of these men took the pocket book from you?
A. Witness identifies Gnr Wilks.

Q. In what part of the house did this soldier take the pocket book from you?
A. In the wash kitchen. Thatis the small room beside the kitchen.

Q. Was there anyone in the big kitchen at this time?
A. Yes. My wife, Herr Olstendorf, Frau Soor, Frau Busemann and the two soldiers.

Q. At the time the soldiers took the pocket book from you was there any one else with you in the wash room?
A. No civilian people. The two soldiers came one behind the other.

Q. Why did you let the small soldier take your pocket book?
A. I cannot protect myself. I wanted to take it back but they would not give it to me.

...../12

Q. Where did you got after they had taken your pocket book?
A. In the kitchen.

Q. What was the first thing the soldiers did in the kitchen?
A. They demanded Schnapps and wine.

Q. What did they do after that?
A. We did not have any schnapps or wine so they called us all Nazis.

Q. Did they point at anyone?
A. They were pointing their rifles at us.

Q. Did they make any of you do anything then?
A. They made us put our hands over our heads.

Q. What persons were forced to put their hands over their heads?
A. All of us.

Q. Which of these two soldiers pointed their rifles at you?
A. Especially the smallest one of the two (indicates Gnr Wilks).

Q. Did the other one do it also?
A. I am not so sure about the other one. The small one (Gnr Wilks) also locked the door.

Q. After the soldiers asked for Schnapps and wine did they then ask for anything else?
A. They drank milk and coffee which were on the table.

Q. Did they ask for anything else?
A. No.

Q. Can you identify this watch?
A. That is my watch.

Q. Where did you see it last?
A. In the pocket of my vest hanging on the chair.

Q. How did you come to lose it?
A. They demanded the watch and my daughter Frau Boor gave it to them.

Q. When you say "they" who do you mean?
A. The smallest one of the two (Gnr Wilks).

Q. Why did you let them take your watch?
A. I was defenceless. What could I do?

Q. You have said that the soldiers pointed their rifles at you? Did they do anything else with the rifles?
A. They opened the bolt and closed it again and some of the rounds fell on the floor.

Q. After the soldiers had taken your watch what did they do next?
A. The smallest one of the soldiers laid my money purse on the table and looked over what was in it.

Q. What was in your purse?
A. 20 mark note, 5 marks, a ring and also several 10 mark notes but I do not know how many.

Q. What did the soldier do with this purse after he had looked through it?
A. He put it back in his pocket.

Q. Have you ever seen your purse since then?
A. No.

Q. What did the soldiers do the rest of the evening?
A. Herr Olstendorf went to get some help.

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Q. Did Herr Olstendorf come back with anyone?
A. Yes, with an officer.

Q. What did the soldiers do then?
A. They were quiet.

Q. Did they go away?
A. Yes.

Q. How long altogether do you think the two soldiers you pointed out were in the kitchen?
A. From ten o'clock until half past twelve.

Q. At the time your daughter took the watch from your wrist did either of the soldiers do anything?
A. No.

No cross-examination by the Defence.

Questioned by the Court:

Q. Why did your daughter give the soldiers the watch?
A. They demanded the watch.

Q. How did they demand the watch?
A. They said "oor, oor".

Q. Is that all they did?
A. I do not know any more.

Q. What did the other soldiers do when the shorter soldier took this watch?
A. He stood in front of the door which is leading to the stairway.

Q. Is this all he did?
A. I don't remember now whether he pointed his rifle or not.

Q. What did he when the shorter fellow was taking the pocket book?
A. He did nothing.

Q. Where was he?
A. They both came through the door and the second soldier followed the shorter soldier who took my watch.

Questioned by the Prosecutor through the Court:

Q. How long was it after the soldiers had pointed their rifles and called you Nazis did the soldier take the watch?
A. It was between ten o'clock and one o'clock.

Questioned by the Defence through the Court:

Q. Was the watch taken before or after the accused had pointed their rifles at you and called you Nazis?
A. They did that several times, pointing their rifles at the people.

Q. Was the first time they pointed their rifles and called you Nazis before or after the watch was taken?
A. It could have been the first time when the soldiers pointed the rifles.

Q. Is it not true that when the watch was handed over to the soldiers they had not yet pointed their weapons at you?
A. I do not know that.

In the opinion of the JA and the Court it is is not necessary to comply with RP 83(B)

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FIFTH WITNESS for the Prosecution, Frau Fisher, having been duly sworn is questioned by the Prosecutor:

Q. You are Frau Fisher, the wife of Herr Fisher of Veenhuizen and are an inhabitant of Germany?
A. Yes.

Q. Do you remember the evening of 3 May?
A. Yes.

Q. Did anyone come to your house that night?
A. Yes.

Q. Who?
A. Two soldiers.

Q. Do you see these two soldiers in this room now?
A. Witness identifies Gnr Thorne.

Q. What did the soldiers do?
A. They wanted us to open up our door.

Q. They what did they do?
A. They demanded schnapps and wine.

Q. And then?
A. Also tea and milk.

Q. What did they do with the tea and milk?
A. They drank tea and milk.

Q. Where did they drink the tea and milk?
A. In the kitchen.

Q. Were the soldiers carrying anything when they came to your house?
A. They had rifles in the kitchen.

Q. Did they do anything with the rifles in the kitchen?
A. They threatened to shoot us with the rifles.

Q. You have said the soldiers asked for wine, schnapps, tea and coffee. Did they ask for anything else?
A. No.

Q. After the soldiers threatened you did they make you do anything?
A. Not myself but my husband had to sit with his hands above his head.

Q. Do you recognize this watch?
A. Yes.

Q. Whose is it?
A. My husbands.

Q. Do you know how your husband lost it?
A. My husband had the watch in the pocket of his vest hanging on the chair and my daughter Frau Soor took it out and handed it over to the soldier.

Q. Was this before or after the soldiers threatened you with their rifles?
A. They threatened us before and afterwards.

Q. How long did the soldiers stay in the house?
A. From half past nine until half past twelve.

Q. Did you see the soldier whom you identified in this room take the watch or point a rifle at anyone in the room?
A. The soldier on ghe right pointed his rifle, also the one beside him.

...../15

Q. You have identified one soldier for us. Do you now recognize in the room any one else that you saw on that evening?
A. Recognizes Gnr Wilks and asks the interpreter if that is right.

Q. Was any soldier pointing a rifle at anyone in the room at the time the watch was being taken?
A. I am not sure about pointing the rifles at the same time when the watch of my husband was taken.

Questioned by the Defence:

Q. Did you see with your own eyes the watch being taken?
A. No I could not swear to that.

Q. Did you see the watch being taken?
A. No I did not.

Q. How did you know it had been taken?
A. I did see the soldier take the watch, put it on the table, take it up and lay it on the table again.

Q. Answer yes or no. Is it not true that you found out that the watch had been taken because someone told you?
A. Yes.

Re-examined by the Prosecutor:

Q. Did you see your daughter take the watch from your husband's vest?
A. Yes.

Questioned by the Defending Officer through the Court:

Q. Did you see the watch being handed over to the soldier by your daughte
A. Yes I did see that.

Questioned by the Court:

Q. Did both of the soldiers have rifles?
A. Yes.

Q. Did both of the soldiers point rifles at you?
A. Yes, both of them did.

Q. How many soldiers were in the room downstairs when this was being done?
A. Two.

Q. How was that room lighted?
A. With a little gas lamp.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B)

The court adjourns at 1800 hrs.

The court reopens at 1900 hrs.

SIXTH WITNESS for the Prosecution, C.26232 BSM Maskery, N, 7 Cdn Med Regt, having been duly sworn is questioned by the Prosecutor:

Q. You are C.26232 BSM Maskery N of 12 Bty 7 Cdn Med Regt and you were so on 3 and 4 May of this year. Is that correct?
A. Yes.

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Q. On the evening of 3 May will you please tell the court what you did and saw touching the matters in question?
A. On 3 May 45 I went to a house where a disturbance had been reported. I was accompanied by Lieut Geldard and Gnr Ruhl. On arriving at the house all the civilians were in one room. I didn't see any soldiers in that particular room. I walked across the room and opened the door. On the other side of the door were two soldiers.

Q. Can you identify the two soldiers?
A. Yes. Indicates Gnrs Wilks and Thorne.

Q. You had some conversation with these men then what did you do?
A. I went upstairs accompanied by Lieut Geldard and Gnr Ruhl.

Q. What did you do after you went upstairs?
A. I had a conversation with Lieut Geldard and left at that time.

Q. Then what did you do?
A. I took the two accused to BSM Jermyn of "Q" Bty Lines. I put them under arrest before turning them over to him explaining the situation to BSM Jermyn.

Q. Were these man carrying anything when you saw them?
A. They were carrying small arms?

Q. What kind of small arms?
A. Rifles.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

SEVENTH WITNESS for the Prosecution, M.107068 Gnr Ruhl D, 7 Cdn Med Regt RCA having been duly sworn is questioned by the Prosecutor:

Q. You are M.107068 Gnr Ruhl D of the 45 Bty 7 Cdn Med Regt RCA?
A. Yes.

Q. On the evening of the 3 May would you tell the court what you know touching the matters in question.
A. I entered the house with Mr Geldard and we saw two soldiers with rifles. The civilians seemed quite upset and scared of the whole thing.

Q. What room of this house did you go into?
A. It was the kitchen we were in.

Q. Was there anyone else in the kitchen?
A. The civilians were in the kitchen.

Q. About how many?
A. That I couldn't say for sure.

Q. You say you saw two soldiers. Do you see either of those two soldiers in the room at present?
A. I couldn't identify them sir.

Q. Where were these soldiers when you saw them?
A. They were standing in the doorway to an adjoining room from the kitchen.

Q. The officer asked them where the third one was. What did they reply?
A. I don't know whether they said he was upstairs or whether the civilians said that.

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Q. What did you do then?
A. We proceeded upstairs, Mr Geldard and myself.

Q. Was anyone else with you?
A. I think one of the civilians went up. I didn't take notice.

Q. What was the general attitude and demeanour of the civilians in the kitchen?
A. Some of the women were crying. They seemed a little scared.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

EIGHTH WITNESS for the Prosecution, A.31008 BSM JERMYN, E.L. 7 Cdn Med Regt having been duly sworn is questioned by the Prosecutor:

Q. You are A.31008 BSM JERMYN EL of the 45 Bty 7 Cdn Med Regt?
A. Yes.

Q. Do you remember the 3 of May last?
A. Yes.

Q. Will you tell the court what you remember of the night in question?
A. On the night of 3 May 45 during the hours of 2330 and 2359 Sgt-Maj Maskery came to "Q" Bty lines and informed me two of my men were under arrest. He turned Gnr Wilks and Gnr Thorne over to me and I placed them under the guard of Gnr Diebel and Gnr Horsman.

Q. What happened to the two men then?
A. They were held at "Q" Bty lines while I proceeded with S/M Maskery.

Q. I show you a watch, Exhibit "A", another watch and a knife. Have you ever seen these articles before?
A. I have sir.

Pros: I ask that the watch be identified as Exhibit "B" and the knife as Exhibit "C".

Q. Will you please tell the court when you first saw the articles?
A. On May 5 at 1230 hrs Gnr Diebel came to me with an envelope. It contained the articles known as Exhibit "A","B" and "C".

Q. Can you recognize Gnr Wilks and Gnr Thorne in the room now?
A. Yes sir.

Q. Will you point to them please?
A. Identifies the accused.

No cross-examination by the Defence.
In the opinion of the JA and Court it is unnecessary to comply with RP83B.
NINTH WITNESS for the Prosecution, A.33152 Gnr Diebel, D.A. 7 Cdn Med Regt, having been duly sworn is questioned by the Prosecutor:

Q. You are A.33152 Gnr Diebel D.A. 45 Bty 7 Cdn Med Regt?
A. Yes sir.

Q. Do you remember the night of 3 May last?
A. Yes.

Q. Will you please tell the court what you know touching the matters in question?
A. On May 3 while on guard duty I went on patrol. I imagine between 1130 and 12 a jeep came into the yard which we halted. I recognized S/M Maskery's voice. He got out and asked where BSM Jermyn was. I told him he was in bed and he asked me to take him to where he was sleeping. He got the Sgt-Maj up and got these two soldiers in out of the vehicle.

Q. Who do you mean "these"?
A. Thorne and Wilks.

Q. Can you recognize them?
A. Yes. (indicates accused).

Q. Then what did you do?
A. They talked for a few minutes and then they told me to take these two men into the office and keep them there until they came back. They came back but S/M Maskery was not with S/M Jermyn, but Sgt Griffiths was. We took the 15 cwt and took these two chaps down to C Tps Command Post.

Q. You and these two men were in the back of the 15 cwt?
A. Yes sir.

Q. Anyone else?
A. No sir.

Q. Then what happened?
A. Just as we got down there Gnr Wilks handed me a watch, another watch and a knife.

Q. I show you two watches and a knife which I have here. Have you seen them before?
A. They look very familiar sir. They are like the ones which were given to me.

Q. You are not sure whether they are the exact articles. Can you swear that they are?
A. I wouldn't like to swear to it. I have seen watches like these before but they are identically the same as were handed to me.

Q. And then what did you do?
A. The vehicle had stopped by this time and they were taken into the comd post and handed over to the officer in charge of the comd post at the time.

Q. Subsequently did you do anything with these two watches and a knife that I just showed you?
A. I just kept them. As a result of something I heard I went to contact the Sgt-Major. He was still away but when he came back at 1230 I handed these articles to him.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

The Prosecution is closed.

The Court: Does the Defence plan on making any motion?
Def Offr: No sir.

The court will adjourn until 0930 hrs tomorrow morning.

The court re-opens at 0930 hrs 18 May 45.

Prosecution sums up:

The Prosecution has to prove the following: The feloneous and forcible taking from therperson or in his presence against his will any money or goods of any value by violence or putting him in fear. The Prosecution must prove that. I submit that the Prosecution has proved that in this case. First under feloneous and forcible taking we have evidence that Frau Soor took the watch in question under compulsion. She has said that she was afraid. Frau Fisher, the wife, said that the men played with the watch and passed it back and forth. And while she was not clear what happened to it after that, the watch was later found in the possession of Wilks who handed it to Diebel who gave it to the BSM so that the possession of the watch is proved to have been that of Wilks.

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The wallet containing the ring and money was taken directly from Herr Fisher and he said he saw Wilks put it in his pocket. Second point, from the person in his presence or againsthis will. The wallet was taken from Herr Fisher's pocket from his person. The watch was taken in his presence and when asked why he let this go on he said because he was defenceless which I say is against his will. As the offence is robbery with aggravation the carrying of an offensive weapon is required to be proved. The prosecution submits that there is ample evidence of the use of these weapons. Frau Soor and Frau Busemann say they were afraid and that the men threatened to shoot them. Herr Fisher says he was defenceless and powerless. The circumstances of pointing a rifle at people and a forcing of placing their hands above their heads are circumstances calculated to produce fear in reasonable persons. The prosecution submits that the production of fear and the threatening was done prior to the act of taking the wach and the wallet as Herr Fisher has said in both cases that he was defenceless when asked why he handed over the articles, and I submit that the fear and the attitude of mind induced in these people extended from the time of the first threat through the whole transaction so that whether the watch was taken while the rifle was actually pointed at the daughter or at the old man is not material. Points in controversy:(1) Soldiers armed by order: It is a possible argument that these soldiers appeared with small arms on the scene because of an order saying that soldiers will carry small arms. This might be so in another set of circumstances but I submit that the actual offensive use of threats made with these weapons certainly cancel any argument which may be produced in this point. (2) Taking by Frau Soor: The fact that the accused did not take the watch directly from Herr Fisher I submit is immaterial as Frau Soor acting under compulsion is the act of the accused. (3) Credibility: I ask the court to believe, making allowances for age and obvious lack of memory of some of the witnesses, these witnesses. (4) Joint venture: These two accused were together and I submit that the act of one is the act of the other and whoever pointed the rifle and whoever took the watch is not material. They were both in it together and are both jointly responsible.

Fraternization: These men are charged in the alternative with fraternization and if the offence of robbery with aggravation is not proven I ask the court on the facts proved to find these men guilty of the offence of fraternization.

Defence sums up:

The principle thing in question in this trial is the degree of credibility of the civilian witnesses. There are certain very fine points which I intend to illustrate on which points it must be found beyond all reasonable doubt that the accused were guilty. I submit that the witnesses were not convincing enough to remove in the minds of the court all reasonable doubt on these points. First, I shall start with Gnr Wilks. In order to find Wilks guilty of aggravated robbery it must be proved that a robbery was committed and that the robbery was committed by Wilks. Therefore, all the evidence given during the trial which did not specify Wilks clearly can only be at the very best corroboration. It was necessary to prove on the part of Wilks certain threatening acts, threatening acts committed before the wallet and the watch were taken. I submit that threatening actions afterwards are immaterial. It is not even fair to link them up with the preceding transaction in view of the fact that there is evidence that the accused had been drinking. In view of the credibility of the witnesses I submit that itis not proved beyond a reasonable doubt that Wilks did take part in threatening actions against the victim prior to the alleged taking of the watch and wallet. It is proved that Wilks was carrying a weapon. Regardless of the statutory definition I submit that it must be proved that the carrying of the weapon was unlawful. The court can take judicial notice of a fact that it is the duty of a soldier to carry weapons at all times in Germany. The court must make this allowance because this is a case where it would be a miscarriage of justice to apply English civil law to a soldier in Germany. The

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English law was drafted on an assumption that people don't usually go around carrying arms. I submit that the court is within its rights in interpreting the law of England as applied to a soldier in this case.

In the case of Thorne. Should the court find that the robbery with aggravating circumstances or that a simple robbery was committed, it must also find that Thorne here took the objects alleged to have been stolen or helped some other person to do it. It is not the duty of the defence to prove that Thorne took no part, that Thorne did not assist in the robbery. I submit that there is no evidence that Thorne did take part in the robbery. Mere evidence of Thorne's presence in the house is not supplemented by evidence that he did something to aid the other solier before or during the taking of the valuables alleged to have been stolen. Evidence of Thorne's acts after the robbery or evidence of acts by Thorne which are not definitely situated as before or during and connected with the robbery cannot be used to convict Thorne. There is no evidence of common intent between Thorne and the other soldier. I submit the argument that there is a reasonable doubt of which Thorne must have the benefit. Thorne was carrying a rifle. The fact of being present in the same house at the same time as the other soldier and carrying a rifle, in view of the circumstances I have already pleaded with reference to carrying arms cannot be construed as an act of helping the other soldier.

Certain threatening acts with a rifle are alleged to have taken place by the soldiers or by one of the soldiers as variously stated by the different witnesses. I repeat that it is not proved beyond a reasonable doubt that those threatening actions were made by Thorne before or during the robbery. The civilian witnesses of the Prosecution are vague and uncertain on all these vital points and establish no more than the presence of Thorne in the house up until the time when the wallet was taken. They no more implicate Thorne as an accessory than they do implicate the third soldier mentioned in the evidence who was also in the house at the time of the robbery.

As regards fraternization. I wish to go over the subject matter of the second charge. First, I must remind the court that there is no offence of fraternization. There is only an offence of conduct to the prejudice. It follows that the second charge must be read like this: Conduct to the prejudice in that they first, fraternized with inhabitants of Germany, second, visited and had refreshments with inhabitants of Germany. I don't think that the presence of the two accused in the German house can be qualified as visiting. I am sure that the various alleged actions of drinking tea and coffee cannot be described as having refreshments with Germans. I don't deny that they may have had the refreshments but they had them certainly in spite of and without the German civilians and finally I submit that none of the things that went on during that night can be described as fraternization, or being friendly. The court may find that in the course of the evidence certain actions were proven that might be to the prejudice of good order and military discipline, but if those acts do not agree with the subject matter as charged, namely fraternization or friendliness by visiting Germans and taking refreshments with Germans they have no power to convict on the second alternative charge. That is all.

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Summing up by Judge-Advocate:

It is now my duty to sum up matters of law regarding the two charges here and if you feel it necessary, to review the facts. I do not feel it necessary to review the facts at the moment unless the court express a wish to that effect because the case has been held in a relatively short time and the evidence is, I am sure, fresh in the minds of the court.

The court are the sole judges of all questions of fact so that in the course of my remarks or if throughout the course of this trial I have indicated in any way what opinion I may hold regarding any of the facts which have been produced before you, you should disregard that.

The first charge here against the accused persons is under Sec 41 of the Army Act and is a charge to the effect that the accused persons committed a civil offence, that is to say, robbery with aggravation contrary to Sec 23(1) of the Larceny Act (1916). Now Sec 23(1) of the Larceny Act (1916) deals with the question of robbery, and it is this: If persons who being armed with any offensive weapon, instrument or being together with one other person or more, rob or assault with intent to rob any person shall be guilty of a felony and on conviction thereon liable to penal servitude for life and in addition if a male, to be once privately whipped.

The evidence to support the charge of robbery with aggravation such as we have here is the same as in ordinary cases of robbery with the additional proof that the prisoner at the time of the robbery was armed with an offensive weapon or instrument. The evidence which is necessary to support an ordinary case of robbery is taken from the definition of robbery and that is this: Robbery consists in the felonious and forceable taking from the person of another or in his presence against his will of any money or goods to any value by violence or by putting him in fear. Now if we break that definition down we find the elements of the crime which the prosecution must prove are these. First of all a taking. That is an actual taking either by force or upon delivery. It must be proved that the robbery actually got possession of the goods. The second element, that they must have taken either from the person of the victim or in his presence. You know of the facts here regarding this and you must apply this law to them. They must have been taken against the will of the victim. It must appear in the evidence that the goods were taken against the will of the party robbed. That is that they were here taken from him by force or violence or delivered up by him to the robber under the com ulsion of that degree of fear and apprehension which is necessary to constitute robbery. A necessary element of that offence is that of bodily fear. It must be proved that the victim was actually in bodily fear from the prisoners actions at the time of the robbery or circumstances must be proved from which the court may presume such a degree of apprehension of danger as would induce the victim to part with his property. It is of no importance under what pretence the robber obtains the goods if the victim was actually forced to deliver the goods from actual fear or in circumstances from which the court can presume it. Those are the elements of the offence of robbery.

As stated it is necessary in addition to prove in a charge of this kind that the accused at the time of the robbery were armed with an offensive weapon or instrument.

The court should first of all consider whether or not the elements of this crime have been proved. If so then have the particulars as set out in the charge been proved to your satisfaction.

You may feel, in this case, that both of the accused persons are not involved in these charges to the same extent and are not responsible in the same degree - in other words, that there was a senior and a junior partner. I should point out to you that when a person is

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responsible for an offence in that: (1) he was present at its commission and aids and abets its commission (2) he combined together with another person or persons for an unlawful purpose or for a lawful purpose to be effected by unlawful means or (3) he committed the offence at the instigation of another, he then, is equally responsible and liable to the same punishment as the principal offender.

Now regarding the second charge the accused are charged in the alternative with conduct to the prejudice of good order and military discipline in that they in the field in Germany on the evening of 3 May 45 fraternized with inhabitants of Germany. I believe it is fair to say that non-fraternization means having nothing whatever to do with the German people except the minimum contact required for the execution of military duty. It is possible to outline what are some examples of fraternization and some of these examples are as follows: (a) Shaking hands with Germans; (b) Permitting children to climb into motor vehicles or to congregate in areas around military premises; (c) Associating on familiar terms especially with women; (d) Visiting German houses; (e) Drinking with Germans; (f) Playing games or sports with them; (g) Making or accepting gifts of any sort (even to or from children); (h) Attending German dances, entertainments or other social events; (i) Accompanying Germans on the streets, in theatres, taverns, hotels. Now those are some examples of fraternization and they may be of some assistance to the court in determining whether or not the acts alleged here may properly be regarded as fraternization. Those examples are not exhaustive by any means. I give them to you merely as a guide. They may be of some assistance to you in your deliberations.

Now in order that you be satisfied that the evidence which has been adduced here would warrant a conviction under this charge you should, as the defending officer has pointed out, satisfy yourselves that the conduct here was conduct which amounted both prejudice to good order and prejudice to military discipline. An expression of inhabitants of Germany has been used throughout the course of this trial and I believe it is correct to say that the terms German, German people and inhabitants of Germany now is considered to include all persons living in Germany of their own free will. That is all I have to say regarding those two charges.

There are some general considerations which should concern you and they are applicable to both charges. The first being that of onus of proof. The onus of proof here is on the prosecution and it is not for the accused person or persons to prove their innocence. Throughout all British law there is that ever present principle that the accused is innocent until proved guilty and the onus of that proof is on the prosecution. The prosection must prove its case beyond a reasonable doubt and that reasonable doubt is not such a doubt as would be of a fantastic nature or a fanciful one but an ordinary common-sense doubt say of a business man, one which would cause him to have a doubt in the conduct of his ordinary business affairs. It is a thing of no really satisfactory definition but it could be interpreted to mean that if there is in the mind of the court any doubt of sufficient substance that it would put the court on their guard against reaching a conclusion then that is a reasonable doubt and the accused must be given the benefit of that doubt. Now there is a further point and that is that which I explained in the beginning. You are the sole judge of all facts which have been proved here. Closely associated with this is the question of credibility. You may as you know, accept or reject the evidence of any one witness or group of witnesses in part or in whole. You are entitled to decide whom you wish to believe of these witnesses and furthermore the weight which you wish to attach to the evidence which they have given you. There have been some inconsistencies here and these inconsistencies may have been sufficient as to shake your belief in the stories of these witnesses and that is for you to decide. I do not believe there is any object in my saying anything further regarding the law on these two charges and unless you purposely wish me to review the facts I do not feel it is necessary.

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JA: Mr. President are there any further matters on which you wish me to advise the Court?
Pres No sir.

JA: Mr Prosecuting Officer, are there any further matters on which you wish me to advise the court?
Pros What is meant by the expression "at the time of the robbery?".
JA: In my summing up I directed the court to a definition of robbery, and that was the definition which was in these words: robbery constitutes in the feoneous and forceable taking from the person of another or in his presence against his will of any money or goods to any value by violence or putting him in fear. Now that is the definition of robbery. The evidence to support a charge of robbery with aggravation is the same as in the ordinary cases of robbery with the additional proof that the accused at the time of the robbery were armed with an offensive weapon or instrument and at the time of the robbery simply means at the time of the commission of the offence.

JA: Mr Defending Officer, are there any further matters on which you wish me to advise the Court?
A. No sir.

Plea in mitigation:

Both the accused have been found guilty of the first charge, a civil offence. I have already attempted during the trial to establish that though it is perfectly legal and correct to charge and find a soldier guilty of a civil offence wherever it is committed, I would like the court to consider that in view of the fact that the accused have been found guilty of the civil offence, in the circumstances in which they were committed in the theatre of operations away from normal civilized surroundings, I would like the court to be lenient in the dealing out of the punishment. I press this point very earnestly because the offence of which the accused have been found guilty in civilian life is of a serious nature and as much as the court has power to convict and to give the accused life imprisonment this great latitude is given civil courts because it is felt that it is the duty of the court in determining the punishment to decide whether the accused is an enemy of society or not. In view of the circumstances and in view of the previous convictions it is felt that the accused is an emeny of society then the court is justified in trying to eliminate him from society and giving a maximum sentence of long sentence. But if the court doesn't find that the accused is an enemy of society they are justified in giving a minimum punishment sufficient to do justice and to teach him to be more careful in the future but not such a punishment as to destroy his future chances in life. So much for the civil aspect of the case.

The men charged here are soldiers. In other words when a soldier is charged with a civil offence I don't think the court should view that offence in the same light as they would a civilian. For instance, a civilian who enters a house carrying weapons and commits a robbery leaves a very strong presumption that the man is dangerous but/when soldier who enters a house carrying weapons as is his duty to do so the same presumption against the accused's character does not exist. A soldier in respect to a civil offence is a man who has been uprooted from his normal social surroundings. In the Cdn Army he is a Cdn soldier and of his own free will he has left his family and social circle to come to another country to go into danger and into a world which is in a sort of upheavel. That is a Germany of a few weeks ago. By doing this he has placed himself in a series of circumstances which may not justify his offence but which certainly excuse him and which certainly should be taken into account by the court in awarding a lenient punishment. Apart from a very uprooting of the man from his normal surroundings it is a fact that the stage of the war where these offences were committed was when Germany was in a chaos. It was very difficult for many minds to distinguish between right and wrong. You are permitted to carry weapons, you are permitted and ordered to kill, you are permitted to use violence. They were enemies among the soldiers who opposed to enemies among the civilians by acts of destruction, acts of violence, acts of arson and in many minds it was not quite clear where right stopped and wrong started. These circumstances acting upon the mind of a young soldier are of the nature to make him unconscious of the seriousness of his acts and definitely the acts which were proven against him under those circumstances are not the acts of an inherent criminal and of a danger to society. It is also proved that the men were drunk. Now drunkenness is not an offence but I believe added to the circumstances I have already argued it is a mitigating circumstance and again it supports my contention that the accused should not be regarded by the court as common criminals and as enemies of society. The court is entitled to give the man some punishment because that is the law of the land and because it is necessary for discipline that men be not allowed to break that law and go unpunished, but I submit that the court should be as lenient as possible in both these cases because of the circumstances which I have pleaded. Now I want to make particular reference to Gnr Thorne. He is more or less in the transaction of which the court has found him guilty, I should say, the junior partner. He was there since the trouble started. He would have been wise to leave. He was drunk, he

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he was not thinking quite clearly, he stuck around, made some gestures himself, got himself tied up with the principle events and now has been found guilty of it. In this case especially there is sufficient reason for the court to be lenient because in addition to the circumstances which I have pleaded in favour of the accused there is the fact that he was partly concerned with the crime. It is difficult for him to realize that he did steal and did commit a robbery. That is all.

EX "D"

ARMY FORM B.200 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B9933	Gnr	Thorne R. W.	7 Cdn Med Regt RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Nil entries

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [redacted]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 5 days in military custody, *i.e.*, Nil days in open arrest, 5 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 22 yrs 4 mos

6. The date of his attestation is 25 Nov 41

7. [redacted]

†State the military decorations (if any) held by accused.

8. The accused is in possession of C.V.S.M. & C.

9. [redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(28094) Wt.42129/4599 42,000 11/44 A.& E.W.Ltd. Gp.693 Forms F.2 &(War)4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL.	NIL.	NIL.	NIL.	NIL.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 8th day of May 1945

[signature]

Ex "E"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B44939	Gnr	Wilks F.R.	7 Cdn Med Regt RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) — One times.

For A.A. Sec 19 — One times.

For ____ — ____ times.

For ____ — ____ times.

Date of first entry in Field Conduct Sheet 7 Sep 43

Date of last entry in Field Conduct Sheet 1 Nov 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [redacted]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 5 days in military custody, *i.e.*, Nil days in open arrest, 5 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 yrs 6 mos

6. The date of his attestation is 7 Nov 42

7. [redacted]

8. The accused is in possession of† C.V.S.M. & C.

†State the military decorations (if any) held by accused.

9. [redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(29594) Wt.42129/4399 42,000 11/44 A.& E.W.Ltd. Gp.698 Form F.2 8(War)4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL.	NIL.	NIL.	NIL.	NIL.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 8th day of May 1945

Secretary
2nd

No B44939 Name Wilks F.R. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 7 Nov 42GC | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc [signature] | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of six months service - 7 May 43					
				Date of last entry - Nil					
Field	7 Sep 43	Gnr	Nil	A.A. Sec 15(1) AWL from 2359 hrs 6 Sep 43 to 1055 hrs 7 Sep 43 (Absent 10 Hrs 56 Mins)	Doc	14 days CB	8 Sep 43	Lt-Col Dow	Forf 1 days pay. FR&I.
Field	1 Nov 44	"	1	A.A. Sec 19 - Drunkeness	Lt Fleet	Warned	3 Nov 44	Major Thompson	
Field				Granted Privilege Leave to U.K. from 13 Jan 45 to 22 Jan 45				Capt H.W. Davis	
				CERTIFIED TRUE COPY: [signature] Lt					

(PTO)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No B9933 Name Thorne R.W. Sqn, Battery, or Company — Corps R.C.A — Date of enlistment 25 Nov 40 — Service or Proficiency Pay — Badges — Character

Date of last entry in Company Conduct Sheet NA — No and date of last drunk NA — Period not reckoning towards freedom from extra fine NA — Sheet No 2 — Signature OC Company, etc. J Johnston maj

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed on completion of six months service - 25 May 42 Date of last entry -- 21 Apr 42.					

CERTIFIED TRUE COPY:
W M Kennedy, Lieut.
J Johnston maj

(PTO)

RGC

We did not succeed in finding Mr. Olstendorff, who should be in Veehuden to-day. He seems to be arrested by military authorities and brought to a camp in Aurich. An investigation there had no success. We got the information that in Logabierum all men between 18 and 45 years have been arrested and brought to Aurich and from Aurich to another place. Perhaps 613 Mil Gov Det at Aurich can tell you where Olstendorff is.

We suggest you therefore to take up contact with 613 Mil Gov Det in Aurich for further information.

Field
16 May 1945

" A Petford "
for O.C. 620 Mil Gov Det.

LIST OF WITNESSES FOR THE PROSECUTION.

Lt	H. Gelland		7 Cdn Med Regt RCA
Hqsr	Oldendorf		Logabirum, Germany
Hqsr	J. Fisher		Voerhuisen, Germany
Pte	Fisher		Voerhuisen, Germany
H307063	Gnr	Ruhl D.	7 Cdn Med Regt RCA
G26232	Bdr	Mackay W.	7 Cdn Med Regt RCA
A31008	Bdr	Jessyn E.L.	7 Cdn Med Regt RCA
A35152	Gnr	Diebel D.A.	7 Cdn Med Regt RCA
Pte	H. Bussmann		Voerhuisen, Germany

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A"	One watch
"B"	One watch
"C"	One knife

ORIGINAL EXHIBITS

Two watches and one knife marked Exhibit "A", "B" and "C"

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

I desire the services of Capt H.D. Hlabse, 7 Cdn Med Regt RCA, if he is available, if he is not available I desire the Convening Officer to detail an officer with legal qualifications to represent me.

J Lorne R.W.
H307063 Gnr Thorne L.W.

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

F.B. Hibbs
H307 Gnr Hibbs F.B.

J Clark

SUMMARY OF EVIDENCE

In the case of B44939 Gnr Wilks F.R. and B9933 Gnr Thorne R.W., 45 Bty., 7 Cdn Med Regt RCA., Cdn Army Overseas, charged with:-

(i) Committing a civil offence, that is to say, Robbery with Aggravation, (Contrary to Sec 23 (1) of the Larceny Act 1916. (Sec 41 Army Act)

(ii) Conduct to the prejudice of good order and military discipline (Sec 40 Army Act).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

Lt H. Goldard, 7 Cdn Med Regt RCA, sworn, states:

Last evening, 3rd May 1945, at about 2130 hrs I was in "Q" Battery Command Post, 7th Cdn Med Regt RCA, when a frightened German male civilian, very much excited and nervous, came in and said that three Canadian soldiers were drunk and causing a disturbance in a house. I proceeded with him, an interpreter, C26232 BSM Maskery H., and C26361 L/S/Sgt McLaren A.H., to the house. When we arrived there we went in. There were a number of German civilians there, about six I would say, all very excited, sitting in a kitchen. Standing in the hall by the kitchen doorway were two soldiers with rifles. I asked them who they were. They said they were from the 7th Cdn Med Regt RCA. They had been drinking. I asked if there were a third or only two of them and they said only two. Through the interpreter a civilian said that there was a third one upstairs. It was the same civilian that had come for us. We, the Sgt-Major, the interpreter, the civilian and myself proceeded upstairs. I tried a door which was locked and I ordered whoever was in there to come out. A man's voice replied "who is that?" I repeated "an officer." He said "wait." I then sent the Sgt-Major with the two men we had found downstairs and all of our party except the interpreter and myself down to Q Battery wagon lines and placed the men under arrest. A civilian downstairs gave me a round of .303 ammunition.

The accused declines to cross-examine the witness.

H Goldard
Lieut H. Goldard
7th Cdn Med Regt RCA

Lieutenant-Colonel
Norman Fisher
Judge Advocate

Second witness Herr Olstendorf, LOGARIRIEN, GERMANY, sworn, states:-

On the evening of 3 May 1945 I was visiting the home of Herr Richter. I was in the kitchen when I heard a noise outdoors and someone knocked on the door. Soemone outside demanded us to open the door. Three soldiers entered the kitchen. They said something but the only word I could understand was "Schnapps." One of the soldiers left the kitchen. I heard Frau Busemann call and ask Frau Richter if she had any Schnapps. I later saw the soldiers drinking tea, and one of them helped himself to milk. The two soldiers who were left pointed their rifles at the civilians. They searched the three men. I layed my pocket book on the table and a soldier went through it but did not take anything. The soldiers pointed their rifles at us and called us Nazis. Both soldiers cocked their rifles once or twice and frightened everyone. One soldier locked the door to upstairs then both of them sat near the door which led outside. No one could leave the room. Gerhardt Fisher and myself were forced to keep our hands on top of our heads. We were kept in that position all the time. One of the soldiers stabbed the knife into the table and and then made motions with it across his throat. One soldier went upstairs calling for the one who had left us before but he came back alone. Then the second one went and called him but he still did not come. Frau Fisher left the house through the kitchen door but I do not know where she went. One of the soldiers asked where Frau Fisher had gone but I told him she had gone to the latrine. I got out of the house and went to the house where the officer was to get help. I met a soldier on the road and he directed me to the Command Post. I waited there for a short time and two or three soldiers came with me in a jeep straight to the house. I entered the house behind the officer and saw the same two soldiers still there. I went upstairs with the officer. The door was locked. After the officer had knocked and spoken a soldier opened the door. It was dark on the landing and in the room.

The accused declines to cross-examine the witness.

H. Olstendorf
Herr Olstendorf

Certified that the above testimony was read back to the witness, in German, corrected and then read to the accused, in English.

P.G. Williams - Capt
(P.G. Williams) Capt RCA.

Third Witness Herr J.Fisher, VENEHULZEN, GERMANY, sworn, states;

I came out of my barn on the evening of 3 May 1945 and saw three soldiers hammering on the kitchen door.with rifle butts. They spoke in English and I understood that they wanted the door opened. My wife opened the door. I went through the door leading from the barn into the kitchen and was in the kitchen when the soldiers came in. Immediately after they entered the door the shorter of the two soldiers took my wallet and watch and chain. In the wallet was a wedding ring, one twenty mark note and several ten mark notes. One of the soldiers had gone upstairs almost immediately after entering the house.

The second soldier pointed his rifle at us and spoke but I could not understand the language. They cocked their rifles and two or three rounds fell on the floor. I recognize the two soldiers here as the two in the kitchen. The shorter one (B44939 Gnr Wilks F.R.) is the one who actually took my wallet and watch. We all in the kitchen were very frightened. The two soldiers here demanded Schnapps and wine. The two soldiers drank coffee and milk. They closed and locked the door leading upstairs. My wife left the house and afterwards Herr Olstendorf left also. I next saw Herr Olstendorf when he came with an officer and some men. This watch (Marked Exhibit "A") is mine and is the one the soldier took from me.

The accused declines to cross-examine the witness.

Jan Fisher

Herr J. Fisher

The witness was shown three watches one of which was the watch marked "Exhibit "A". He picked out Exhibit "A" and identified it as his own watch, describing it correctly before he saw any of the watches.

Certified that the above testimony was read back to the witness in German and to the accused in English.

F.G.Williams Capt

(F.G. Williams) Capt RCA

Fourth Witness Frau Fisher, VENNEBUSCH, GERMANY, sworn, states:

I was in the kitchen on the evening of 3rd May 1945 when three soldiers knocked on the door. My daughter, Frau Busemann, opened the door. They demanded Schnapps and pointed their rifles at us frightening us all. One of the soldiers went upstairs. The other two soldiers, whom I recognize as the accused pointed their rifles at the other civilians in the room and called them Nazis. I was made to sit with my hands on top of my head. The soldiers locked the door leading upstairs. They drank some tea which I made and also some milk. They kept threatening us until I left and went to the neighbours.

Question: (by B9933 Cnr Thorne R.C.) "Did I not ask you for some eggs?"

Answer: "No."

Question: (by B9933 Cnr Thorne R.C.) "Why does the witness say that she was made to sit with her hands on top of her head?"

Answer: "When we were threatened by the rifle we put our hands on top of our heads. We were ~~not~~ ordered to do so. The soldier showed us how we were to do it.

Frau Fisher

Certified that the above testimony was read back to the witness in German and to the accused in English.

(F.C. Williams) Capt RCA

Fifth Witness M107068 Gnr Ruhl D. 45 Bty., 7 Cdn Med Regt RCA, sworn, states:

On the evening 3 May, 1945, I proceeded with Lt. H. Geldard to a house where a disturbance had been reported. On entering I saw two soldiers with rifles who had upset the people who seemed very scared of the whole thing. We asked the two soldiers where the other soldier was. We were informed that he was upstairs. We proceeded up the stairs. During the conversation when we first entered the house, the old gentleman named Herr Fisher told me that he had been robbed of his watch and wallet (containing a ring and some money.)

The accused declines to cross-examine the witness.

D. Ruhl

M107068 Gnr Ruhl D.
7 Cdn Med Regt RCA

Sixth Witness C26232 BSM Maskery H., 12 Bty., 7 Cdn Med Regt RCA, sworn states:

On the evening of 3 May 1945, I proceeded with Lt. H. Geldard to a house where a disturbance had been reported. When we arrived at the house the occupants were all in one room. I walked across the room and opened the door and two soldiers were standing on the other side. I asked them what they were doing there. They replied "I am waiting for my friend upstairs." I asked them what there friend was doing upstairs." I got no reply to that question. I brought them back into the room where the occupants were and accompanied by Lt. H. Geldard and M107068 Gnr Ruhl D., went upstairs. I left the two soldiers in the kitchen. Lt. Geldard tried the door. The door was locked. He then said "Open the door, there is an officer here." I did not hear the reply which was mumbled on the other side. I then told Lt. Geldard I would take the two men in the kitchen to BSM of 9 Bty 7 Cdn Med Regt RCA. This I did. I took the small arms from them and put them under arrest. These men had been drinking. I reported the situation to BSM Jernyn, R.L. In company with BSM Jernyn we went back to the house and there met Lt. Geldard who told me that the man upstairs had got away.

The accused declines to cross-examine the witness.

H. Maskery

C26232 BSM Maskery H.
7th Cdn Med Regt RCA.

Seventh Witness A31008 BSM Jermyn E.L., 45 Bty., 7 Cdn Med Regt RCA, sworn, states:

Between 2330 and 2359 hrs 3 May 1945, G26232 BSM Maskery, N., came to "A" Bty 7th Cdn Med Regt wagon lines and informed me that he had two of my men under close arrest. He asked me to accompany him to apprehend a third man who was at a farm house a short distance from F Bty 7th Cdn Med Regt Command Post. BSM Maskery handed over B44959 Gnr Wilks F.R., and B9933 Gnr Thorne R.W. and I placed A33152 Gnr Diebel and G3758 Gnr Horsman A.E. as guard over them. I then accompanied BSM Maskery to the farmhouse and upon arriving there we were told by the officer that the man had escaped. The officer told me it was Gnr Craig and that he had got his name and number out of his paybook. I then went to "C" Tp Command Post where the officer on duty called No. 4 Gun to find out if Craig was on his gun. Gnr Craig came to the tannoy and told the officer that he had returned about twenty minutes previously. Gnr Craig was then escorted to the Command Post and placed under Close Arrest. At 1230 hrs 5 May 45 Gnr Diebel informed me that one of the accused had given him some valuables to hold for him. Upon inquiring into the nature of same I had him hand them over to me to be presented as evidence Exhibits "A", "B", and "C" as the articles in question.

The accused declines to cross-examine the witness.

E.L. Jermyn

A31008 BSM Jermyn E.L.
7th Cdn Med Regt RCA.

Eighth Witness A33152 Gnr Diebel D.A., 45 Bty., 7 Cdn Med Regt, sworn, states:

On the night of 3 May 45, while I was on guard duty at "A" Bty 7th Cdn Med Regt wagon lines, a jeep drove in and we halted it. In it were BSM Maskery, Gnr Thorne and two or three others, and BSM Maskery came out and asked for BSM Jermyn. I took him into the house and called the Sgt-Major. I was then put in charge of Gnr Wilks and Gnr Thorne while the two BSMs went away to a house. I was told to guard the two men. When BSM Jermyn came back he had Sgt Griffiths with him. He then took the two men to C Tp Command Post. I rode in the back of the truck with the two gunners. Just before getting out of the truck Gnr Wilks asked me to keep two watches and a knife for him. I recognize the two watches and knife as the ones he gave me. We took them into the Command Post and turned them over to the officer and Tp BSM. On 4 May 1945 I understood that the accused were being charged with robbery and realized the watches might be evidence so I turned them over to BSM Jermyn. Exhibits A. B. and C are the watches and knife which Gnr Wilks turned over to me.

The accused declines to cross-examine the witness.

D.A. Diebel

A33152 Gnr Diebel D.A.

Next witness Frau H. Busemann, VERDEN/ALLER, GERMANY, sworn, states:

On the night of 3 May 1945 at about ten thirty p.m. I had closed the house door just about ten minutes before. Three soldiers approached the house and were knocking on the door ordering to open up. As I opened the door they came inside demanding Schnapps and wine. My mother and my father, one brother, one sister, and Herr Olstendorf were in the room when the soldiers came. I went upstairs with one of the soldiers to get Frau Richter because she speaks a little English. I called Frau Richter and she got up. I asked her if she had any Schnaps as the soldiers wanted some. I did not stay with Frau Richter and the soldier. I went straight through the kitchen door into the childrens' bedroom as I was very frightened. I did not stay there but climbed out of the window and jumped to the ground. I stood and looked through the kitchen window for a few minutes. I could hear the soldiers drinking something. I then went into the kitchen. One of the soldiers picked up a bread knife and stabbed it into the table. He then made motions with it across his throat and said something in English which I could not understand. My father told me that he had been robbed by the two soldiers while I was out. One of the soldiers picked up the knife and went out through the door. While he was gone the other soldier pointed his rifle and called us Nazis. He cocked the gun two or three times and two or three rounds fell on the floor. Two of these rounds were picked up and later given to the officer who came to take the men away. The other soldier came back. After this they laid their rifles on the table. They then tried to persuade myself and my sister to go outside with them but we would not go. My mother left the kitchen and went to the neighbours because she was frightened. She did not return and the soldiers asked where she had gone. Herr Olstendorf went to call an officer, after telling the soldiers that my mother had gone to the latrine. They then frightened us again with their rifles and shortly afterwards the officer arrived. The officer came with Herr Olstendorf and some other soldiers.

The accused declines to cross-examine the witness.

Frau H. Busemann

Certified that the above testimony was read back to the witness in German and to the accused in English.

(F.C. Williams) Capt RCA

The accused were cautioned as follows:

Q. Do you wish to make any statements or to give evidence on oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you will give will be taken down in writing and may be given in evidence.

A. B44939 Gnr Wilkes F.R.: "I do not wish to make any statement".

A. B9933 Gnr Thorne R.W.: "I wish to make a statement".

Q. On oath or not on oath?

A. B9933 Gnr Thorne R.W.: "On oath".

B9933 Gnr Thorne, R.W., having been sworn states:

"I did not force the people to place their hands upon their heads and I am not guilty of robbery and I was not drunk.".

R.W. Thorne

B9933 Gnr Thorne, R.W.
7th Cdn Mod Regt RCA

The accused do not call any witnesses.

I certify that the foregoing summary of evidence consisting of nine pages, was taken down by me in the presence of the accused and that R.P. 4 (c), (d), (e) and (f) have been complied with.

(P.G. Williams) Capt., RCA
7 Cdn Mod Regt RCA.

In the Field
4 May 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B9933 GNR RICHARD WILLIAM THORNE, 7 CDN MED REGT, RCA.
B44939 GNR FRANCIS RICHARD WILKS, 7CDN MED REGT RCA.

		Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
GNR THORNE	1st	AA 41	NOT GUILTY	GUILTY	
	2nd	AA 40	NOT GUILTY	NOT GUILTY	
[illegible]					
GNR WILKS	1st	AA 41	NOT GUILTY	GUILTY	
	2ND	AA 40	NOT GUILTY	NOT GUILTY	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1) N/A.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF E296.)

BOTH ACCUSED. Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1) N/A.

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

GNR THORNE To be imprisoned with hard labour for one year N/A.

GNR WILKS To be imprisoned with hard labour for eighteen months (18) N/A.

(Sgd) R Thirson, Judge-Advocate, if any. 18 May 45. Date awarded. (Sgd) R.G. Cowan, President. (RP 45, 46)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again. AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) W.C. Leggat Brig

Date 31 May 45 Commanding 2 Can AGRA Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B9933 Gnr. Thorne RW	2 June 45	[signature]
B44939 Gnr Wilks FR	2 June 45	[signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALL[illegible]

RECEIVED 22 JUN 1945 JAG BRANCH G.H.Q.

RECORD OF COURT HQ IN AR 162

FIELD GENERAL COURT-MARTIAL

A/38B

Convened by Order of W.C. LEGGAT, Brig. Comd 2 CDN AGRA dated 13 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 185, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B9933	GNR	RICHARD WILLIAM	THORNE	7 CDN MED REGT. RCA
B44939	GNR	FRANCIS RICHARD	WILKS	7 CDN MED REGT RCA

PROCEEDINGS REVIEWED [illegible] 29 June 45

REVIEWING OFFICER, JAG BRANCH G.H.Q.

WILKS

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 17 MAY 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

33179 Thorne
33179 Wilks

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused N (are) brought before the Court. At 1430 hours trial commences. PRES.

A4. The Prosecutor produces a Medical Certificate that accused N (are) fit to undergo trial by court-martial.(1) PRES.

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to EITHER OF M-65567 GNR SCHUCKNER, W.T. 7 CDN MED REGT as interpreter? Ans NO. PRES.

The Interpreter is sworn.(1) EITHER OF L22618 S/SGT SHEPHERD, A.D. HQ A 7DS. FIRST CDN ARMY

Do you object to as shorthand writer? Ans NO. PRES.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

BOTH Ans NO. (2) PRES.

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR R.G. COWAN, 3 CDN MED REGT. RCA
Member	CAPT. R.H. KING 3 CDN MED REGT RCA.
Member	CAPT. J. LAMY 4 CDN MED REGT. RCA.
Judge-Advocate	MAJOR R.F. WILLSON, HQ ARMY TPS FIRST CDN ARMY
Prosecutor	CAPT. C.C. LOCKE. 3 CDN MED REGT R.C.A.
Defending Offr	LIEUT G. GEOFFRION, 4 CDN MED REGT. RCA

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES PRES

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conf Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 67 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused, GNR S. THORNE AND WILKS before arraignment make (no) (~~no~~) plea. PRES.

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. BOTH The accused N (are) arraigned (separately) on all charges in the charge sheet.(1) EITHER OF The accused ~~does~~ (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. PRES.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see* RP 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see* RP 35(A). *As to plea when sentence may be death see* RP 35(D).

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see* RP 37 (A) *and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see* RP 59, 60(C); *powers and duties of JA see* RP 103; *duty of Prosecutor see* RP 60(A) (B); *duty and privileges of accused and Defending Offr see* RP 60(C), 87(C), 91, 92; *swearing and withdrawal of witnesses from Court see* RP 81, 82; *questioning of accused see* RP 80, 87(C), 92(B), *and of witnesses see* RP 83-85; *calling or re-calling of witnesses by Court, etc, see* RP 75-79, 86, 116; *use of Summary of Evidence at Trial see* RP 17(E) *fn* 6; *and responsibility of JA or Pres to record proceedings see* RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1) The accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport refer to [illegible] soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D E F & G and respectively.(2)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record. 3

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do Neither. Do you intend to call witnesses on your behalf? Ans None. Are they witnesses as to character only? Ans None.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).) on the Second Charge

D8. The President announces the finding(s), if ~~any~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character either on both of? by both Accused. - No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport refer to [illegible] soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D E F & G and respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 561-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B44939 Gnr Wilks F.R. and B9933 Gnr Thorne R.W. 7th Cdn Med Regt RCA, soldiers of the Cdn Army Overseas, are charged with:

First Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY WITH AGGRAVATION, (CONTRARY TO SEC 23 (1) OF THE LARCENY ACT 1916).

in that they,

In the Field, in GERMANY, on the evening of 3 May 1945, when armed with rifles robbed JOHN FISHER, an inhabitant of GERMANY, of a watch and a purse containing a ring and a sum of money, at VEENHUIZEN, GERMANY.

Second Charge
(Alternative)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that they,

In the Field, in GERMANY, on the evening of 3 May 1945, fraternized with inhabitants of GERMANY in a German private house at VEENHUIZEN, GERMANY, by visiting and having refreshments with said inhabitants of said house.

In the Field
7 May 45

(F.P. Hazard) Lt-Col.,
C.O., 7 Cdn Med Regt RCA.

To be tried by Field General Court Martial.

In the Field
13 May 45

(W.C. Leggat) Brigadier
Comd 2 Cdn AGRA

APPROVED FOR TRIAL ON BEHALF OF THE JAG OVERSEAS PURSUANT TO KR(CAN) 540 AND OVERSEAS ROUTINE ORDER 4756(13).

In the field
18 May 45

(R.F. Willson) Major
DJA
A Tps Area, First Cdn Army.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.9933	Gnr		Richard William	THORNE	7 Cdn Med Regt RCA
B.44939	Gnr		Francis Richard	WILKS	7 Cdn Med Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~xx~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 May 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by a District Court-Martial; and that it is not practicable to delay the trial for reference to a superior competent authy;~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~And I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons stated hereon.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	R.G. COWAN (Must be named. RP 106.)	3 Cdn Med Regt RCA (Unit.)

MEMBERS.

Capt	R.H. KING	3 Cdn Med Regt RCA
Capt (Rank.)	J. LAMY (Named or detailed. RP 106.)	4 Cdn Med Regt RCA (Unit.)

WAITING MEMBER.

Capt (Rank.)	P.R. LOMAS (Named or detailed, if any. RP 106.)	1 Hy Regt RA (Unit.)

JUDGE-ADVOCATE.

Major (Rank.)	R.F. WILLSON (Must be named, if any. RP 106.)	HQ Army Tps First Cdn Army (Unit.)

On Active Service in the Fd

in Germany (Country.)

W C Leggat (Signed personally. RP 105 fn 2.)

(W C Leggat)

Brigadier (Rank.)

Dat 13 May 45

Commanding 2 Cdn AGRA

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-9933 Sgt Thorne R.W.
of 7 Am Tank Sqdn. RCA. is in a good state of health,
and fit to undergo Trial by Court martial.

H. Graham Capt
Medical Officer

Station In the field

Date 17 May 45

M. F. B. 246

MEDICAL OFFICER'S REPORT

I certify that No. B-9933 Gnr Thorne R.W.

of ..... is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

Station 26th C.C.S.

Date 1st May/45

M. F. B. 246

2634—9-40 (4350)
H.Q. 1773-39-600

MEDICAL OFFICER'S REPORT

P.O.

I certify that No. B-44939 Spr Wilks F R

of 7 Cdn Inf Bde Sig Coy is in a good state of health,

and fit to undergo Trial by Court martial.

A.E. Hannen Capt
Medical Officer

Station In the field

Date 17 May 45

20.

M. F. B. 246

SEM—9-40 (4283)
H.Q. 1773-99 600

MEDICAL OFFICER'S REPORT

I certify that No. B-44939 Gnr. Wilkes F.R.

of ..... is in a good state of health,

and fit to undergo Trial by Court martial.

A.W. Richardson Capt.
Medical Officer

Station 2 Adm C.C.S.

Date 1st May /45

M. F. B. 246

JA: Do either of the accused feel that their interests are being prejudiced in any way by being tried jointly?
Def: No sir.

JA: You have both elected the same Defending Officer. Do you feel that your interests are in any way prejudiced by having the same Officer defending each of you?

Defending Officer questions the two accused and both wish to have Lieut Geoffrion defend them.

FIRST WITNESS for the Prosecution, Lieut H. Geldard, 7 Cdn Med Regt having been duly sworn, is questioned by the Prosecutor:

Q. You are Lieut H. Geldard of the 7 Cdn Med Regt RCA?
A. That is right.

Q. Do you remember the evening of 3 May last?
A. Yes.

Q. Will you please tell the court what happened that evening touching the matters in question?
A. The evening of 3 May 45 around 2130 hrs I was in "P" Bty Command Post when an excited German civilian came in and with the aid of an interpreter told me that three Canadians were causing a disturbance in a house. I proceeded with him and a small party including BSM Maskery and an interpreter, Gnr Ruhl, and one driver. We proceeded to the house. When we arrived, there was a kitchen in which were a party of German civilians, probably half a dozen, all very excited and nervous. Standing in the door-way leading into a hall were two soldiers with rifles. I went up and asked them who they were and one of them said he was from 7 Medium Regiment. I asked them if there were just two of them or if there was a third one. They said just two but the German civilian who accompanied us said there was a third one upstairs.

Q. Do you recognize these men of whom you speak?
A. Yes. (Indicates the accused). I then proceeded upstairs and when I came down I sent the Sgt-Major with the two men down to "Q" Bty lines and placed them under arrest.

Q. Could you tell if these men had been drinking?
A. Yes, they had been drinking.

Q. In your opinion were they drunk?
A. I would say they were.

Q. When you were in the kitchen were you given anything by anyone?
A. Later on, after we found the third man, I was given a .303 bullet that had not been fired but which they claimed had been ejected from the rifle.

Q. Who gave you this?
A. One of the civilians.

Four civilians were escorted before the court and Lieut Geldard states that either Frau Busemann or Herr Fisher gave him the bullet.

Q. Do you recognize the other two civilians here?
A. No. They may have been there. I will not swear to it.

...../2

Cross-examined by the Defending Officer

Q. How were these two soldiers carrying their rifles?
A. One was slung over the shoulder and the other held his by his side.

Q. Exactly how?
A. Loosely in his hand.

Q. Which one had it slung and which one had it in his hand?
A. I believe Gnr Wilks had it in his hand.

Q. You are not sure which was which?
A. No.

Questioned by the Court:

Q. What time did you go into the house?
A. It was 2130 in the Command Post when the civilian arrived. Later in the house, there was a clock upstairs which stated twelve o'clock. I did not have a watch of my own.

Q. How many civilians were in the room you called the kitchen when you entered?
A. About six.

Q. Among those six, the two you identified today?
A. Yes.

Q. What did you notice in the way of furnishings in that room when you entered?
A. There was a table in the kitchen where they had been eating and they were sitting around at one end of the table. The door where the two men were was right opposite me.

Q. What was on that table?
A. There was food and cups that had been used.

Q. Where were the two accused persons standing when you entered?
A. In the doorway leading to the hall at the foot of the stairs.

Q. Did you see them at the table?
A. No, I did not.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

SECOND WITNESS for the Prosecution, Frau Helena Busemann having been duly sworn, is questioned by the Prosecutor:

Q. What is your name, where do you live and how old are you?
A. Frau Helena Busemann, Veenhuizen, Germany, 27 years old.

Q. Are you a German civilian and inhabitant of Germany?
A. I am.

Q. Do you remember the night of the 3 of May last?
A. Yes, I do.

Q. Start at the beginning telling the court what you remember.
A. On the evening of 3 May 45 approximately half past nine in the evening I heard a knocking on the door and saw three soldiers. I answered "I will open up. I opened the door and the soldiers demanded Schnapps and wine.

Q. Do you see anyone in the room now whom you saw on the night of 3 May?
A. I recognize this soldier (indicates Gnr Thorne).

...../3

Q. Anyone else?
A. I am not sure. I think the second soldier on the left also, but I do not know. (Indicates Lieut Geoffrion).

Q. After the soldiers asked for Schnapps and wine what did they do?
A. I went upstairs to call Frau Richter as she spoke a little English. One of the soldiers came upstairs with me. Frau Richter handed me a bottle of schnapps.

Q. Before you went upstairs did you see where the other two soldiers went?
A. The two soldiers remained downstairs.

Q. After you saw Frau Richter what did you do?
A. I left the room and went to the bedroom of Frau Richter. Frau Richter showed the soldier her children. I remainded in the bedroom. I did not know what to do. I could hear that the soldier did not want to leave the kitchen but I left the room through the window.

Q. Why did you not go downstairs again?
A. I thought I could not pass those two that were making eyes outside and I was afraid and I remained in the room.

Q. How did you get down from the bedroom?
A. I jumped out of the window.

Q. Then what did you do?
A. I went around the house and stood outside of the window leading to the kitchen downstairs and waited for about five minutes. My brother, sister, father and mother were inside of the kitchen.

Q. Could you hear any noise?
A. I could hear people drinking something from cups.

Q. Could you see anything going on through the kitchen window?
A. They were sitting around the table on chairs.

Q. Were there any soldiers in the kitchen?
A. Two soldiers.

Q. What were these soldiers doing?
A. They said "good tea and good coffee" and I went in the kitchen afterwards.

Q. What did you do when you got in the kitcheN?
A. The soldiers looked at me and I sat down.

Q. What was Herr Fisher doing?
A. He was sitting on the chair.

Q. Did the soldiers bring anything into the kitchen with them?
A. They had two rifles.

Q. When you went into the kitchen did you see these rifles?
A. Yes I did.

Q. Where were they?
A. The soldiers had the rifles with them.

Q. Did you see them do anything with the rifles?
A. Yes.

Q. What?
A. They pointed the rifles first at my brother and Herr Olstendorf.

...../4

Q. Did they do anything else?
A. Also my father, and all had to hold their hands over their heads.

Q. Who had their hands above their heads?
A. My brother, Herr Olstendorf, my father and I do not know about my sister.

Q. How were these people holding their hands? Please demonstrate.
A. She places her hands on top of her head.

Q. Did the soldiers do anything else with their rifles?
A. They cocked their rifles several times and a few rounds fell out. Two in the kitchen and one in the small room next to the kitchen.

Q. What were they doing with their rifles when they cocked them?
A. They pointed their rifles.

Q. At whom?
A. At my brother, Herr Olstendorf and my father.

Q. Did they say anything to you?
A. They asked me what was the matter with my eyes and I said "keep quiet".

Q. Did they say anything to anyone else in the room?
A. They spoke all the time but I do not understand English.

Q. Was there anything on the kitchen table at this time?
A. Cups with tea and milk.

Q. Did any of the civilians in the room give the soldiers anything?
A. One soldier demanded the watch of my father.

Q. What did this soldier do?
A. They also demanded the purse from Her Olstendorf and my brother.

Q. What is the name of your father?
A. John Fisher.

Q. What is the name of your sister?
A. Frau Freda Soor.

Q. What is the name of your brother?
A. Gert Fisher.

Q. After the soldier asked for your father's watch did he do anything about it?
A. He took the watch and put it in his pocket.

Q. From whom did the soldier take the watch?
A. My sister took the watch out of my father's vest and handed it over to the soldier.

Q. What else did you see the soldier's do?
A. One of the soldiers picked up the bread knife from the table and made a movement across his throat.

Q. Did the soldiers then do anything else?
A. He stabbed the knife back into the plate.

Q. What did the soldiers do after that?
A. One of the soldiers left the room with the bread knife for up-stairs.

Q. Anything else?
A. The second soldier locked up the door took his rifle again and pointed it against my brother and Herr Olstendorf.

...../5

Q. Which of the soldiers that you identified in this room pointed his rifle?
A. I think this soldier left the room with his rifle (indicates Gnr Thorne).

Q. What did the soldier do after this?
A. The second soldier returned to the room and the first soldier opened the door for him.

Q. Then what did you do?
A. They locked the door again and took a seat in front of the other door leading out the house.

Q. What did they do next?
A. They pointed their rifles again at my brother, Herr Olstendorf and called us Nazis and saying we were SS. They didn't point their rifles at me.

Q. What did you do after that?
A. We all cried and told them not to shoot and they laid their rifles on the table.

Q. What did they do after they put their rifles on the table?
A. They were asking my sister and myself to come outside.

Q. Did you do anything?
A. This soldier (indicates Gnr Thorne) took my sister into the next room but my sister cried and struggled and my mother pulled her back into the kitchen.

Q. Then what did they do?
A. One soldier sat down by my mother near the kitchen door.

Q. Then what did the two soldiers do?
A. One of the soldiers left for upstairs again. They did that several times.

Q. And after that?
A. After that my mother left the house.

Q. And then?
A. One of the soldiers asked for my mother and where she went.

Q. Please tell the court what the soldiers did next?
A. Herr Olstendorf left the room.

Q. What did the soldiers do next?
A. They were excited and were asking where Herr Olstendorf went.

Q. What did they do next?
A. One of the soldiers was playing around with his fountain pen but we did not know what they wanted. I thought he wanted to write something.

Q. Then what?
A. The second soldier left for upstairs again.

Q. Then what did they do?
A. The one soldier which remained pointed his rifle against us again.

Q. Do you know which soldier pointed his rifle?
A. The shortest one.

Q. Then what did the soldiers do?
A. The second soldier came back into the kitchen.

Q. Then?
A. Shortly after this appeared the other soldiers.

...../6

Q. What do you mean by the other soldiers?
A. The helpers, the officer and two or three more.

Q. What did they do?
A. The two soldiers in the kitchen were astonished how these people got there.

Q. Then?
A. We told them our story and handed over the rounds of ammunition which we found on the floor.

Q. What did the two soldiers do then?
A. I do not know what they were speaking or what they did.

Q. Did you see them again?
A. They were standing around for awhile between the kitchen and the hall way door.

Q. And then did you see them do anything?
A. No.

Q. At about what time did the officer and the soldiers arrive?
A. Approximately quarter to one.

Q. How long do you think these soldiers had been in the kitchen?
A. I figure from half past nine until half past twelve.

Q. Did any one else in the room give the soldiers anything else besides a watch?
A. Herr Olstendorf and my brother gave their pocket books but we found them later on again.

Q. You said there were tes cups on the table. Did you see anyone during the evening drink?
A. My sister filled up the cups.

Q. Did anybody drink from the cups?
A. I saw the shortest one drink from the cup and I saw milk on his lips.

Q. Did you see anyone else drink anything or eating?
A. One soldier was eating a little bit of bread but it did not taste good.

Q. Can you point out the soldier who was drinking or eating?
A. I think so (identifies Lieut. Geoffrion).

Cross-examined by the Defence:

Q. Am I the short soldier who pointed a rifle at you?
A. I am not sure. He was the shortest one and I can identify him for sure.

Q. Can you identify the tall one for sure?
A. Yes. I remember his face (indicates Gnr Thorne).

Q. Where were you when the watch was taken from your father?
A. I was sitting beside my sister and my father.

Q. Do you remember an enquiry on this matter?
A. It was approximately the same as what I told the court now.

Q. In that enquiry did you not say "My father told me that he had been robbed by two soldiers while I was out?"
A. Yes, he said that afterwards.

Q. Were you in or out when the robery was committed?
A. I was upstairs. That was in the very beginning.

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Re-examination by the Prosecution:

Q. Were you in the room when your father's watch was taken?
A. Yes.

Q. What room were you in when your father told you that he had been robbed?
A. Also in the kitchen.

Q. Did your father tell you what had been taken from him?
A. Yes.

Questioned by the Court:

Q. How did the soldiers make themselves understood when they asked you what was wrong with your eyes?
A. I indicated that I had something wrong with my heart and that I was sick.

Q. How did you know what they meant?
A. I think the soldier saw that I did not look well and that something must be wrong with me.

Q. Did the soldiers speak in German or English?
A. In English.

Q. Do you understand English?
A. No.

Q. How did you understand what the soldiers were talking about?
A. I could really not understand anything else except the schnapps and coffee. I was just thinking. I think the soldiers thought I looked very bad and sick because I just had jumped out of the window.

Q. Do you remember telling the court that the soldiers noticed something about your eyes? What was that?
A. I said I was sick and I have something wrong with my heart.

Q. Was there anything wrong with your eyes that night?
A. Maybe I looked kind of sick because I am pregnant for four months already.

Q. You have told the court that the pocket books were later found. Were you in the room when the pocket books were found?
A. Yes.

Q. Where were the pocket books found?
A. I found my brother's on the floor and I found Herr Olstendorf's lying on the cupboard in the kitchen.

Q. Was your father's pocket book recovered?
A. No.

Q. Do you stay at the home of John Fisher?
A. Yes.

Q. Are you his daughter?
A. Yes.

The Prosedutor announces that the witness Herr Olstendorf is not available. The defence states that he does not require the production of the witness for cross-examination. The prosecutor states that he has served notice under RP 7[illegible] to the defence that he intends to produce Frau Soor in lieu of Herr Olstendorf. The Defending Officer accepts this and states that he has no objection.

THIRD WITNESS for the Prosecution, Frau Freda Soor, having been duly sworn is questioned by the Prosecutor:

...../8

Q. What is your name and how old are you?
A. Frau Freda Soor, 32 years old.

Q. Are you a daughter of Herr Fisher?
A. Yes.

Q. Do you live in his house?
A. No.

Q. Are you a German civilian and an inhabitant of Germany?
A. Yes.

Q. Do you remember the night of 3 May last?
A. Yes.

Q. Starting at the beginning will you tell the court what you remember about that night?
A. Three soldiers came in the kitchen.

Q. Do you recognize in this room any of the soldiers that came to your kitchen that night?
A. Witness identifies Gnr Thorne and Lieut Geoffrion.

Q. Where were you at this time?
A. In the kitchen of my father's house.

Q. Was there anyone else in the kitchen with you?
A. My father, my mother, my brother, Herr Olstendorf and my sister.

Q. Are Herr Fisher and Frau Fisher your father and mother?
A. Yes.

Q. Is Gert Fisher your brother?
A. Yes.

Q. Is your sister Frau Helena Busemann?
A. Yes.

Q. Did you see the three soldiers come into the room?
A. Yes.

Q. Were these soldiers carrying anything?
A. Two of them had rifles.

Q. What did the soldiers do?
A. First of all they demanded Schnapps.

Q. Then what?
A. And they wanted to shoot us.

Q. Please explain what you mean by that last phrase "they wanted to shoot us."
A. We had no Schnapps and they demanded schnapps or they would shoot.

Q. What did the soldiers do?
A. They were cursing us and threatening us and made us hold our hands above our heads.

Q. Did they do anything with their rifles?
A. They opened their bolts, loaded their rifles, unloaded their rifles and some rounds fell on the floor.

Q. Did they do anything else with their rifles?
A. No they just pointed their rifles at us and it looked like they would shoot at any minute.

Q. At whom did they point the rifles?
A. First at my brother and Herr Olstendorf, my father and also at me.

...../9

Q. How many soldiers threatened you?
A. Two.

Q. What happened to the other of the three soldiers?
A. He went upstairs right away to Frau Richter.

Q. You have said that the soldiers made you put your hands on top of your heads. Who made you do this?
A. My brother, Herr Olstendorf and myself.

Q. Did the soldiers ask for anything else besides Schnapps?
A. Yes, tea and coffee.

Q. Did they get any tea and coffee?
A. Yes.

Q. What did they do with the tea and coffee?
A. They drank the tea and one of them drank milk too.

Q. Did the soldiers ask for anything else besides schnapps, tea and coffee?
A. They asked for the time.

Q. Did they ask for anything else?
A. No.

Q. After the soldiers made you sit with your hands above your heads what did they do then?
A. They opened their bolts, loaded their rifles and aimed at us.

Q. Did the soldiers make anyone in the room do anything?
A. They laid their rifles on the table and indicated with their fingers to come outside. I was already in the next room but my mother pulled me back.

Q. Did the soldiers make you do anything else?
A. No. I could also not understand what they wanted.

Q. Did the soldiers ask your father for anything?
A. Yes. They asked for my father's watch and they were aiming the rifle at me so I took my father's watch out and handed it over to one of the soldiers.

Q. From where did you take your father's watch?
A. From the pocket of a vest which hung on the chair in the kitchen.

Q. Did your father have the vest on at the time?
A. No, he wanted to go to bed.

Q. Did the soldiers ask for anything else from anyone in the room?
A. I do not remember that.

Q. You have said the soldiers pointed their rifles at the persons in the room. Did they threaten you in any other way?
A. No.

Q. Did they ask Herr Olstendorf for anything?
A. For his purse.

Q. Did they ask anybody else for a purse?
A. And my brother too.

Q. What did they do?
A. They searched the pockets.

Q. Did you see either of the soldiers in the room now point their rifles at anyone?
A. I saw the soldiers only one time and the light was not very good, and I am not sure now.

...../10

Q. I produce a watch for identification. Can you identify it?
A. Yes, it is my fathers (Exhibit received in evidence and marked Exhibit "A", for identification only).

Q. After you had given the watch to the soldiers what did they do?
A. They put the watch in their pocket.

Q. And after that?
A. All the things which they had in their pockets they took out and looked them over.

Q. And what did they do with the rest of the time they stayed in the kitchen?
A. They were sitting and also cursing and I don't know any more.

Q. How long did the soldiers stay in the kitchen?
A. Three hours.

Q. Why did the soldiers go?
A. Herr Olstendorf went to get some other soldiers and they took them back to their quarters.

Q. What did the soldiers do with the pocket books which they took from Herr Olstendorf and your brother?
A. There was no money in them and they gave them back.

Q. Was your father sitting in the chair on which his vest was hanging?
A. No I was.

Q. Where was your father at this time?
A. Next to me on a chair.

Q. Why did you give these soldiers your father's watch?
A. They threatened to shoot me.

Cross-examined by Defending Officer:

Q. When the soldiers took your father's watch where was Frau Busemann?
A. In the kitchen and she helped me loosen the chain. We were so excited we didn't know what to do.

Q. Which of the two soldiers asked for the watch?
A. Witness indicates Lieut Geoffrion.

Q. Which of the two soldiers pointed the rifle at you?
A. Witness indicates Lieut Geoffrion.

Q. Which of the two soldiers took the watch?
A. Witness indicates Lieut Geoffrion.

Q. What was the other soldier doing at this time?
A. He went upstairs.

Q. Where was the third soldier?
A. He was always upstairs until the officer and the other men came.

Q. How many soldiers were in the room when your father's watch was taken?
A. I think two. I am not sure about it any more.

Q. You just said the other soldier went upstairs. Will you tell the court whether he was upstairs or downstairs when your father's watch was taken?
A. I can't remember now. It is quite a long time already. I was so excited and afraid and can't remember every detail.

Q. Do you remember whether Frau Busemann was upstairs or downstairs when the watch was taken?
A. She was present and helped me undo the chain from the button whole of the vest.

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Q. At the time your father's watch was taken were there at least two soldiers in the room?
A. I don't remember exactly.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B)

FOURTH WITNESS for the Prosecution, Herr John FISHER, having been duly sworn is questioned by the Prosecutor:

Q. You are Herr John Fisher and you live in Veenhuizen, Germany?
A. Yes.

Q. You are a German civilian?
A. Yes.

Q. Do you live in Germany?
A. Yes.

Q. Is Frau Fisher your wife and are Frau Busemann and Frau Soor your daughters?
A. Yes.

Q. Is Gert Fisher your son?
A. Yes.

Q. Do you remember the evening of 3 May last about 9 o'clock?
A. Yes.

Q. What happened?
A. They knocked on the outside door.

Q. Who is "they".
A. The shortest one of the soldiers.

Q. Is there anyone in the room now who you saw on the evening of 3 May?
A. The witness identifies Gnr Thorne and Gnr Wilks.

Q. Are these the soldiers that came to your door that evening?
A. Yes, I think the two soldiers were there.

Q. Where did you meet the soldiers first?
A. I came out of the barn which is part of the house and my daughter Frau Busemann went upstairs to Frau Richter.

Q. What was the first thing you saw the soldiers do?
A. The first soldier grabbed in my trouser pocket and pulled out my purse and he also asked for wine and shcnapps.

Q. Which of these men took the pocket book from you?
A. Witness identifies Gnr Wilks.

Q. In what part of the house did this soldier take the pocket book from you?
A. In the wash kitchen. Thatis the small room beside the kitchen.

Q. Was there anyone in the big kitchen at this time?
A. Yes. My wife, Herr Olstendorf, Frau Soor, Frau Busemann and the two soldiers.

Q. At the time the soldiers took the pocket book from you was there any one else with you in the wash room?
A. No civilian people. The two soldiers came one behind the other.

Q. Why did you let the small soldier take your pocket book?
A. I cannot protect myself. I wanted to take it back but they would not give it to me.

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Q. Where did you got after they had taken your pocket book?
A. In the kitchen.

Q. What was the first thing the soldiers did in the kitchen?
A. They demanded Schnapps and wine.

Q. What did they do after that?
A. We did not have any schnapps or wine so they called us all Nazis.

Q. Did they point at anyone?
A. They were pointing their rifles at us.

Q. Did they make any of you do anything then?
A. They made us put our hands over our heads.

Q. What persons were forced to put their hands over their heads?
A. All of us.

Q. Which of these two soldiers pointed their rifles at you?
A. Especially the smallest one of the two (indicates Gnr Wilks).

Q. Did the other one do it also?
A. I am not so sure about the other one. The small one (Gnr Wilks) also locked the door.

Q. After the soldiers asked for Schnapps and wine did they then ask for anything else?
A. They drank milk and coffee which were on the table.

Q. Did they ask for anything else?
A. No.

Q. Can you identify this watch?
A. That is my watch.

Q. Where did you see it last?
A. In the pocket of my vest hanging on the chair.

Q. How did you come to lose it?
A. They demanded the watch and my daughter Frau Soor gave it to them.

Q. When you say "they" who do you mean?
A. The smallest one of the two (Gnr Wilks).

Q. Why did you let them take your watch?
A. I was defenceless. What could I do?

Q. You have said that the soldiers pointed their rifles at you? Did they do anything else with the rifles?
A. They opened the bolt and closed it again and some of the rounds fell on the floor.

Q. After the soldiers had taken your watch what did they do next?
A. The smallest one of the soldiers laid my money purse on the table and looked over what was in it.

Q. What was in your purse?
A. 20 mark note, 5 marks, a ring and also several 10 mark notes but I do not know how many.

Q. What did the soldier do with this purse after he had looked through it?
A. He put it back in his pocket.

Q. Have you ever seen your purse since then?
A. No.

Q. What did the soldiers do the rest of the evening?
A. Herr Olstendorf went to get some help.

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Q. Did Herr Olstendorf come back with anyone?
A. Yes, with an officer.

Q. What did the soldiers do then?
A. They were quiet.

Q. Did they go away?
A. Yes.

Q. How long altogether do you think the two soldiers you pointed out were in the kitchen?
A. From ten o'clock until half past twelve.

Q. At the time your daughter took the watch from your vest did either of the soldiers do anything?
A. No.

No cross-examination by the Defence.

Questioned by the Court:

Q. Why did your daughter give the soldiers the watch?
A. They demanded the watch.

Q. How did they demand the watch?
A. They said "oor, oor".

Q. Is that all they did?
A. I do not know any more.

Q. What did the other soldiers do when the shorter soldier took this watch?
A. He stood in front of the door which is leading to the stairway.

Q. Is this all he did?
A. I don't remember now whether he pointed his rifle or not.

Q. What did he when the shorter fellow was taking the pocket book?
A. He did nothing.

Q. Where was he?
A. They both came through the door and the second soldier followed the shorter soldier who took my watch.

Questioned by the Prosecutor through the Court:

Q. How long was it after the soldiers had pointed their rifles and called you Nazis did the soldier take the watch?
A. It was between ten o'clock and one o'clock.

Questioned by the Defence through the Court:

Q. Was the watch taken before or after the accused had pointed their rifles at you and called you Nazis?
A. They did that several times, pointing their rifles at the people.

Q. Was the first time they pointed their rifles and called you Nazis before or after the watch was taken?
A. It could have been the first time when the soldiers pointed the rifles.

Q. Is it not true that when the watch was handed over to the soldiers they had not yet pointed their weapons at you?
A. I do not know that.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B)

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FIFTH WITNESS for the Prosecution, Frau Fisher, having been duly sworn is questioned by the Prosecutor:

Q. You are Frau Fisher, the wife of Herr Fisher of Veenhuizen and are an inhabitant of Germany?
A. Yes.

Q. Do you remember the evening of 3 May?
A. Yes.

Q. Did anyone come to your house that night?
A. Yes.

Q. Who?
A. Two soldiers.

Q. Do you see these two soldiers in this room now?
A. Witness identifies Gnr Thorne.

Q. What did the soldiers do?
A. They wanted us to open up our door.

Q. Then what did they do?
A. They demanded schnapps and wine.

Q. And then?
A. Also tea and milk.

Q. What did they do with the tea and milk?
A. They drank tea and milk.

Q. Where did they drink the tea and milk?
A. In the kitchen.

Q. Were the soldiers carrying anything when they came to your house?
A. They had rifles in the kitchen.

Q. Did they do anything with the rifles in the kitchen?
A. They threatened to shoot us with the rifles.

Q. You have said the soldiers asked for wine, shnapps, tea and coffee. Did they ask for anything else?
A. No.

Q. After the soldiers threatened you did they make you do anything?
A. Not myself but my husband had to sit with his hands above his head.

Q. Do you recognize this watch?
A. Yes.

Q. Whose is it?
A. My husbands.

Q. Do you know how your husband lost it?
A. My husband had the watch in the pocket of his vest hanging on the chair and my daughter Frau Soor took it out and handed it over to the soldier.

Q. Was this before or after the soldiers threatened you with their rifles?
A. They threatened us before and afterwards.

Q. How long did the soldiers stay in the house?
A. From half past nine until half past twelve.

Q. Did you see the soldier whom you identified in this room take the watch or point a rifle at anyone in the room?
A. The soldier on the right pointed his rifle, also the one beside him.

...../15

Q. You have identified one soldier for us. Do you now recognize in the room any one else that you saw on that evening?
A. Recognizes Gnr Wilks and asks the interpreter if that is right.

Q. Was any soldier pointing a rifle at anyone in the room at the time the watch was being taken?
A. I am not sure about pointing the rifles at the same time when the watch of my husband was taken.

Questioned by the Defence:

Q. Did you see with your own eyes the watch being taken?
A. No I could not swear to that.

Q. Did you see the watch being taken?
A. No I did not.

Q. How did you know it had been taken?
A. I did see the soldier take the watch, put it on the table, take it up and lay it on the table again.

Q. Answer yes or no. Is it not true that you found out that the watch had been taken because someone told you?
A. Yes.

Re-examined by the Prosecutor:

Q. Did you see your daughter take the watch from your husband's vest?
A. Yes.

Questioned by the Defending Officer through the Court:

Q. Did you see the watch being handed over to the soldier by your daughter
A. Yes I did see that.

Questioned by the Court:

Q. Did both of the soldiers have rifles?
A. Yes.

Q. Did both of the soldiers point rifles at you?
A. Yes, both of them did.

Q. How many soldiers were in the room downstairs when this was being done?
A. Two.

Q. How was that room lighted?
A. With a little gas lamp.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B)

The court adjourns at 1800 hrs.

The court reopens at 1900 hrs.

SIXTH WITNESS for the Prosecution, C.26232 BSM Maskery, N, 7 Cdn Med Regt, having been duly sworn is questioned by the Prosecutor:

Q. You are C.26232 BSM Maskery N of 12 Bty 7 Cdn Med Regt and you were so on 3 and 4 May of this year. Is that correct?
A. Yes.

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Q. On the evening of 3 May will you please tell the court what you did and saw touching the matters in question?
A. On 3 May 45 I went to a house where a disturbance had been reported. I was accompanied by Lieut Geldard and Gnr Ruhl. On arriving at the house all the civilians were in one room. I didn't see any soldiers in that particular room. I walked across the room and opened the door. On the other side of the door were two soldiers.

Q. Can you identify the two soldiers?
A. Yes. Indicates Gnrs Wilks and Thorne.

Q. You had some conversation with these men then what did you do?
A. I went upstairs accompanied by Lieut Geldard and Gnr Ruhl.

Q. What did you do after you went upstairs?
A. I had a conversation with Lieut Geldard and left at that time.

Q. Then what did you do?
A. I took the two accused to BSM Jermyn of "Q" Bty Lines. I put them under arrest before turning them over to him explaining the situation to BSM Jermyn.

Q. Were these man carrying anything when you saw them?
A. They were carrying small arms?

Q. What kind of small arms?
A. Rifles.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

SEVENTH WITNESS for the Prosecution, M.107068 Gnr Ruhl D, 7 Cdn Med Regt RCA having been duly sworn is questioned by the Prosecutor:

Q. You are M.107068 Gnr Ruhl D of the 45 Bty 7 Cdn Med Regt RCA?
A. Yes.

Q. On the evening of the 3 May would you tell the court what you know touching the matters in question.
A. I entered the house with Mr Geldard and we saw two soldiers with rifles. The civilians seemed quite upset and scared of the whole thing.

Q. What room of this house did you go into?
A. It was the kitchen we were in.

Q. Was there anyone else in the kitchen?
A. The civilians were in the kitchen.

Q. About how many?
A. That I couldn't say for sure.

Q. You say you saw two soldiers. Do you see either of those two soldiers in the room at present?
A. I couldn't identify them sir.

Q. Where were these soldiers when you saw them?
A. They were standing in the doorway to an adjoining room from the kitchen.

Q. The officer asked them where the third one was. What did they reply?
A. I don't know whether they said he was upstairs or whether the civilians said that.

...../17

Q. What did you do then?
A. We proceeded upstairs, Mr Geldard and myself.

Q. Was anyone else with you?
A. I think one of the civilians went up. I didn't take notice.

Q. What was the general attitude and demeanour of the civilians in the kitchen?
A. Some of the women were crying. They seemed a little scared.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

EIGHTH WITNESS for the Prosecution, A.31008 BSM JERMYN, E.L. 7 Cdn Med Regt having been duly sworn is questioned by the Prosecutor:

Q. You are A.31008 BSM JERMYN EL of the 45 Bty 7 Cdn Med Regt?
A. Yes.

Q. Do you remember the 3 of May last?
A. Yes.

Q. Will you tell the court what you remember of the night in question?
A. On the night of 3 May 45 during the hours of 2330 and 2359 Sgt-Maj Maskery came to "Q" Bty lines and informed me two of my men were under arrest. He turned Gnr Wilks and Gnr Thorne over to me and I placed them under the guard of Gnr Diebel and Gnr Horsman.

Q. What happened to the two men then?
A. They were held at "Q" Bty lines while I proceeded with S/M Maskery.

Q. I show you a watch, Exhibit "A", another watch and a knife. Have you ever seen these articles before?
A. I have sir.

Pros: I ask that the watch be identified as Exhibit "B" and the knife as Exhibit "C".

Q. Will you please tell the court when you first saw the articles?
A. On May 5 at 1230 hrs Gnr Diebel came to me with an envelope. It contained the articles known as Exhibit "A","B" and "C".

Q. Can you recognize Gnr Wilks and Gnr Thorne in the room now?
A. Yes sir.

Q. Will you point to them please?
A. Identifies the accused.

No cross-examination by the Defence:
In the opinion of the JA and Court it is unnecessary to comply with RP83B.
NINTH WITNESS for the Prosecution, A.33152 Gnr Diebel, D.A. 7 Cdn Med Regt, having been duly sworn is questioned by the Prosecutor:

Q. You are A.33152 Gnr Diebel D.A. 45 Bty 7 Cdn Med Regt?
A. Yes sir.

Q. Do you remember the night of 3 May last?
A. Yes.

Q. Will you please tell the court what you know touching the matters in question?
A. On May 3 while on guard duty I went on patrol. I imagine between 1130 and 12 a jeep came into the yard which we halted. I recognized S/M Maskery's voice. He got out and asked where BSM Jermyn was. I told him he was in bed and he asked me to take him to where he was sleeping. He got the Sgt-Maj up and got these two soldiers in out of the vehicle.

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Q. Who do you mean "these"?
A. Thorne and Wilks.

Q. Can you recognize them?
A. Yes. (indicates accused).

Q. Then what did you do?
A. They talked for a few minutes and then they told me to take these two men into the office and keep them there until they came back. They came back but S/M Maskery was not with S/M Jermyn, but Sgt Griffiths was. We took the 15 cwt and took these two chaps down to C Tps Command Post.

Q. You and these two men were in the back of the 15 cwt?
A. Yes sir.

Q. Anyone else?
A. No sir.

Q. Then what happened?
A. Just as we got down there Gnr Wilks handed me a watch, another watch and a knife.

Q. I show you two watches and a knife which I have here. Have you seen them before?
A. They look very familiar sir. They are like the ones which were given to me.

Q. You are not sure whether they are the exact articles, Can you swear that they are?
A. I wouldn't like to swear to it. I have seen watches like these before but they are identically the same as were handed to me.

Q. And then what did you do?
A. The vehicle had stopped by this time and they were taken into the comd post and handed over to the officer in charge of the comd post at the time.

Q. Subsequently did you do anything with these two watches and a knife that I just showed you?
A. I just kept them. As a result of something I heard I went to contact the Sgt-Major. He was still away but when he came back at 1230 I handed these articles to him.

No cross-examination by the Defence.

In the opinion of the JA and the Court it is not necessary to comply with RP 83(B).

The Prosecution is closed.

The Court: Does the Defence plan on making any motion?
Def Offr: No sir.

The court will adjourn until 0930 hrs tomorrow morning.

The court re-opens at 0930 hrs 16 May 45.

Prosecution sums up:

The Prosecution has to prove the following: The feloneous and forcible taking from therperson or in his presence against his will any money or goods of any value by violence or putting him in fear. The Prosecution must prove that. I submit that the Prosecution has proved that in this case. First under feloneous and forcible taking we have evidence that Frau Soor took the watch in question under compulsion. She has said that she was afraid. Frau Fisher, the wife, said that the men played with the watch and passed it back and forth. And while she was not clear what happened to it after that, the watch was later found in the possession of Wilks who handed it to Diebel who gave it to the BSM so that the possession of the watch is proved to have been that of Wilks.

...../19

The wallet containing the ring and money was taken directly from Herr Fisher and he said he saw Wilks put it in his pocket. Second point, from the person in his presence or againsthis will. The wallet was taken from Herr Fisher's pocket ~~from his person~~. The watch was taken in his presence and when asked why he let this go on he said because he was defenceless which I say is against his will. As the offence is robbery with aggravation the carrying of an offensive weapon is required to be proved. The prosecution submits that there is ample evidence of the use of these weapons. Frau Soor and Frau Busemann say they were afraid and that the men threatened to shoot them. Herr Fisher says he was defenceless and powerless. The circumstances of pointing a rifle at people and a forcing of placing their hands above their heads are circumstances calculated to produce fear in reasonable persons. The prosecution submits that the production of fear and the threatening was done prior to the act of taking the wach and the wallet as Herr Fisher has said in both cases that he was defenceless when asked why he handed over the articles, and I submit that the fear and the attitude of mind induced in these people extended from the time of the first threat through the whole transaction so that whether the watch was taken while the rifle was actually pointed at the daughter or at the old man is not material. Points in controversy:(1) Soldiers armed by order: It is a possible argument that these soldiers appeared with small arms on the scene because of an order saying that soldiers will carry small arms. This might be so in another set of circumstances but I submit that the actual offensive use of threats made with these weapons certainly cancel any argument which may be produced in this point. (2) Taking by Frau Soor: The fact that the accused did not take the watch directly from Herr Fisher I submit is immaterial as Frau Soor acting under compulsion is the act of the accused. (3) Credibility: I ask the court to believe, making allowances for age and obvious lack of memory of some of the witnesses, these witnesses. (4) Joint venture: These two accused were together and I submit that the act of one is the act of the other and whoever pointed the rifle and whoever took the watch is not material. They were both in it together and are both jointly responsible.

Fraternization: These men are charged in the alternative with fraternization and if the offence of robbery with aggravation is not proven I ask the court on the facts proved to find these men guilty of the offence of fraternization.

Defence sums up:

The principle thing in question in this trial is the degree of credibility of the civilian witnesses. There are certain very fine points which I intend to illustrate on which points it must be found beyond all reasonable doubt that the accused were guilty. I submit that the witnesses were not convincing enough to remove in the minds of the court all reasonable doubt on these points. First, I shall start with Gnr Wilks. In order to find Wilks guilty of aggravated robbery it must be proved that a robbery was committed and that the robbery was committed by Wilks. Therefore, all the evidence given during the trial which did not specify Wilks clearly can only be at the very best corroboration. It was necessary to prove on the part of Wilks certain threatening acts, threatening acts committed before the wallet and the watch were taken. I submit that threatening actions afterwards are immaterial. It is not even fair to link them up with the preceding transaction in view of the fact that there is evidence that the accused had been drinking. In view of the credibility of the witnesses I submit that itis not proved beyond a reasonable doubt that Wilks did take part in threatening actions against the victim prior to the alleged taking of the watch and wallet. It is proved that Wilks was carrying a weapon. Regardless of the statutory definition I submit that it must be proved that the carrying of the weapon was unlawful. The court can take judicial notice of a fact that it is the duty of a soldier to carry weapons at all times in Germany. The court must make this allowance because this is a case where it would be a miscarriage of justice to apply English civil law to a soldier in Germany. The

...../20

English law was drafted on an assumption that people don't usually go around carrying arms. I submit that the court is within its rights in interpreting the law of England as applied to a soldier in this case.

In the case of Thorne. Should the court find that the robbery with aggravating circumstances or that a simple robbery was committed, it must also find that Thorne here took the objects alleged to have been stolen or helped some other person to do it. It is not the duty of the defence to prove that Thorne took no part, that Thorne did not assist in the robbery. I submit that there is no evidence that Thorne did take part in the robbery. Mere evidence of Thorne's presence in the house is not supplemented by evidence that he did something to aid the other soldier before or during the taking of the valuables alleged to have been stolen. Evidence of Thorne's acts after the robbery or evidence of acts by Thorne which are not definitely situated as before or during and connected with the robbery cannot be used to convict Thorne. There is no evidence of common intent between Thorne and the other soldier. I submit the argument that there is a reasonable doubt of which Thorne must have the benefit. Thorne was carrying a rifle. The fact of being present in the same house at the same time as the other soldier and carrying a rifle, in view of the circumstances I have already pleaded with reference to carrying arms cannot be construed as an act of helping the other soldier.

Certain threatening acts with a rifle are alleged to have taken place by the soldiers or by one of the soldiers as variously stated by the different witnesses. I repeat that it is not proved beyond a reasonable doubt that those threatening actions were made by Thorne before or during the robbery. The civilian witnesses of the Prosecution are vague and uncertain on all these vital points and establish no more than the presence of Thorne in the house up until the time when the wallet was taken. They no more implicate Thorne as an accessory than they do implicate the third soldier mentioned in the evidence who was also in the house at the time of the robbery.

As regards fraternization. I wish to go over the subject matter of the second charge. First, I must remind the court that there is no offence of fraternization. There is only an offence of conduct to the prejudice. It follows that the second charge must be read like this: Conduct to the prejudice in that they first, fraternized with inhabitants of Germany, second, visited and had refreshments with inhabitants of Germany. I don't think that the presence of the two accused in the German house can be qualified as visiting. I am sure that the various alleged actions of drinking tea and coffee cannot be described as having refreshments with Germans. I don't deny that they may have had the refreshments but they had them certainly in spite of and without the German civilians and finally I submit that none of the things that went on during that night can be described as fraternization, or being friendly. The court may find that in the course of the evidence certain actions were proven that might be to the prejudice of good order and military discipline, but if those acts do not agree with the subject matter as charged, namely fraternization or friendliness by visiting Germans and taking refreshments with Germans they have no power to convict on the second alternative charge. That is all.

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Summing up by Judge-Advocate:

It is now my duty to sum up matters of law regarding the two charges here and if you feel it necessary, to review the facts. I do not feel it necessary to review the facts at the moment unless the court express a wish to that effect because the case has been held in a relatively short time and the evidence is, I am sure, fresh in the minds of the court.

The court are the sole judges of all questions of fact so that in the course of my remarks or if throughout the course of this trial I have indicated in any way what opinion I may hold regarding any of the facts which have been produced before you, you should disregard that.

The first charge here against the accused persons is under Sec 41 of the Army Act and is a charge to the effect that the accused persons committed a civil offence, that is to say, robbery with aggravation contrary to Sec 23(1) of the Larceny Act (1916). Now Sec 23(1) of the Larceny Act (1916) deals with the question of robbery, and it is this: If persons who being armed with any offensive weapon, instrument or being together with one other person or more, rob or assault with intent to rob any person shall be guilty of a felony and on conviction thereon liable to penal servitude for life and in addition if a male, to be once privately whipped.

The evidence to support the charge of robbery with aggravation such as we have here is the same as in ordinary cases of robbery with the additional proof that the prisoner at the time of the robbery was armed with an offensive weapon or instrument. The evidence which is necessary to support an ordinary case of robbery is taken from the definition of robbery and that is this: Robbery consists in the feloneous and forceable taking from the person of another or in his presence against his will of any money or goods to any value by violence or by putting him in fear. Now if we break that definition down we find the elements of the crime which the prosecution must prove are these. First of all a taking. That is an actual taking either by force or upon delivery. It must be proved that the robbers actually got possession of the goods. The second element, that they must have taken either from the person of the victim or in his presence. You know of the facts here regarding this and you must apply this law to them. They must have been taken against the will of the victim. It must appear in the evidence that the goods were taken against the will of the party robbed. That is that they were here taken from him by force or violence or delivered up by him to the robber under the compulsion of that degree of fear and apprehension which is necessary to constitute robbery. A necessary element of that offence is that of bodily fear. It must be proved that the victim was actually in bodily fear from the prisoners actions at the time of the robbery or circumstances must be proved from which the court may presume such a degree of apprehension of danger as would induce the victim to part with his property. It is of no importance under what pretence the robber obtains the goods if the victim was actually forced to deliver the goods from actual fear or in circumstances from which the court can presume it. Those are the elements of the offence of robbery.

As stated it is necessary, in addition, to prove in a charge of this kind that the accused at the time of the robbery were armed with an offensive weapon or instrument.

The court should first of all consider whether or not the elements of this crime have been proved. If so then have the particulars as set out in the charge been proved to your satisfaction.

You may feel, in this case, that both of the accused persons are not involved in these charges to the same extent and are not responsible in the same degree - in other words, that there was a senior and a junior partner. I should point out to you that when a person is

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responsible for an offence in that: (1) he was present at its commission and aids and abets its commission (2) he combined together with another person or persons for an unlawful purpose or for a lawful purpose to be effected by unlawful means or (3) he committed the offence at the instigation of another, he then, is equally responsible and liable to the same punishment as the principal offender.

Now regarding the second charge the accused are charged in the alternative with conduct to the prejudice of good order and military discipline in that they in the field in Germany on the evening of 3 May 45 fraternized with inhabitants of Germany. I believe it is fair to say that non-fraternization means having nothing whatever to do with the German people except the minimum contact required for the execution of military duty. It is possible to outline what are some examples of fraternization and some of these examples are as follows: (a) Shaking hands with Germans; (b) Permitting children to climb into motor vehicles or to congregate in areas around military premises; (c) Associating on familiar terms especially with women; (d) Visiting German houses; (e) Drinking with Germans; (f) Playing games or sports with them; (g) Making or accepting gifts of any sort (even to or from children); (h) Attending German dances, entertainments or other social events; (i) Accompanying Germans on the streets, in theatres, taverns, hotels. Now those are some examples of fraternization and they may be of some assistance to the court in determining whether or not the acts alleged here may properly be regarded as fraternization. Those examples are not exhaustive by any means. I give them to you merely as a guide. They may be of some assistance to you in your deliberations.

Now in order that you be satisfied that the evidence which has been adduced here would warrant a conviction under this charge you should, as the defending officer has pointed out, satisfy yourselves that the conduct here was conduct which amounted both to prejudice of good order and prejudice to military discipline. An expression of inhabitants of Germany has been used throughout the course of this trial and I believe it is correct to say that the terms Germans, German people and inhabitants of Germany now is considered to include all persons living in Germany of their own free will. That is all I have to say regarding those two charges.

There are some general considerations which should concern you and they are applicable to both charges. The first being that of onus of proof. The onus of proof here is on the prosecution and it is not for the accused person or persons to prove their innocence. Throughout all British law there is that ever present principle that the accused is innocent until proved guilty and the onus of that proof is on the prosecution. The prosection must prove its case beyond a reasonable doubt and that reasonable doubt is not such a doubt as would be of a fantastic nature or a fanciful one but an ordinary common-sense doubt say of a business man, one which would cause him to have a doubt in the conduct of his ordinary business affairs. It is a thing of no really satisfactory definition but it could be interpreted to mean that if there is in the mind of the court any doubt of sufficient substance that it would put the court on their guard against reaching a conclusion then that is a reasonable doubt and the accused must be given the benefit of that doubt. Now there is a further point and that is that which I explained in the beginning. You are the sole judge of all facts which have been proved here. Closely associated with this is the question of credibility. You may as you know, accept or reject the evidence of any one witness or group of witnesses in part or in whole. You are entitled to decide whom you wish to believe of those witnesses and furthermore the weight which you wish to attach to the evidence which they have given you. There have been some inconsistencies here and those inconsistencies may have been sufficient as to shake your belief in the stories of these witnesses and that is for you to decide. I do not believe there is any object in my saying anything further regarding the law on these two charges and unless you purposely wish me to review the facts I do not feel it is necessary.

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JA: Mr. President are there any further matters on which you wish me to advise the Court?
Pres No sir.

JA: Mr Prosecuting Officer, are there any further matters on which you wish me to advise the court?
Pros What is meant by the expression "at the time of the robbery?".
JA: In my summing up I directed the court to a definition of robbery, and that was the definition which was in these words: robbery constitutes in the feoneous and forceable taking from the person of another or in his presence against his will of any money or goods to any value by violence or putting him in fear. Now that is the definition of robbery. The evidence to support a charge of robbery with aggravation is the same as in the ordinary cases of robbery with the additional proof that the accused at the time of the robbery were armed with an offensive weapon or instrument and at the time of the robbery simply means at the time of the commission of the offence.

JA: Mr Defending Officer, are there any further matters on which you wish me to advise the Court?
A. No sir.

Plea in mitigation:

Both the accused have been found guilty of the first charge, a civil offence. I have already attempted during the trial to establish that though it is perfectly legal and correct to charge and find a soldier guilty of a civil offence wherever it is committed, I would like the court to consider that in view of the fact that the accused have been found guilty of the civil offence, in the circumstances in which they were committed in the theatre of operations away from normal civilized surroundings, I would like the court to be lenient in the dealing out of the punishment. I press this point very earnestly because the offence of which the accused have been found guilty in civilian life is of a serious nature and as much as the court has power to convict and to give the accused life imprisonment this great latitude is given civil courts because it is felt that it is the duty of the court in determining the punishment to decide whether the accused is an enemy of society or not. In view of the circumstances and in view of the previous convictions it is felt that the accused is an emeny of society then the court is justified in trying to eliminate him from society and giving a maximum sentence or long sentence. But if the court doesn't find that the accused is an enemy of society they are justified in giving a minimum punishment sufficient to do justice and to teach him to be more careful in the future but not such a punishment as to destroy his future chances in life. So much for the civil aspect of the case.

The men charged here are soldiers. In other words when a soldier is charged with a civil offence I don't think the court should view that offence in the same light as they would a civilian. For instance, a civilian who enters a house carrying weapons and commits a robbery leaves a very strong presumption that the man is dangerous but when a soldier who enters a house carrying weapons as is his duty to do so the same presumption against the accused's character does not exist. A soldier in respect to a civil offence is a man who has been uprooted from his normal social surroundings. In the Cdn Army he is a Cdn soldier and of his own free will he has left his family and social circle to come to another country to go into danger and into a world which is in a sort of upheavel. That is a Germany of a few weeks ago. By doing this he has placed himself in a series of circumstances which may not justify his offence but which certainly excuse him and which certainly should be taken into account by the court in awarding a lenient punishment. Apart from a very uprooting of the man from his normal surroundings it is a fact that the stage of the war where these offences were committed was when Germany was in a chaos. It was very difficult for many minds to distinguish between right and wrong. You are permitted to carry weapons, you are permitted and ordered to kill, you are permitted to use violence. They were enemies among the soldiers who opposed to enemies among the civilians by acts of destruction, acts of violence, acts of arson and in many minds it was not quite clear where right stopped and wrong started. These circumstances acting upon the mind of a young soldier are of the nature to make him unconscious of the seriousness of his acts and definitely the acts which were proven against him under those circumstances are not the acts of an innerent criminal and of a danger to society. It is also proved that the men were drunk. Now drunkenness is not an offence but I believe added to the circumstances I have already argued it is a mitigating circumstance and again it supports my contention that the accused should not be regarded by the court as common criminals and as enemies of society. The court is entitled to give the man some punishment because that is the law of the land and because it is necessary for discipline that men be not allowed to break that law and go unpunished, but I submit that the court should be as lenient as possible in both these cases because of the circumstances which I have pleaded. Now I want to make particular reference to Gnr Thorne. He is more or less in the transaction of which the court has found him guilty, I should say, the junior partner. He was there since the trouble started. He would have been wise to leave. He was drunk, he

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he was not thinking quite clearly, he stuck around, made some gestures himself, got himself tied up with the principle events and now has been found guilty of it. In this case especially there is sufficient reason for the court to be lenient because in addition to the circumstances which I have pleaded in favour of the accused there is the fact that he was partly concerned with the crime. It is difficult for him to realize that he did steal and did commit a robbery. That is all.

E & D

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B9933	Gnr	Thorne R.W.	7 Can Med Regt RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Mil entries ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused in the present time is undergoing sentence of~~ ..... days imprisonment ~~beginning on the~~ ..... day of .....

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 5 days in military custody, *i.e.*, Nil days in open arrest, 5 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 22 yrs 4 mos

6. The date of his attestation is 25 Nov 41
~~calling up for military service~~

7. ~~The service which the accused is alleged to have to~~ .....

8. The accused is in possession of† C.V.S.M. & C.

†State the military decorations (if any) held by accused.

9. ~~If the accused is a serving officer in the C.A.~~ The accused has served continuously without interruption to the present date from ..... *Date of Enrolment*

~~In the substantive rank of .....~~
~~In the war substantive rank of .....~~
~~In the acting rank of .....~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(25094) WL42129/4399 42,000 11/41 A.S.E.W.Ltd. Gp.698 Forms/F.2.6(War)/1

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL.	NIL.	NIL.	NIL.	NIL.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 8th day of May 1945

Johnston
Maj

ARMY FORM B.295 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B44939	Gnr	Wilks F.R.	7 Cdn Med Regt RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) ..... One times.

For A.A. Sec 19 ..... One times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 7 Sep 43

Date of last entry in Field Conduct Sheet 1 Nov 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence of imprisonment for a period beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 5 days in military custody, *i.e.*, Nil days in open arrest, 5 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 yrs 6 mos

6. The date of his attestation ~~enlistment for military service~~ is 7 Nov 42

7. ~~The service which the accused is allowed to reckon in .....~~

†State the military decorations (if any) held by accused.

8. The accused is in possession of† C.V.S.M. & C.

9. ~~If the accused is a non-commissioned officer, he was reduced to the ranks with forfeiture of seniority on the ..... day of ..... 19..... The accused has served with his unit with no reduction to the present date.~~

~~Date of promotion.~~

~~In the substantive rank of .....~~

~~In the war substantive rank of .....~~

~~In the acting rank of .....~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(28504) Wt.42129/4399 42,000 11/44 A.& E.W.Ltd. Gp.693 Forms/F.2.S(War)4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL.	NIL.	NIL.	NIL.	NIL.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 8th day of May 1945

Lt

MFM 6
(AFB 122)
40/PAS/136 (3438)

No B449 39 Name Wilks F.R. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 7 Nov 42 GC | Badges | Service or Proficiency Pay | Character Good.

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc Johnston Maj

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of six months service - 7 May 43					
				Date of last entry - Nil					
Field	7 Sep 43	Gnr	Nil	A.A. Sec 15(1) AWL from 2359 hrs 6 Sep 43 to 1055 hrs 7 Sep 43. (absent 10 hrs, 56 mins)	Doc	14 days CB	8 Sep 43	Lt- Col Dow	Forf 1 days pay. FR&I
Field	1 Nov 44	"	"	A.A. Sec 19 - Drunkeness	Lt Fleet	Warned	3 Nov 44	Major Thompson	
Field				Granted Privilege Leave to U.K. from 13 Jan 45 to 22 Jan 45				Capt H.W. Davis	
				CERTIFIED TRUE COPY: W.M. Kennedy, Lieut. Johnston Maj					

(PTO)

MFM 6
(AFB 122)
40/PA&S/136 (3458)

No B9933 Name Thorne R.W. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 25 Nov 41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine N-A | Sheet No 2 | Signature OC Company, etc J. Johnston Maj | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original destroyed on completion of six months service - 25 May 42 Date of last entry - 21 Apr 42					Clk
						Pte	Ex C.		

CERTIFIED TRUE COPY:
W.R. Runnalls Lieut
J Johnston
Maj

(PTO)

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Sir,

We did not succeed in finding Mr. Olstendorff, who should be in Veenhuden to-day. He seems to be arrested by military authorities and brought to a camp in Aurich. An investigation there had no success. We got the information that in Logabierum all men between 18 and 45 years have been arrested and brought to Aurich and from Aurich to another place. Perhaps 613 Mil.Gov.Det. at Aurich can tell you where Olstendorff is.
We suggest you therefore to take up contact with 613 Mil.Gov.Det. in Aurich for further information.

Field
16. May 1945.

for C.O. 620.Mil.Gov.Det.

LIST OF WITNESSES FOR THE PROSECUTION

Lt	H. Geldard		7 Cdn Med Regt RCA
Herr	Olstendorf		Logabirinn, Germany
Herr	J. Fisher		Veenhuizen, Germany
Frau	Fisher		Veenhuizen, Germany
M107068	Gnr	Ruhl D.	7 Cdn Med Regt RCA
C26232	BSM	Mankery H.	7 Cdn Med Regt RCA
A31008	BSM	Jermyn E.L.	7 Cdn Med Regt RCA
A33152	Gnr	Diebel D.A.	7 Cdn Med Regt RCA
Frau	H. Busemann		Veenhuizen, Germany

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A"	One watch
"B"	One watch
"C"	One knife

ORIGINAL EXHIBITS

Two watches and one knife marked Exhibit "A", "B" and "C"

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

I desire the services of Capt N.D. Slater, 7 Cdn Med Regt RCA, if he is available, if he is not available I desire the Convening Officer to detail an officer with legal qualifications to represent me.

T Thorne R.W.

B9933 Gnr Thorne R.W.

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

F.R. Wilks

B44939 Gnr Wilks F.R.

Slater.

SUMMARY OF EVIDENCE

In the case of B44939 Gnr Wilks F.R. and B9933 Gnr Thorne R.W., 45 Bty., 7 Cdn Med Regt RCA., Cdn Army Overseas, charged with:-

(i) Committing a civil offence, that is to say, Robbery with Aggravation, (Contrary to Sec 23 (1) of the Larceney Act 1916. (Sec 41 Army Act)

(ii) Conduct to the prejudice of good order and military discipline (Sec 40 Army Act).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

Lt H. Geldard, 7 Cdn Med Regt RCA, sworn, states:

Last evening, 3rd May 1945, at about 2130 hrs I was in "P" Battery Command Post, 7th Cdn Med Regt RCA, when a frightened German male civilian, very much excited and nervous, came in and said that three Canadian soldiers were drunk and causing a disturbance in a house. I proceeded with him, an interpreter, C26232 BSM Maskery N., and C26351 L/Sgt McLaren A.H., to the house. When we arrived there we went in. There were a number of German civilians there, about six I would say, all very excited, sitting in a kitchen. Standing in the hall by the kitchen doorway were two soldiers with rifles. I asked them who they were. They said they were from the 7th Cdn Med Regt RCA. They had been drinking. I asked if there were a third or only two of them and they said only two. Through the interpreter a civilian said that there was a third one upstairs. It was the same civilian that had come for us. We, the Sgt-Major, the interpreter, the civilian and myself proceeded upstairs. I tried a door which was locked and I ordered whoever was in there to come out. A man's voice replied "Who is that?" I repeated "An officer." He said "Wait." I then sent the Sgt-Major with the two men we had found downstairs and all of our party except the interpreter and myself down to Q Battery wagon lines and placed the men under arrest. A civilian downstairs gave me a round of .303 ammunition.

The accused declines to cross-examine the witness.

H. Geldard

Lieut H. Geldard
7th Cdn Med Regt RCA

Ruhle - Interpreter

Herr John Fischer.

Franz - Bürgermeister.

Second Witness Herr Olstendorf, LOGARITHM, GERMANY, sworn, states:-

On the evening of 3 May 1945 I was visiting the home of Herr Richter. I was in the kitchen when I heard a noise outdoors and someone knocked on the door. Someone outside demanded us to open the door. Three soldiers entered the kitchen. They said something but the only word I could understand was "Schnapps." One of the soldiers left the kitchen. I heard Frau Busemann call and ask Frau Richter if she had any Schnapps. I later saw the soldiers drinking tea, and one of them helped himself to milk. The two soldiers who were left pointed their rifles at the civilians. They searched the three men. I layed my pocket book on the table and a soldier went through it but did not take anything. The soldiers pointed their rifles at us and called us Nazis. Both soldiers cocked their rifles once or twice and frightened everyone. One soldier locked the door to upstairs then both of them sat near the door which led outside. No one could leave the room. Gerhardt Fisher and myself were forced to keep our hands on top of our heads. We were kept in that position all the time. One of the soldiers stabbed the knife into the table and and then made motions with it across his throat. One soldier went upstairs calling for the one who had left us before but he came back alone. Then the second one went and called him but he still did not come. Frau Fisher left the house through the kitchen door but I do not know where she went. One of the soldiers asked where Frau Fisher had gone but I told him she had gone to the latrine. I got out of the house and went to the house where the officer was to get help. I met a soldier on the road and he directed me to the Command Post. I waited there for a short time and two or three soldiers came with me in a jeep straight to the house. I entered the house behind the officer and saw the same two soldiers still there. I went upstairs with the officer. The door was locked. After the officer had knocked and spoken a soldier opened the door. It was dark on the landing and in the room.

The accused declines to cross-examine the witness.

H. Olstendorf
Herr Olstendorf

Certified that the above testimony was read back to the witness, in German, corrected and then read to the accused, in English.

F. Williams Capt
(F.S. Williams) Capt RCA.

Third Witness Herr J.Fisher, VEENHUIZEN, GERMANY, sworn, states;

I came out of my barn on the evening of 3 May 1945 and saw three soldiers hammering on the kitchen door,with rifle butts. They spoke in English and I understood that they wanted the door opened. My wife opened the door. I went through the door leading from the barn into the kitchen and was in the kitchen when the soldiers came in. Immediately after they entered the door the shorter of the two soldiers took my wallet and watch and chain. In the wallet was a wedding ring, one twenty mark note and several ten mark notes. One of the soldiers had gone upstairs almost immediately after entering the house.

The second soldier pointed his rifle at us and spoke but I could not understand the language. They cocked their rifles and two or three rounds fell on the floor. I recognize the two soldiers here as the two in the kitchen. The shorter one (B44939 Gnr Wilks F.A.) is the one who actually took my wallet and watch. We all in the kitchen were very frightened. The two soldiers here demanded Schnapps and wine. The two soldiers drank coffee and milk. They closed and locked the door leading upstairs. My wife left the house and afterwards Herr Olstendorf left also. I next saw Herr Olstendorf when he came with an officer and some men. This watch (Marked Exhibit "A") is mine and is the one the soldier took from me.

The accused declines to cross-examine the witness.

Herr J. Fisher

The witness was shown three watches one of which was the watch marked "Exhibit "A". He picked out Exhibit "A" and identified it as his own watch, describing it correctly before he saw any of the watches.

Certified that the above testimony was read back to the witness in German and to the accused in English.

(F.G.Williams) Capt RCA

Fourth Witness Frau Fisher, VENHUIZEN, GERMANY, sworn, states;

I was in the kitchen on the evening of 3rd May 1945 when three soldiers knocked on the door. My daughter, Frau Busemann, opened the door. They demanded Schnapps and pointed their rifles at us frightening us all. One of the soldiers went upstairs. The other two soldiers, whom I recognize as the accused pointed their rifles at the other civilians in the room and called them Nazis. I was made to sit with my hands on top of my head. The soldiers locked the door leading upstairs. They drank some tea which I made and also some milk. They kept threatening us until I left and went to the neighbours.

Question: (by B9933 Gnr Thorne R.A.) "Did I not ask you for some eggs?"

Answer: "No."

Question: (by B9933 Gnr Thorne R.A.) "Why does the witness say that she was made to sit with her hands on top of her head?"

Answer: "When we were threatened by the rifle we put our hands on top of our heads. We were [redacted] ordered to do so." The soldier showed us how we were to do it.

Anna Elsa Fisher

Frau Fisher

Certified that the above testimony was read back to the witness in German and to the accused in English.

F.G. Williams

(F.G. Williams) Capt RCA

Fifth Witness M107068 Gnr Ruhl D. 45 Bty., 7 Cdn Med Regt RCA, sworn, states:

On the evening 3 May, 1945, I proceeded with Lt. H. Geldard to a house where a disturbance had been reported. On entering I saw two soldiers with rifles who had upset the people who seemed very scared of the whole thing. We asked the two soldiers where the other soldier was. We were informed that he was upstairs. We proceeded up the stairs. During the conversation when we first entered the house, the old gentleman named Herr Fisher told me that he had been robbed of his watch and wallet (containing a ring and some money.)

The accused declines to cross-examine the witness.

D Ruhl

M107068 Gnr Ruhl D.
7 Cdn Med Regt RCA

Sixth Witness C26232 BSM Maskery N., 12 Bty., 7 Cdn Med Regt RCA, sworn states:

On the evening of 3 May 1945, I proceeded with Lt. H. Geldard to a house where a disturbance had been reported. When we arrived at the house the occupants were all in one room. I walked across the room and opened the door and two soldiers were standing on the other side. I asked them what they were doing there. They replied "I am waiting for my friend upstairs." I asked them what there friend was doing upstairs." I got no reply to that question. I brought them back into the room where the occupants were and accompanied by Lt. H. Geldard and M107068 Gnr Ruhl D., went upstairs. I left the two soldiers in the kitchen. Lt. Geldard tried the door. The door was locked. He then said "Open the Door, there is an officer here." I did not hear the reply which was mumbled on the other side. I then told Lt. Geldard I would take the two men in the kitchen to BSM of Q Bty 7 Cdn Med Regt RCA. This I did. I took the small arms from them and put them under arrest. These men had been drinking. I reported the situation to BSM Jermyn, E.L. In company with BSM Jermyn we went back to the house and there met Lt. Geldard who told me that the man upstairs had got away.

The accused declines to cross-examine the witness:

N Maskery

C26232 BSM Maskery N.
7th Cdn Med Regt RCA.

Seventh Witness A31008 BSM Jermyn E.L., 45 Bty., 7 Cdn Med Regt RCA, sworn, states:

Between 2330 and 2359 hrs 3 May 1945, C26232 BSM Meskery, R., came to 4 Bty 7th Cdn Med Regt wagon lines and informed me that he had two of my men under close arrest. He asked me to accompany him to apprehend a third man who was at a farm house a short distance from F Bty 7th Cdn Med Regt Command Post. BSM Meskery handed over B44939 Gnr Wilks F.A., and B9933 Gnr Thorne R.A. and I placed A33152 Gnr Diebel and 43758 Gnr Horsman A.L. as guard over them. I then accompanied BSM Meskery to the farmhouse and upon arriving there we were told by the officer that the man had escaped. The officer told me it was Gnr Craig and that he had got his name and number out of his paybook. I then went to "C" Tp Command Post where the officer on duty called No. 4 Gun to find out if Craig was on his gun. Gnr Craig came to the tannoy and told the officer that he had returned about twenty minutes previously. Gnr Craig was then escorted to the Command Post and placed under Close Arrest. At 1230 hrs 5 May 45 Gnr Diebel informed me that one of the accused had given him some valuables to hold for him. Upon inquiring into the nature of same I had him hand them over to me to be presented as evidence Exhibits "A", "B", and "C" as the articles in question.

The accused declines to cross-examine the witness.

A31008 BSM Jermyn E.L.
7th Cdn Med Regt RCA.

Eighth Witness A33152 Gnr Diebel D.A., 45 Bty., 7 Cdn Med Regt, sworn, states:

On the night of 3 May 45, while I was on guard duty at 4 Bty 7th Cdn Med Regt wagon lines, a Jeep drove in and we halted it. In it were BSM Meskery, Gnr Thorne and two or three others, and BSM Meskery came out and asked for BSM Jermyn. I took him into the house and called the Sgt-Major. I was then put in charge of Gnr Wilks and Gnr Thorne while the two BSMs went away to a house. I was told to guard the two men. When BSM Jermyn came back he had Sgt Griffiths with him. We then took the two men to C Tp Command Post. I rode in the back of the truck with the two gunners. Just before getting out of the truck Gnr Wilks asked me to keep two watches and a knife for him. I recognize the two watches and knife as the ones he gave me. We took them into the Command Post and turned them over to the officer and Tp BSM. On 4 May 1945 I understood that the accused were being charged with robbery and realized the watches might be evidence so I turned them over to BSM Jermyn. Exhibits A, B and C are the watches and knife which Gnr Wilks turned over to me.

The accused declines to cross-examine the witness.

A33152 Gnr Diebel D.A.

Ninth Witness Frau H. Busemann, VERDEUZEN, GERMANY, sworn, states:

On the night of 3 May 1945 at about ten thirty p.m. I had closed the house door just about ten minutes before. Three soldiers approached the house and were knocking on the door ordering to open up. As I opened the door they came inside demanding Schnapps and wine. My mother and my father, one brother, one sister, and Herr Olstendorf were in the room when the soldiers came. I went upstairs with one of the soldiers to get Frau Richter because she speaks a little English. I called Frau Richter and she got up. I asked her if she had any Schnapps as the soldiers wanted some. I did not stay with Frau Richter and the soldier. I went straight through the kitchen door into the childrens' bedroom as I was very frightened. I did not stay there but climbed out of the window and jumped to the ground. I stood and looked through the kitchen window for a few minutes. I could hear the soldiers drinking something. I then went into the kitchen. One of the soldiers picked up a bread knife and stabbed it into the table. He then made motions with it across his throat and said something in English which I could not understand. My father told me that he had been robbed by the two soldiers while I was out. One of the soldiers picked up the knife and went out through the door. While he was gone the other soldier pointed his rifle and called us Nazis. He cocked the gun two or three times and two or three rounds fell on the floor. Two of these rounds were picked up and later given to the officer who came to take the men away. The other soldier came back. After this they laid their rifles on the table. They then tried to persuade myself and my sister to go outside with them but we would not go. My mother left the kitchen and went to the neighbours because she was frightened. She did not return and the soldiers asked where she had gone. Herr Olstendorf went to call an officer, telling the soldiers that my mother had gone to the latrine. They then frightened us again with their rifles and shortly afterwards the officer arrived. The officer came with Herr Olstendorf and some other soldiers.

The accused declines to cross-examine the witness.

Frau H. Busemann

Certified that the above testimony was read back to the witness in German and to the accused in English.

(F.G.Williams) Capt RCA

Daughter of John Fisher
Sister of Jean & Scott
" Bert Fisher

The accused were cautioned as follows:

Q. Do you wish to make any statements or to give evidence on oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you will give will be taken down in writing and may be given in evidence.

A. B44939 Gnr Wilkes F.R.: "I do not wish to make any statement".

A. B9933 Gnr Thorne R.W.: "I wish to make a statement".

Q. On oath or not on oath?

A. B9933 Gnr Thorne R.W.: "On oath".

B9933 Gnr Thorne, R.W., having been sworn states:

"I did not force the people to place their hands upon their heads and I am not guilty of robbery and I was not drunk.".

R.W. Thorne
B9933 Gnr Thorne, R.W.
7th Cdn Med Regt RCA

The accused do not call any witnesses.

I certify that the foregoing summary of evidence consisting of nine pages, was taken down by me in the presence of the accused and that R.F. 4 (c), (d), (e) and (f) have been complied with.

In the Field
4 May 45

F.G. Williams Capt
(F.G. Williams) Capt., RCA
7 Cdn Med Regt RCA.

PP 98

PTE THORNE S.O.K.

PP98

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 8th day of September, 1943.. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of HQ 2 Cdn Corps Tps RCASC, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint :—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~for the following reasons, namely :—]~~

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.		
Rank.	Name.	Regiment.
Major	A.L. Morris	34 Cdn Corps Tps Coy R.C.A.S.C.
Members.		
Rank.	Name.	Regiment.
Capt.	H.G. Smith	33 Cdn Corps Tps Coy R.C.A.S.C.
Lt.	A.C. Bagg	34 Cdn Corps Tps Coy R.C.A.S.C.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.G. Bisson) Lt.-Col.,
Commanding HQ 2 Cdn Corps Tps RCASC.
Convening Officer.

J.A. -
Capt. G.H. Jermyn
HQ 2 Cdn Corps

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D.127080 Pte. THORNE, Samuel Oliver Royle 2 Cdn Motor Amb Convoy RCASC	Charge No. 1 A.A. Sec. 40 Conduct to the Prejudice of Good Order and Military Discipline, in that he, did so negligently drive MD Vehicle No. Cl-196350 that the said vehicle was damaged in the amount of $80.0.0.	Not Guilty	Not Guilty 9 Sep 43 A L Morrow major.	hold and JCB 10 Sept 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*a*)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— NO SIR

(Signed) J.G. Bisson (J.G. Bisson) Lt.-Col., *Commanding* HQ 2 Cdn Corps Tps (Signed) A L Morrow major. *President.*

CONFIRMING OFFICER (*e*) J Ferguson Capt JCB

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of September 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~ Judge Advocate
4. ~~The officers under instruction~~

were duly sworn.

*Omit if not applicable.

Signed this 9th day of September 19 43

J Ferguson Capt JCB — A L Morrow major.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 702 M.M.L., 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

JCB

Signed this 10th day of Sep 19 43.

J G Bisson
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(28066) Wt.38200/411 60,000 12/42 A.S.& W.Ltd. Gp.698

The accused elects trial by Court-Martial

CHARGE SHEET

The accused, No D-127080 Pte Samuel Oliver Koyle THORNE, 2 Motor Ambulance Convoy, R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREDJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

First Charge
A.A. Sec 40

In that he

in the field, on the 22nd May 1942 at about 1030 hours did so negligently drive W.D. Vehicle No. CL-196350 that the said vehicle was damaged in the amount of £80-0-0

In the Field

(R.L. Mummery) Major,
Commanding
2 Motor Ambulance Convoy,
R.C.A.S.C.

To be tried by F.G.C.M.

8 Sep 43

(J.G. Bisson) Lt.-Col.,
Comd 2 Can Corps Tps R.C.A.S.C.

A. L. McKay
President.
J. Hemmings Capt
J.A.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No D-127060

Pte THORNE, S.C.K. of #2 Motor Ambulance Convoy, RCASC

and in my opinion he is ~~unfit~~ fit to undergo trial by court-martial

Station Field

Date 9 Sep 43

J D Laynia Major

Medical Officer

A.L. Morrison Capt

PAGE I

Record of Proceedings of a Field General Court Martial

Held in the Field in England (Country) on 9 Sept 43 (Date) to try

Accused D-127080 Pte Samuel Olivier Kayle Thorne 2 Cdn MAC RCASC
(Number) (Rank) (Christian Names) (Surname) (Unit)

	Rank	Name	Unit
President	Maj.	A. L. Morris	34 Cdn Corps Tps Coy RCASC
Member	Capt.	H. E. Smith	33 Cdn Corps Tps Coy RCASC
Member	Lt.	A. C. Bagg	34 Cdn Corps Tps Coy RCASC
Judge Advocate (if any)	Capt	E. H. Jermyn	HQ. 2 Cdn Corps.
Officers Under Instruction (if any)			
Prosecuting Officer	Capt.	T. Harper	2 Cdn MAC
	Lawyer? Ans	No	
Defending Officer	Lt.	L. M. Bayly	2 Cdn M.A.C.
	Lawyer? Ans	No	

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. p.742 top).

2. The President, in closed court (R.P.22, fn 1) reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted (A.A.49: Rs.P.106, 107), that the accused is (are) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,10

3. The accused is (are) brought before the Court and at 1010 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R. 557 (See CMHQ Circular Letter 175) that the accused has (have) this day been examined and is (are) fit to undergo trial by Court Mart The certificate is signed by the President and attached to the proceedings.

(Over)

~~5. President to accused:~~ Nil

Q - Do you object to _____ as interpreter?
A - _____

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to _____ as shorthand writer?
A - _____

~~The shorthand writer is duly sworn.~~ (Form of oath on Page "D").

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A - No SIR.

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.25). (For form of record see M.M.L. p. 742 Variation).

8. The President, Members, Judge-Advocate ~~and Officer under Instruction~~ are duly sworn (Rs.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet(s) is (are) signed by the President.

10. The Prosecuting Officer informs the Court that the accused has ~~not~~ elected trial by Court Martial (A.A.46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130; R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see M.M.L. p. 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge	NOT GUILTY	Fifth Charge	
Second Charge		Sixth Charge	
Third Charge		Seventh Charge	
Fourth Charge		Eighth Charge	

(For procedure on alternative charges, see R.P. 37(A) and fn. 2). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages hereto attached.

PAGE 'B'

(For use when accused pleads "Not Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The accused is asked the question set out below the Schedule on p.2 of A.F.A.3 and his answer there recorded. (R.P.39(A)).

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

(See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed.

(If submission is made by Defence that no prima facie case has been established, such submission, Prosecutor's reply and decision of the Court are recorded on separate sheet, initialled by the President and attached hereto). (Rs.P.40, fn 1; 70, fn 1).

4. The accused is informed that he may, if he wishes give evidence but if he does so he will be liable to cross-examination (R.P.40, fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross-examined. (R.P.40(D) (ii) (a)).

5. President to accused:

Q - Do you apply to give evidence yourself as a witness?
A - YES SIR
Q - Do you intend to call any other witness in your defence?
A - YES.
Q - Is he a witness as to character only?
A - YES

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of same see Rs.P.40,41,42).

8. The Court is closed to consider the finding(s). (Rs.P.43,44,117).

9. The finding(s) of the Court is (are) recorded on p.2 of A.F.A.3.

10. The Court being re-opened, the accused is again brought before it.

11.(A) (If finding(s) "Not Guilty" on all charges)

The finding(s) is (are) announced and the accused is released.

OR

~~(B) (If finding(s) "Not Guilty" on one or more charge(s) and finding(s) "Guilty" on one or more charge(s)).~~

The finding(s) of "Not Guilty" are announced and the President states "The finding(s) of the Court on the ____, ____, ____, ____, ____ and ____ charge(s) being subject to confirmation, will be promulgated later".

OR

(C) (If finding(s) "Guilty" on all charges).

~~The President announces "The finding(s) of the Court being subject to confirmation, will be promulgated later".~~

(Over)

12. Statement of Character and Service (A.F.B.296 or M.F.B.355) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163 (1) (h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked " " and " ", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

13. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)).

A - _____

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

14. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

15. The Court is closed to consider the sentence.

16. The sentence is recorded, dated and signed by the President (R.F.50) on p.2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134; K.R.(Can)563-566; Overseas R.Os.309,2323).
(One sentence is awarded in respect of all offences,R.P.48).
(For form of sentence see M.M.L.p.756-759).

17. A. L. Moore
(Signature of President)

(2 Cdn. Corps 15-6-43)

Attorney Capt
J.A.

A Lbw

Prosecution

First Witness

D-127131 Pte Markey, R. N. - sworn states

On 22 May 43 I was riding in back of lorry when it turned over. There were 6 men and 6-10 lb stores + cooking equipment piled high in the front of the lorry there was room for the 6 men to sit.

Cross. examination.

I am in charge of the stores that were loaded in the lorry. They were piled high towards the front of the lorry so the men could sit in the back.

I have driven with the accused before but have not seen him drive carelessly or recklessly.

Questions by the Court.

The stores were for 6-10 lb stores for one platoon. We had been riding in the lorry from 17.30 to 1030 hrs.

Pte Thorne whom I recognise was driving. I was in charge of the vehicles. It was not usual to carry 6-10 lb stores and personnel in the vehicle. Only the cook Pte Kwiea usually travelled in it. There wasn't enough room in other vehicles so the men were in the back of the vehicle

I would say the speed was something around 15 or 20 m.p.h. It happened so fast I couldn't say for sure whether or not I felt the brakes being put on before the vehicle turned over. I gave Thorne instructions to drive slowly and be careful. There were five vehicles in the convoy counting the "jeep". #1 was the last vehicle. The road was hard surfaced, and dry. I don't know how wide the road was The spare driver was Pte Brierley. The accident happened on a curve. Traffic was light.

R.P. 43(B) complied with.

Second Witness

A-103082 L/Cpl Adams, H. W. sworn states.

On 22 May 43 at about 1030 I was riding behind the lorry - about 20 feet. As it made the bend the lorry seemed to straighten out and headed towards the bank on the right hand side of the big way. It was a left hand turn. The off front wheel hit the bank and the lorry rolled over. The front of the cab hitting the bank after lorry turned upside down and for a moment the four wheels were in the air, then it fell down again on the right side.

I went over to the vehicle and helped to get the men out.

There was a long slope down then a sharp rise then a left turn coming up the hill you couldn't notice the turn. I was over taking Thorne in the lorry. my speed was about 20 m.p.h. I couldn't see the curve but saw the lorry take the curve.

Cross examination

The curve was quite sharp - about the shape of a hockey stick. On the right hand side there is a grassy slope - sloping up - a built up bank.

The road was slanting towards the right side of the road. The lorry was making the turn and then straightened out. It looked as if there was something in front of him and he was cutting away from it. I cannot say whether or not the lorry was slowing down for the curve. There was a stone wall on the left hand side of the road as you come to the curve.

I saw Thorne driving quite a lot on the others. I did not see him driving recklessly at any time.

Questioned by the Court

I was riding a Harley-Davidson M.C. in second gear. The road surface was tar and stone. I wouldn't swear I was overtaking the vehicle quickly. I did not notice the vehicle was slowing down for the curve. The vehicle CL-19035-O was an old one. I was overtaking it. I did not notice him slow down for the curve. I did not notice him slowing down after he started to take the curve and straightened out. I did not examine the vehicle after the accident. The instructions given that morning were to go 15 miles in the hour. Mr Connelly was leading the convoy in a jeep. Thorne's vehicle was the 4th vehicle. But it had slowed down and been passed. Coming to the curve it was the last vehicle in the convoy. about a mile before the accident it had slowed down. He appeared to be having trouble with it. R.P. § 3(B) complied with.

Third Witness

M - 30923 Dvr Lewis, L.J. sworn. states

On 22 May 43 on convoy I was a D.R. I was riding in behind Dvr Thorne's lorry, about 20 feet behind it. ~~we had gone down a long slope and up a steep one~~. We came down a fairly steep slope and started up a rade where there is a left hand curve. The next thing I saw was the truck raised on two wheels going around the turn. When he straightened the wheels he struck the grassy slope on the right hand side of the road. When the front wheels hit the grassy slope the two wheels that were on the ground slipped out from under the truck and the truck turned completely upside down then fell back on the right side.

I slipped. Cpl. Adams told me to go on and stop the convoy which I did.

I was travelling about 20 m.p.h. and gaining on the lorry just before we got to the curve.

Cross-examination

The road sloped away from the curve of the road. The curve is right on the face of the hill. There wasn't much room for me on the M.C.

the time right hand wheels were on the ground as it was making the curve. He straightened the wheels and let the grassy slope.

Just as he made the curve and was straightening out [redacted] I was going about 20 m.p.h. He could be going about 15 - 17 m.p.h. [redacted] because I was opening on bias.

Questioned by the Court

I was in second gear. The hill was fairly steep. After the accident the last wheels of the convoy was 3/4 to 1/2 mile ahead of Thomas vehicle.

The curve was prilly sharpe. I would say about 60°. There was room enough on the road for two lorrys to pass. I did not see any traffic sign indicating a curve.

R. P. 83 (B) complied with.

Fourth Witness

Capt. de Vismes, F. C sworn states.

On 2 June 43 I proceeded to Kendal to secure information as to the injuries sustained by personnel riding in truck C.L. 196350 and from there to a point approx 6 miles north of Kendal on the Kendal-Tebay Road to view the spot at which the truck was involved in an accident.

The road was measured and found to be 25 feet wide. On the bend the road measured 28 feet. Coming South to the scene of the accident the road came down a long quite steep hill across a small bridge then up another small hill at the top of which it made a sharp turn to the left.

On the left hand side of the road proceeding South previous to the culvert and extending up to within 25 feet of the left hand turn there was a stone wall approx. 3½ feet high. There was then an open space with no hedge or stone fence for about 25 feet at the beginning of the curve. About a third of the way around the turn there was a hedge about 5 feet high.

On the right hand side of the road approx. 30 feet past the culvert there was a stone fence about 3½ feet high which went all the way around the curve and further along the highway.

On the right hand side going south the stone fence was set back approx 4 feet from the paved portion of the highway and was about 3 feet above the highway and there was a grassy slope from the base of the fence to the paved portion of the highway at an angle of about 45°.

On the down grade previous to passing over the culvert the turn to the left was visible but after passing over the culvert and coming up the other small hill the turn was obscured by the hedge.

On the down slope previous to coming to the culvert there was a road sign on the left hand side of the road indicating a left turn - the ordinary "L" road sign.

After returning from Kendal I went to Bordon. I am not quite sure what date, to 4 Aslt Wksp C.B.O.D. and received C.L. 196350

which had been evacuated direct from the scene of the accident.

I estimate the damage the cost of repairs to the vehicle at £80.-0-0. The vehicle frame was twisted. The cab damaged. The whole front of the vehicle had been shoved back on the motor. The steering badly damaged. The body superstructure and tarpaulin was also badly damaged.

I am the workshop officer of 2 Coy No A C.

Cross-examination

It is a 1939-40 Ford. 3 ton unit a wooden body.

In the turn of the road the fall of the road is to the right at the exact spot of the accident just around the turn there was only the fall from the crown of the road.

The camp is at the top of the rise and there is a gap in the hedge immediately before ~~upon~~ the turn on the left hand side.

I cannot tell whether the store fence was hit by our lorry.

If the lorry was loaded so the weight was on the right hand side there was certainly a good chance of it upsetting.

Questioned by the Court

It was a very old vehicle. I think it still had the old big steering gear in it. The tyres were in good condition.

The turn is very close to a 90° turn.

I would not call it a bad corner because the road itself was quite wide.

R.P. § 3 (B) complied with.

The Prosecution is closed

First witness for defence

D-1270 60 PC Thorne, S.D.H. sworn states.

I came to Eng. on 9 Oct 42. I had not driven a military vehicle in Canada before coming overseas. Most of my time in Eng land I was employed as a clerk. I had done about 400-500 miles of driving but was employed most of my time as a clerk. I had no previous accidents.

On morning in question I was second last vehicle in the convoy. The vehicle was not in what I consider very good shape On approaching the first hill it began to show signs of stopping. I shifted to my lowest gear. I had fallen out of the convoy. I came down the hill immediately before the scene of the accident in second gear. I came around the corner in third gear and was proceeding in third gear when I suddenly came to the curve. I started to make the corner and felt the vehicle leaning to the right side which I thought was caused by a flat tyre or something like that. I eased my vehicle to the right

to straighten it out with the hope of controlling the body of the vehicle. At the same time I felt a jar on the steering wheel and realized that the right front wheel had struck onto the grass mound on the right hand side of the road. Before I could get my vehicle straightened out on the road. The wheel climbed for about two feet and dropped back onto the road. At the same time the long bonnet right over onto the cab, fell back and rested on the right side. It did not strike the stone wall nor did it ~~strike~~ for any obstacle at all along the road after falling onto the side.

I immediately jumped out and ran to the rear of the lorry to discover what had become of the occupants. I found they were all covered with the equipment. At the same time L/Cpl Adams came on the scene and helped me to take the injured fellows from the equipment.

I could not tell my exact speed but it would not be more than 15 or 16 m.p.h. I was in third gear. I was not trying to catch the convoy it would have been hopeless to because I was having trouble with my vehicle.

No. cross-examination.

Questioned by the Court

Coming down the hill in the distance I could see the tail of the convoy make a curve but going up the hill I could not see where the curve was. I was told to drive at 60 yds distance and the convoy was to cover 15 miles in an hour.

R.P. § 3 (B) complied with.

Second witness for defence

Lt. G. G. Pomery. sworn states.

I have known the accused since he was taken on strength of the unit. At the time of the accident I was his platoon officer and had been for some time. The accused ~~was~~ had always discharged his duties in a competent and conscientious manner and was a good type of soldier. He had at one time been my batman-driver and though no fault of his own was posted to other duties in the platoon. While not a qualified driver he was careful and competent.

No cross examination.

R.P. § 3 (B) complied with

Third witness for defence

B-9262 S/Sgt. M. Bentley, 2 A sworn, states

On 22 May 43 I was with A' Plan on Species "Wheels" at 0730 hrs. we left the vehicle park in convoy. I was riding with P/O Thorne in his vehicle. at 0900 hrs he stopped. I then went up to the 5 cwt. and continued the convoy with the 5 cwt. While I rode with P/O Thorne I found him a very careful driver and not at all reckless.

I have known the man since last January and found him a very capable and good soldier.

No cross-examination

R.P. § 3(B) complied with.

Closing Address of Prosecuting Officer

Evidence has been given as to the nature of the road and that there was a road sign showing a left turn. The accident happened in daylight. The road surface was dry. Two witnesses stated their speeds following the lorry.

Closing Address by Defending Officer

The witnesses have told you of the lack of experience of the driver. They have certified to his carefulness in driving which is borne out by his record of having no other accidents before or since. The witnesses have certified to the lorry being loaded in a top heavy manner, that the screws at the scene of the accident was marked the wrong way and that this fact was marked by the driver of an approaching vehicle by the slope of the hill. They have certified that he was not speeding. This is borne out by the fact that he was travelling in third gear and that when he struck a slope 3 feet high and on an angle of 45° his momentum was not sufficient to carry the lorry onto the stone wall at the top of the slope. I maintain that the accident was caused by a combination of the aforementioned circumstances which were beyond the accused's control and no evidence of negligence on the part of the accused has been shown by the prosecution. It is a matter beyond our knowledge whether an experienced driver could have made the same turn.

In the opinion of the Court and the Judge Advocate no summing up is necessary.

A. L. Mowat
Lt. Col. 4th Corps
J.A.

SUMMARY OF EVIDENCE IN THE CASE OF

No D-127080 Pte Thorne, Samuel, Oliver Koyle, 2 Motor Ambulance Convoy, RCASC, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

D-12067 Pte. Brisebois, J.O. 81 Cdn Arty. Coy. RCASC. a soldier of the Canadian Army Overseas, having been duly sworn states:

Sir, on Saturday morning, 22 May 1943, I was the spare driver of lorry CL 196580, when it was in an accident at 1030 hours, on the highway from Tebay to Kendal, Westmoreland County. At the time of the accident I must have been dozing, due to the heat of the cab and the fact that I had been driving a lot during the week previous to the accident, because I do not remember anything at all previous to the time the vehicle gave a lurch when it ran off the road the vehicle upset.

Question 1 How long have you been riding in the lorry

Answer 1 About half an hour, previous to that Sgt. Bentley was riding in it.

The accused declined to cross question this witness.

J.O. Brisebois
(J.O. Brisebois. Pte.

SECOND WITNESS for the prosecution

D-127131 Pte Markey, Earnest Norbert, 2 M.A.C., RCASC, a soldier of the Canadian Army Overseas, having been duly sworn, states:

Sir, I was riding in the back of the lorry driven by Pte Thorne when it turned over on the 22nd May 1943. When it turned over, the equipment piled on top of me. It happened without warning, so I have no idea as to how the accident occurred or as to how fast the lorry was travelling.

Question 1 How many men were in the back of the lorry?

Answer 1 Six.

Question 2 What was the lorry loaded with and how was it loaded?

Answer 2 Platoon stores and kitchen equipment. The front part of the lorry was loaded almost to the roof, there was room in the rear part of the lorry for the men to sit.

Question by Accused: Did you at any time notice me driving in a careless manner?

Answer On the previous day, I was riding in the front of the lorry with Pte Thorne and he drove carefully.

E Markey
Signature of Witness.....
(D-127131 Pte Markey, E.N.)

S Thorne Mayn.

THIRD WITNESS for the prosecution — A-103082 L/Cpl Adams, Kenneth William, 2 M.A.C., RCASC, a soldier of the Canadian Army Overseas, having been duly sworn, states:

Sir, On the 22nd May 1943, I was a Despatch Rider on a convoy proceeding from Tobay to Kendal. I was riding immediately behind Pte Lewis, also a Despatch Rider, who was riding about 20 feet in the rear of the lorry CL-196350. At approximately 1030 hours, I was going up a slope towards a left hand turn. I was overtaking CL-196350 and my speed was not over 20 miles per hour. I noticed that CL-196350 had started to make the turn then it straightened out, went across and off the highway. The front right wheel hit the grassy upward slope rising off the side of the road, and the back end of the vehicle lifted into the air. The vehicle then rolled over on its top, smashing the top, all four wheels in the air. The vehicle then settled on its right side. I immediately stopped my machine and ran to the lorry to give help in getting the men out of the back of the lorry. I then dispatched Pte Lewis to proceed ahead and stop the convoy. When I arrived at the lorry to try to get the men out, they were buried underneath the stores and equipment inside the lorry, only two legs were visible.

Question by accused: Did you notice me driving carelessly at any time?

Answer: No.

Signature of Witness K.W. Adams
(A-103082 L/Cpl Adams, K.W.

FOURTH WITNESS for the prosecution — M-30923 Pte Lewis, Leroy Goldsby, 2 M.A.C., RCASC, a soldier of the Canadian Army Overseas, having been duly sworn, states:

Sir, On Saturday morning 22nd May 1943, I was a Despatch Rider on a convoy proceeding South from Tobay to Kendal. At about 1030 hours I was riding about 20 feet behind the lorry CL-196350 which was being driven by Pte Thorne. I was catching up to the lorry and my speed was about 20 miles per hour. When coming up a grade towards a left turn, I noticed that the vehicle was tipping to the right, the front and rear near side wheels being off the ground. The vehicle went over to the off side of the road and when the front right wheel hit the grassy slope off the highway the vehicle turned completely over, hitting on the cab with all four wheels in the air. The vehicle then fell back on its right side. I immediately stopped my motorcycle and went to the truck to see if any of the men in the truck had been hurt. L/Cpl Adams then told me to stop the convoy and this I did.

Question by accused: Did you notice me driving carelessly at any time?

Answer: No.

Signature of Witness L.G. Lewis
(M-30923 Pte Lewis, L.G.

FIFTH WITNESS for the prosecution

Capt DeVenne, Frank Cremen, 2 M.A.C., RCASC, an officer of the Canadian Army Overseas, having been duly sworn, states:

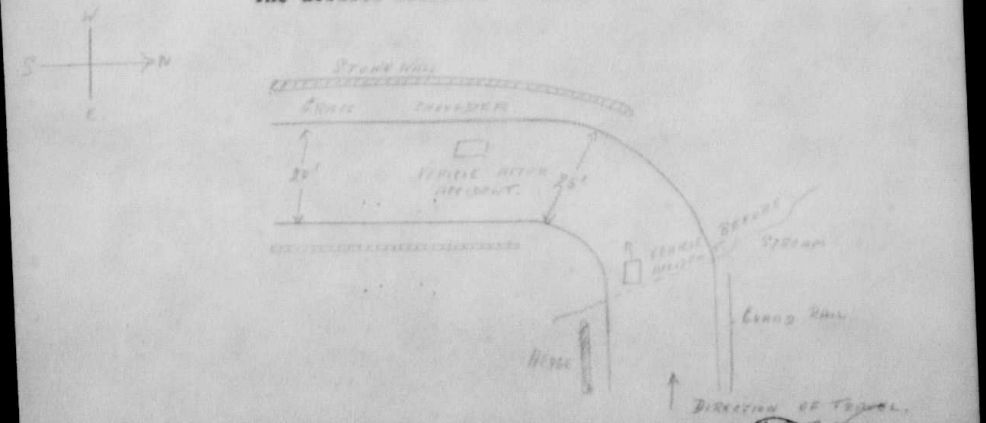
On 2nd June 1943, I proceeded to the scene of the accident on the Tobay to Kendal highway about six miles North of Kendal. The road at that point was 25 feet wide but at the turn it was slightly wider, about 28 feet. The road from Tobay was down grade, crossed a culvert, then there was a rise immediately before the left turn near which the accident occurred. There was a hedge on the left hand side of the road but this hedge came to an end just before the actual turn. On the turn itself, there was nothing, just beyond the turn there was a stone wall about 3½ feet high. The right hand side of the road from just before the culvert continuing around the turn was bounded by a stone wall about 3½ feet high, set back from the dege of the road about 4 feet with a grass shoulder sloping upwards from the edge of the road to the base of the wall at an angle of 45 degrees. A portion of of the stone wall on the right hand side of the road had been knocked down.
I viewed the vehicle CL-196350 at No 4 Sub Depot, 1 CBOD at Bordon, Hants to which place it had been evacuated, and estimated the cost of repairs to be approximately £80-0-0.

Question 1 On the down grade was the turn visible?
Answer 1 Yes.

Question 2 On the up grade immediately before the turn was the turn visible?
Answer 2 On the up grade the turn was obscured to a certain extent by the hedge.

Question 3 Was the turn indicated by a road sign?
Answer 3 On the down grade approximately 100 yards before the turn there was a sign indicating a left turn.

The accused declined to question this witness.



Signature of Witness F. C. DeVenne
(Capt F.C. DeVenne)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence."

The accused:

I have nothing to say at this time.

I certify that the foregoing summary of evidence consisting of 4 pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d),(e),(f) and (g) have been complied with.

In the Field
6 Sep 43.

T. Harper.

(T. Harper) Captain,
2 M.A.C., R.C.A.S.C.

QUESTION: Do you wish to have an Officer assigned by the Convening Officer to defend you at your trial by Court-Martial?

ANSWER: Yes, I wish to be defended by Capt. T.Harper or, if he is not available, by Lieut. L.M.Bayly.

H.K. Thorne

JJ-6 (case #3)

SPR THORNTON L.A

See D-12 for 1st case

See G-73 for 2nd case

Correspondence to be PINNED here.

Certified true copy of original proceedings herein.
22 Dec 43
J.N. Waugh Capt

B.29024 Spr. Thornton L.A.
1 C.E.R.U.
BGHQ 5-6-2/248 J.J.C

Army Form A.3.
J.A.G. Rev. 2.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 30th. day of JUNE, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and whereas I am unable to appoint~~ PRS ~~a Commanding Officer or is of Field Rank~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~ PRS

*~~(3. Three Officers having more than one year's service)~~

~~for the following reason, namely:—~~

Proceedings Reviewed
R.K. Lashley Capt.
Reviewing Officer (JAG) C.M.H.Q.
24 July 43.

President.

Rank.	Name.	Regiment.
Major	R.G. Cowan, (R.C.A)	1 C.S.R.U.

Members.

Rank.	Name.		Regiment.
Captain	R.A. Young	from RGC	1 C.A.S.C.R.U.
Lieutenant	A.T. Anderson	from RGC	1 C.E.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

R.G. Cowan Major
R.C.A.
*Signed

P.R. Shields
(P.R. Shields) Brig.
Commanding "B" Gp. C.R.U.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.29024 Spr. THORNTON, Leslie Arthur 1 C.E.R.U.	First Charge A.A.Sec.15(1)	Guilty	Guilty. To undergo detention for a period of one year and to undergo stoppages of pay in the sum of £1-14-0 representing the cost of his apprehension and return. RGC.	Confirmed H.R.Tyner, Col. 6 Jul 43.
	See attached Charge Sheet.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) P.R. Shields (P.R.Shields) Brig. *Commanding* "B" Gp. C.R.U. — *Convening Officer* (*e*)

(*Signed*) R.C. Cowan, Major, R.C.A. — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Second day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) RGC
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 2nd. day of July 1943.

R.C. Cowan, Major, R.C.A.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19 .

RGC

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(I direct that the sentence passed on (the) (each) prisoner until further orders) T.

Signed this 6 day of Jul 1943.

H.R. Tyner, Col.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 8 July 43 (Signed) C.A. Mitchell, Lt. Col. O.C. 2 Trng Wing. 1 C. Eng. R.U.

Promulgated and extracts taken in the case of

(Dated) 14 Jul 43 (Signed)

Promulgated and extracts taken in the case of G.F.B. Hamble Lieut. Officer i/c Records

(Dated) (Signed) No.1.Cdn. Engineers Holding Unit C.A.

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

ENTERED PART II ORDERS date 14 Jul 43 Order No.167 No.1.Cdn.Engineers Holding Unit C.A.

(42738) Wt. 40121—893 700 m 1/40 P. St. G. 6/40

CHARGE SHEET

Leslie Arthur CAM.
The accused B.29024 Spr. THORNTON L.A. Royal Canadian Engineers, No.1. Canadian Engineer Reinforcement Unit. a soldier of the Canadian Army (Overseas) is charged with:-

ARMY ACT Section 15(1) When on Active Service, absenting himself without leave

in that he

At Guillemont Barracks Cove, Hants., absented himself without leave from 2359 hrs 9 May 43 until apprehended at Manchester, at approximately 0215 hrs 16 June 43

(Absent 37 days 2 Hrs 16 Mins)
(Cost of apprehension £1-14-9)

Cove, Hants
This 23rd. day of June
1943.

C.A. Mitchell,
(C.A.MITCHELL) Lt. Col. RCE
Officer Commanding,
No.1. Training Wing.
No.1. C.E.R.U.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

P.R. Shields
(P.R. Shields) Brig.
Comd "B" Gp.
Cdn. Rft. Units.

30 Jun 43

R.G. Cowan,
Major
RCA.

MEDICAL OFFICER'S CERTIFICATE

(K.R.(Can) PARA 557

I certify that I have this morning examined

No.B.29024 Spr. Thornton L.A.

of No.1.C.E.R.U. and in my opinion he is

fit to undergo Trial by Court Martial.

~~unfit~~ TWB

Station Cove

Date 2 July 1943

T.W. Brokowski Lt.
Medical Officer

R.G. Cowan.
Major, R.C.A.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT BLENHEIM BKS ON THE 2nd. DAY OF JULY 43.

TRIAL OF:- No.B.29024 Spr. Thornton L.A. Unit 1 C.E.R.U..

The Order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lt. J. Lamb (Unit)1.C.E.R.U.
Defending Officer:-(Name) Lt.J.D.Siddons(Unit)1 C.E.R.U.
At 0935 hrs the trial commences.
The order convening the Court is read, signed by the President and attached to the proceedings.
The names of the president and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q-1 Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? A.1. No Sir.

The President, Members and Judge Advocate, (if any) are duly sworn.
The following constitute the Court:-

President	Major R.G. Cowan,	No.1.C.S.R.U. (Unit)
Members	Capt. L.A. Young	1 C.A.S.C.R.U. (Unit)
	Lieut. A.T. Anderson	1 C.E.R.U. (Unit)

The Officers under instruction are duly sworn.

~~Q.2.--Do you object to.....acting as Shorthand Writer?---A-2. " The Shorthand Writer is duly sworn.~~

The accused pleading guilty to the charges in the above mentioned Charge Sheet, R.P. 35(B) is duly complied with.
The Summary of evidence is read, signed by the President, and attached to the proceedings.
The Court is closed to consider its finding, Court is re-opened.
Name Lieut. J. Lamb (Unit) 1 C.E.R.U. sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared with the Regt'l Records and are true extracts of the same. No Cross examination. Above documents read, signed by the President and attached to the proceedings.

Q.3. (To accused) Do you wish to make any statement in mitigation of punishment? A-3. Yes Sir.

Q.4. Do you wish to give evidence yourself or call any witnesses as to character? A-4. No Sir.

///---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

R.G. Cowan.
Major R.C.A.

PLEA IN MITIGATION OF SENTENCE

in the case of H 29024 Spr. Thornton L.A.

R.G.Cowan,
Major RCA.

The accused has peaded"guilty" to the charge as read. You have had the opportunity of seeing the man, and making the mental remark that he looks more intelligent than a good many other soldiers you may have seen, and also quite capable of conducting himself like a soldier, as well as a man.

All this is quite true in my opinion, and yet, when you see this man's record, you will say to yourselves, "Appearance are quite deceiving." I wish to show that for this one flaw in his nature, that continually re-appears under A.A.Sec.15(1) on his M.F.M.6, there are many other points that may be taken into consideration. Firstly, he joined up immediately war was declared, and since then has only had one charge of 'losing by neglect" which, considering the number of charges under AA 15, points remarkably distinctly to his ability to take care of that with which he is entrusted. I might also point out that he has always earned the maximum remissions of his previous sentences. The one other charge on his MFM 6, concerned with breaking out of Barracks, concerns his early days in the Army, when, being under a weeks CB, and there being no orderly Corporal in Camp, and a dance nearby, he slipped out to the dance. Seen there by a Captain who knew his case, he was warned to return to Bks and on the way was apprehended by the CSM and placed under arrest, and tried and sentenced by the Company Comdr the following morning.

During none of his absences has he been charged for any civil offence.

From this,you may see that this soldier has but one bad habit, and that is going AWL. There are no drunkenness charges against him. If you had a child, who persisted in one bad habit, again and again, would you persist in one method of punishment, when you had found by trial that the method you were using was ineffective, to dissuade him from further repetitions of the offense? I think not, you would be more inclined to attempt a cure, rather than a further dose of the same ineffective punishment. The prime concern of the army is to make a soldier out of this man, is it not? Persistent confinement has failed to do this and I believe I can explain why.

If the type of punishment you inflicted on a recalcitrant child, prohibited him from going out with his friends when the corrective period was finished, how would he feel? You know what the others would be asking."Why can't he come out with us?" And then the story comes out, and the culprit knows that he is being discussed in unfavourable terms by those he used to call'friends', and he feels that there is a lot of truth in the old adage, "Give a dog a bad name, and hang him". You know that a lot of parents will move to a new locality in order to get new and unprejudiced neighbours, so their child will not be under shadow all the time.

In the case of Spr. Thornton, since Jan 1942, he has been without an Army income except for 1s per day. He has been in the Holding Unit, or in Detention, or living "off the country". None of these is exactly the type of environment the average Canadian Soldier expected in England. Has there been anything in his life in the last 18 months to make him feel that he was of any value to anyone? It surprises me that he has not committed any crime of avarice--- eighteen months without a steady income has led many a weaker man astray. At the moment he is faced with the prospect of four months at 30s per month to follow whatever sentence he may receive on this charge. Having been on this diet for some time, it will not be surprising if he succumbs to some fresh temptation, especially should he be forced to spend this four months in a place where his record was widely known.

Either way he is sentenced, the army will take a risk. A long term will destroy any incentive he has to straighten himself out. A short sentence may mean less time before he is in trouble again. But I believe that a repetition of this offense will result in his being cashiered. Therefore, a long sentence will be an incentive, and a short one a deterrent, to commit a further offense. Therefore, if a short sentence will give this man a chance to prove himself a soldier, what has the army to lose? I am convenced that if given the minimum sentence, and then sent to a Unit where his record is not widely known and he can make a fresh start, he will make a good soldier. I do not believe he is deliberately trying to get out of the army, if he were, he would have done more than merely go AWL. But if he is given a stiff sentence, and then sent back to the Holding Unit to "Hang around" without being given a useful employment, I believe he will slide right back into his old weaknesses again, as he will have nothing to look forward to. At the moment, he tells me that his

PLEA IN MITIGATION OF SENTENCE-- B.29034 Spr. Thornton L.A.
continued---------

R.G.Cowan, Major
RCA.

family do not know of his offences, he has practically ceased to write home because he cannot think of anything more to tell them in order to allay their enquiries as to why his assignments have been cut off. During his stay in Detention he qualified as a shoemaker, and when the Corporal i/c left because he was not getting trades pay, Spr. Thornton was put in charge of the shop, which proves he is not without ability.

Look at this man. If he were in your unit, do you not think you could make a soldier out of him? Consider, his offences against the army, not against society. He has no civilian record. It would seem that being without money has been the main incentive for him to go AWL. I have pointed out that the longer he is without it, the less incentive he will have to go straight, he has been so long without it now.

It is within your power to recommend a suspended sentence, and by so doing, it would help this man back to the life of a normal soldier, which is, after all, what the army desires. The army gains nothing for itself by putting this man into the type of punishment which works no cure, and does inestimable damage to his future outlook on life, and his feelings toward the society of which he will be a part when the war is over.

Society, and the army, of which you are the tribunal, have but to gain, by giving this man the earliest possible opportunity to prove that he can be a good soldier. If he fails to prove it, his ultimate punishment will be hastened, to benefit everyone concerned. If he does prove it, the army will have made a soldier out of this man, and he will have made not only a man, but a citizen out of himself. The army can make, as well as break, a man.

By sending Spr. Thornton, as quickly as possible, to a place where he can make a new and good reputation, rather than live down an old and bad one, you will be helping to turn a citizen, rather than a misfit, back to the post-war society to which we all, from Lieut. General MacNaughton to Spr. Thornton will owe our abilities.

Therefore I ask you to consider the accused for a suspended sentence, with the recommendation that he be sent immediately to a Field Unit, interviewed by the C.O. and given a chance to prove himself a soldier and a man.

NOTE. Spr. Thornton has a brother, Pilot Offr. R.T. THORNTON, R.C.A.F. United Kingdom, from whom he has kept news of his situation. His brother has now located him here, and consequently knows of his case. I recommend that his brother be contacted with a view to helping Spr. Thornton financially while under stoppages of pay, and if they work together they can clear it up without letting the family know.

...se Voucher Re—:

Ref: K.R. & O. (Can) 539

Reg. No. R89024 Rank Pte. Name Thornton, L.A. 2 Rd.Constr. Unit 1 C.E.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Manchester.

Date	Particulars (1/5 Portion)	Amount		
17 June 43	Escorts return fare from LONDON To Manchester		16	11
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (1/5Portion)		3	9
	Total £	1	14	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W. Fern. Capt.
(W.Fern) D.A.P.M.
London Area.

Officer Issuing Railway Warrant and Expense monies ..... Lieut.
No. 6 Provost Company, Canadian Provost Corps, London.
R.G. Cowan. Major.
RCA.

C.M.H.Q. 1000/55
40/P & S/483

CHARGE

ARMY FORM B.252

The Canadian Re-inforcement Unit

No.1 Engineers.

(Regiment
(Battery
(Squadron
(Troop or
(Company.

CHARGE against No.B.29024 Rank Private

Name T H O R N T O N L.A.

Place Date of Offence

OFFENCE Whilst on active service - Absent from until apprehended by the Military Police at the Y.M.C.A. Piccadilly, Manchester on Wednesday 16th. June 1943 about 02-15 hours.

Names of Witnesses:-

7690399 L/Cpl. C. McCabe C.M. Police.

1053635 L/Cpl. M. Kelly C.M. Police.

Signature of O.C. Battery.) G.C.C. Scarfit Capt.
Squadron, Troop or Company) P.M. Lancs & Border District

Punishment)
awarded)....

By whom awarded....

R.G. Cowan,
Major R.C.A. Adjutant.

P.T.O.

Statement of - EVIDENCE - in the case of

No.B.29024. Private L.A. Thornton,
No.1. Engineers,
Canadian Re-inforcement Unit,
FARNBOROUGH, COVE, Hampshire.

Sir,

At Manchester on Wednesday 16th. June 1943 about 02-15 hours I was on duty, accompanied by L/Cpl. Kelly. C.M. Police, at the Y.M.C.A., Piccadilly, where I saw the above named soldier.
I asked him if he was on leave and he replied, "No - I am absent". I arrested and conveyed him, in the Military Police Truck, to the Military Police "H.Q.", The Drill Hall, Ardwick Green, Manchester, where he was handed over to the N.C.O.i/c Provost Guard to be detained.
He was sober and wearing Military Uniform.

Manchester
16th. June 1943

C. McCabe L/Cpl.
C.M. Police.

Sir,

I have read over and corroborate the above statement.

Manchester.
16th. June 1943

M. Kelly, L/Cpl.
C.M. POLICE.

REMARKS.

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr. 42

I CERTIFY that No.B.29024 Rank... Spr....Name Thornton L.A.

Unit No.1. C.E.R.U. was arrested at Manchester.....(place)

at 0215...(Hour) on 16 June 43... (date) and that at the time of his arrest he was wearing (Military Uniform) ~~xxx(Civilian xClothes~~)

Signature of Provost Marshall, Assistant Provost Marshall or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)

London
17 June 43

W. Fern.....Capt.
(W. Fern) D.A.P.M.
London Area.

R.G. Cowan,
Major.
RCA.

RECORD of the Declaration of a Court of Inquiry assembled at No.1. C.E.R.U. on the 3rd. day of JUNE 1943.

for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the arms, Ammunition, Equipments Instruments, Regimental necessaries or clothing of No. B.29024 Spr. THORNTON, L.A.

D E C L A R A T I O N.

The Court declare that No.B.29024 Apr. Thornton, L.A. illegally absented himself without leave from Guillemont Barracks at 2359 hours on the 9th. day of MAY 1943. He is still so absent and that on the 3rd. June he was deficient, and that he is still deficient of the following articles:-

		£.	s.	d.	£	s.	d.
Badges, shoulder	1 Pr.			5½			4½
B.D. Blouse, Serge.	1	1	7	8	1	0	9
B.D. Trousers, Serge.	1 Pr.	1	7	11	1	0	11½
Comb, Hair.	1			2			1½
Discs Identity.	2			2			1½
Drawers, Woolen	1			2			1½
Dressings, First Fd.	1		5	3		3	11½
Gloves, Woolen	1 Pr.		1	1			10
Jacket, Sweater	1		2	7½		2	0
Shorts, Cello.	1 Pr.		6	9		5	1
			2	0½		1	6½
		3	14	11½	2	15	9
			100%			75%	

R.G. Cowan,
Major
RCA.

Names of President and Members
Signed at No.1. C.E.R.U.
this 4th. day of June 1943.

T.W. Kelly, Lieut. RCE PRESIDENT
D. Veitch, Lieut. RCE MEMBER
W.H.A.Barrecar, Lieut. RCE MEMBER

Signature of Commanding Officer (G.H. WHITE) COLONEL.

Certified true copy

C.J. [redacted], Major R.C.E.
Adjt.
1 C. Eng. R.U.

Signature of Officer having custody of original record.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.29024 Spr. THORNTON, L.A. Royal Canadian Engineers, No.1. Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

The Officer Commanding has directed that the evidence be taken under oath.

FIRST WITNESS
For the Prosecution. Lieut. F.G.B. Maskell, having been duly sworn states:-

I am Lieut. F.G.B. MASKELL, ass't Admin Offr. No.1. Canadian Engineer Reinforcement Unit. I present the following documents, which I am satisfied refer to the accused.

(a) Declaration of Court of Inquiry signed 4th. June 43
(b) Certificate in accordance with P.C. 2797 10 Apr 42 signed 17 June 43.
(c) Expense voucher of cost of apprehension dated 17 June.

F. Maskell
(Lieut. F.G.B. Maskell) RCE.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:-
"Do you wish to make any statement or to give evidence upon oath, you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement.

"I certify that the foregoing summary of evidence consisting on one page, was taken down by me in writing in the presence of the accused and Rules of Procedure 4(c)(d)(e) and (f) have been complied with.

J.D. Siddons
Lieut. J.D. Siddons, RCE
Lieut.

23 June 43
Cove Hants.,

R.G. Cowan,
Major RCA.

Revised in accordance with C.A.R.O. 2084 2 Dec 42 (C.C.Hadley) Lieut.

No. B-29024 Name THORNTON, L.A. Sqn., Battery, or Company Corps R.C.E. Date of enlistment 7-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 575M—7-41 (1219-20) H.Q. 1772-20-1642

Date of last entry in Company Conduct Sheet 6 Jan 40 Nature and date of last drunk Period not reckoning towards freedom from extra fine n/a Sheet No. 1 Signature O.C. Company, etc. ?????? Character .

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE R.G. Cowan, Major R.C.A.	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16-5-40	Spr	Nil	AWL	Cpl.Vannier			Maj	
Field	30-6-40	Spr.	:	AWL	Spr.Drouin Capt.Fraser	7 days C.B. 14 days C.B. 2 days pay	17.6.40 1-6-40	E.J.Young E.J.Young	1 days pay 2 days P ay
Field	29-7-40	Spr	:	Awl 1 day 10 Hrs.	CSM Grant Capt.Fraser	7 days C.B. Rest.Pay 1 mth	3-7-40	E.J.Young	
Field	10-8-40	Spr	:	AWL Fm.2130 hrs 10-8-40 to 0900 hrs 16-8-40		6 days pay 21 days Detn	17-8-40	E.J.Young	D.C.90(a)
Field	16-9-40	Spr	:	AWL Fm.2145 hrs 16-9-40 to 1700 hrs 28-9-40	L/C White	12 Dys Pay 12 Days C.B.	1-10-40	E.J.Young	
Field	24-11-40	Spr	:	AWL 16 Hrs 30 mins	Cpl.Bolton	7 days C.B.	26-11-40	E.J.Young	1 days pay
Field	27-11-40	Spr	:	Breaking out of barracks	CSM Grant	7 days C.B.	28-11-40	E.J.Young	
Field	30-12-40	Spr	:	AWL 3 days 3 Hrs	Cpl.Herron CSM Grant.	8 days pay	2-1-41	E.J.Young	4 dys.Pay.
Field	5-5-41	Spr	:	WOAS AWL from 0001 hrs 5-5-41 to 1600 hrs 16-5-41	CSMGrant	Depr.6 dyspay	17-5-41	E.J.Young	Forf.12 dys pay TotForf 18 dys.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	6-7-41	Spr	N11	WOAS AWL from 2230 hrs 7-6-41 to 0800 hrs 7-7-41 (Absent 8 hrs)	Cpl. Corbeil	Dep. 2 dys pay as Punishment	10-7-41	E.J.Young	Forf 1 dy pay total Forf 3 dys Pay.
Field	16 Aug 41	Spr		WOAS AWL from 2200 hrs 16 Aug until appre.Newark 1615 hrs 26 Aug (A.A.15(1)	Doc	6 Months Detn. 60 days remitt. by Brig.Phelan			Forf.10days pay FR &I 149(1)(a) forf. 17 dys pay FR&I149 (1)(c)Forf 123 dys pay FR&I 149(1)(c) Total 150 Dys pay Plus £1-14-6 Cost.
				RELEASED FROM DETENTION BARRACKS Witley on Dec 2 1941 SENTENCE HAVING EXPIRED REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 41 DAYS Commandant's Initials (H.D.)					
Field	18-12	Spr		WOAS A.A.15(1) AWL 2 Dys 10 hrs 30 mins.	Cpl.Turner	14 Days C.B.	17 Dec 41	L.F.Barnes	Forf. 3 dys pay
Field	11 Jan 42	Spr.		A.A.15(1) Absent 7 hrs 31 mins	L/C.Record L/C Condon	168 hrs.Detn	13 Jan42	Lt. Col. Lt.Col.F. Barnes.	Forf 1 days Pay

No. B-29024 Name THORNTON. L. A. Sqn., Battery, or Company — Corps R.C.E — Date of enlistment 7-9-39 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 30-12-40 — No. and date of last drunk Nil. — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1319-20) H.Q. 1772-39-1632

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	1 Oct 42	Spr.	Nil.	A.A. 15 (1) Neg. 1000 hrs 1 Feb 42 to 1930 hrs 26 Mar 42 (Absent 54 days)	Doc	56 days Detention	2 April	F.G.C.M.	Ex/Sapr
		Released from Detention Barracks and marched under Escort for Detention		from the Detention Barracks Headly Down			1 Oct 1942	Detach. Commdt.	Sentence expired
Field	1 Nov 42	Spr.		A.A. 15 (1) Neg. from 2359 hrs 1 Nov 42 to 1130 hrs 2 Nov 42 (Absent 21 hrs 29 Mins)	Cpl Cosby Detach Doc	10 Days F.P. No 1	3 Nov 42	Lt Col Thompson	3 Nov 42 Forf 1 days Pay F.G.C.M. (1) (a) Total 10 Days Pay

(Sgd) R. J. Cawood Major RCE

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Jan 43	Spr		a.a.15(6) absd from 0700 hrs 26 Jan 43 until 0830 hrs 1 Feb 43 (absent 6 days 1 hr 30 Mins)	Lt. Patton / Sgt. Brown	10 Days Detn	1 Feb 43	Lt Col [illegible]	5 Jan 43 Forf 10 Days Pay m/p (1) (b) Forf 1 Day (49) (c) (c) Forf 24 days
Field	27 Jan 43	Spr		a.a.15(1) absd from 0630 hrs 27 Jan 43 to 2330 hrs 9 Feb 43 (absent 13 days 17 hrs 30 Mins)	Ditto	27 Days Detn	10 Feb 43	Lt Col Thompson	5 Jan 43 Forf 26 days Pay Lt Col m/p (1) (c)
Field	13 Apr 43			a.a.15(1) absd from 2337 hrs 13 Apr 43 to 2330 hrs 19 Apr 43 (absent 6 days 23 hrs 53 Mins)	Ditto	14 Days Detn	20 Apr 43	Lt Col Thompson	Forf 1 Day Pay m/p (1) (c)

I hereby certify that the above is a true extract from the original document in my custody Sgd M.C. Black Capt 23 June 43
adjt.
1 Engr Coy R.E.

B/

No. 290204 Name THORNTON L.G. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8126 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jun 43	Spr.		aa 24(2) D&AE in charged with causing by neg. Right face collapse L.O. 19-7	DOC.	10 days F&al C.B.	10 Jun 43	Lt-Col. Mitchell	Deductions of pay to 19-7

"I hereby certify that the above is a true extract from the original document in my custody Sgd. M.A. Stark. Capt R.E.A. 23 June 43."

PTO

Sgd L. J. Cowan. Major. R.E.C.

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.2/9024	SPR.	THORNTON L.A.	1 C.S.R.C.

1. The following is a fair and true summary of the entries in the Service and General / ~~Regimental and Squadron, Battery~~ Conduct sheets / ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For B.R. 15(1)	1 times	17 times
For 40	times	1 times
For 34(2)	1 times	1 times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 78~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 14 ~~Air Force~~ days in civil custody, and 18 days in military custody, making a total of 18 days in custody, of which 14 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is Service Casualty Form. 23 7/12 yrs.

6. The date of his commission specified in his ~~record of service~~ / attestation is Service Casualty Form. 7-9-39

7. The service which the accused is allowed to reckon towards discharge is 3 7/12.

8. The accused is entitled to reckon 3 7/12 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ / military decoration, or ~~air force~~ / military reward (~~or is in possession of or entitled to~~). ~~State any air force decoration or reward~~.

~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force~~ the regimental rank of

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force
~~unit~~
~~dated~~ , ~~and in his regiment (or corps) the rank of~~
dated .

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the~~ :—

Date of promotion.

~~In the rank of~~ ~~years~~
~~In the rank of~~ ~~years~~
~~In the rank of~~ ~~years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B/29244 Rank S.S.R.
Unit
Name THORNTON G.H. of 1 C.R.D. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F. G. C. M.	12 Sept 41	AA 15 (1) A.W.L. 2200 hrs 16 Aug 41 - 1615 hrs 26 Aug 41 Absent 11 days	Six Months Detention	60 days plus 41 days
F. G. C. M.	2 Apr 42	AA 15 (1) A.W.L. 1000 hrs 1 Feb 42 1930 hrs 26 Mar 42 Absent 54 days	Six Months Detention	90 Days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of July 43. 3rd. C.O.R. Toronto Adjt.
Records Officer
1 C.R.D.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

73-G Spr Thornton L.A.

O. H. M. S.

M. F. B. 270
1000 M-12-40 (8056-69-70)
H.Q. 1772-39-67

B-26024 Spr. Thornton, L.A. 5-1-26 Eng
No.1 C.E.R.U.

Correspondence to be PINNED here.

Army Form A.3 73G

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 1st day of April, 19 43

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, OVERSEAS., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereinder named. appointed or detailed hereunder.

* Omit if not applicable.

*I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—

PROCEEDINGS REVIEWED.
[signature] Capt.
Reviewing Officer (Staff)
11 Apr 43.

President.

Rank.	Name.	Regiment.
Major	A.E. Fort	No.1 Cdn Arty Reinf Unit

Members.

Rank.	Name.	Regiment.
A Captain	from	5 Cdn Div Inf Reinf Unit
A Lieutenant	from	5 Cdn Div Inf Reinf Unit
A Lieutenant	WAITING MEMBER from	No.1 Cdn Arty Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-29024 SPR. THORNTON, L.A. No.1 Cdn Eng Reinf Unit.	First Charge A.A. sec 15(1)	guilty	guilty To undergo detention for a period of nine months	Confirmed
	See charge sheet attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) ..... Brigadier (Signed) .....
Commanding Cdn Reinforcement Units. *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2nd day of April 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) short hand writer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 2nd day of April 1942

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

Signed this 3rd day of April, 1942.

..... Brigadier,
Confirming Officer.

authority, recommends suspension.

Confirming Officer.

Promulgated and extracts taken in the case of B 29024. Thornton L.A.

(*a*) (Dated) 7 Apl 42 (Signed) [redacted] H R B MacInnis a/asst Adjt
1 Cdn Eng R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41758) Wt. 40115—893 500 m 1/42 P. St. G. 6/42

CHARGE SHEET

The accused, B-29024, Sapper Leslie Arthur Thornton, No.1 Cdn. Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with;

First Charge: WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
Sec. 15(1)
Army Act.

in that he,

at Guillemont Barracks, Cove, Hants., absented himself without leave from 1000 hrs. on the 1st day of February 1942, until surrendering himself at the Guard Room, No.1 Cdn. Engineer Reinforcement Unit, at 1930 hrs on the 26th day of March 1942

C N Mitchell

(C.N.MITCHELL) Lt.-Col., R.C.E.
A/Commanding Officer,
No.1 Cdn. Engineer Reinf. Unit,
C.A.(OS)

Cove, Hants.,
30th. March 1942.

To be tried by Field General Court Martial

D.R. Phelan

(D.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.
Convening Officer

Farnborough, Hants
This 1st day of April 42.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT COVE, Hants. ON THE 2nd DAY OF APR 42

TRIAL OF:- No. B-29024, SPR THORNTON L.A. Unit No 1 CERU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. H.C. Baker, (Unit) No 1 CERU.

Defending Officer:- (Name) (No Def Officer) (Unit)

At 1115 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No, sir.

The President, members and judge-advocate (if any) are duly sworn.

The following constitute the Court:

President ..Major.A.E..Fort.....(Unit) No 1 CARU.

Members ....Capt. J.G. Bell,.....(Unit) 5 CDIRU.

....Lieut. M.J. Geller,.....(Unit) 5 CDIRU.

The officers under instruction are duly sworn.

Q2 Do you object to .....Sgt.T. Pyburn.....acting as shorthand writer? A2.- No, sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name...Lieut.H.C. Baker...(Unit).No.1.CERU..... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The ACCUSED, not sworn, stated he came out of detn 9 Dec 41, and then posted two wks guard duty. Asked for week end pass, was informed must serve with unit one month before pass issued. Was "fed up." Went AWL one Sunday and given 168 hrs detn for seven hrs late, had few drinks and missed train. Same thing happens periodically; has few drinks and misses train. "I have tried to soldier and tried to do my best, but they don't seem to give me a break; that is all I have to say, sir."

THE COURT: "You don't try to help yourself much, do you?"

THE ACCUSED: "Well sir, I have nobody to take me in hand and teach me a few things, I guess."

CERTIFIED a true and correct transcript of the proceedings:-

Pyburn. Sgt.

Shorthand Writer.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-29024 Sapper Leslie Arthur Thornton, No.1 Cdn. Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of A/Colonel A.T.McLean,M.C.,V.D. Commanding Officer, No.1 Cdn. Engineer Reinforcement Unit.

FIRST WITNESS: Lieut.G.Gibson, No.1 Cdn. Engineer Reinforcement Unit having been duly sworn,states;

I am Records Officer, No.1 Cdn. Eng. Reinf. Unit. I produce herewith A.B.115, Record of the Declaration of A Court of Inquiry held on the 25th day of February 1942, which I have satisfied myself refers to the accused.

G.G.Gibson Lieut Lieut.

The accused declines to cross-examine this witness.

SECOND WITNESS: M-41725, Cpl.McKenzie,H.J., No.1 Cdn. Engineer Reinf. Unit having been duly sworn,states;

I am an N.C.O. in No.2 Sec. "A" Coy., No.1 C.E.R.U. On 1 Feb 42 B-29024, Spr. Thornton, L.A. was posted as an absentee to No.2 Sec. "A" Coy., He has been posted as such until he surrendered himself on 26 Mar 42

H.J. McKenzie Cpl.

The accused declines to cross examine this witness.

THIRD WITNESS: H-3566, L/Cpl. Rafferty,H. No.1 Cdn. Engineer Reinforcement Unit, having been duly sworn,states;

I was Guard Commander, No.1 Cdn. Eng.Reinf. Unit on 26 Mar 42.

At 1930 hrs. B-29024, Spr. Thornton, L.A. reported to me, sober and properly dressed, He told me that he was an absentee and I turned him over to the Regimental Police.

H Rafferty L/Cpl.

The accused declines to cross examine this witness.

The accused, after being cautioned in accordance with R.P.4(E) declines to make a statement.

Certified that R.P.4(C)(D)(E) and(F) have been complied with.

Taken down before me in the presence and hearing of the accused at Guillemont Barracks, Cove, Hants., this 30th day of March 1942.

Harvey C Baker Lieut R.C.E.

(H.C.BAKER) Lieut. R.C.E.
No.1 Cdn. Eng. Reinf. Unit
C.A.(OS)

MEDICAL OFFICER'S CERTIFICATE.

K.R. (Cmd) Regs 357.

I certify that I have this morning examined

No. 0.220244 Spr. Thornton L. .....

of No. 6 Coln. C.R.E. .....and in my opinion he

is fit / unfit to undergo Trial by Court Martial.

Station. Cove. .....

Date. 2 Apr. 1942. .....

Lt. A. Medical Unit.
.....
Medical Officer.

Army Form B 115

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

Record of the Declaration of a Court of Inquiry assembled at Guillemont Barracks, Cove, Hants., on the 25th day of February 1942 for the purpose of investigating and recording the absence, without leave from his duty, and deficiency, if any in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-29024, Spr. Leslie Arthur Thornton, No.1 Cdn. Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

DECLARATION

It is the Declaration of the Court that B-29024, Spr. Thronton, L.A. of No.1 Cdn. Eng. Reinf. Unit illegally absented himself at Guillemont Barracks, Cove, Hants., on the 1st day of Feb 1942 and that he is still absent and that on the 25th day of February 1942 he was deficient and is still deficient of kit as shown in the attached schedule to the value of £7-17-0½.

Article	No.	Value
Battel Dress blouse	1	1 - 2 - 6
Battle Dress trousers	1	1 0 6
Boots ankle	1	1 2 6
Braces	1	0 1 6
Brasses button	1	0 0 2
Cap Field Service	1	0 2 5
Greatcoat drab	1	2 8 6
Dressing first field	1	0 1 1
Jacket sweater	1	0 8 6
Shorts, gym	2	0 4 4
Drawers short	1	0 2 4
Att. Brace	2	0 1 11
Respirator complete	1	0 18 8½
Eyeshields	6	0 2 3

Signed at Guillemont Barracks, Cove, Hants., this 26th day of February 1942

Signd T.V.Doran, Lieut. President

M.O.Rollefson, Lieut. Member

A.H.Nicolson, Lieut. Member

Concurred in :-

(L.F.BARNES) Lt.-Col., R.C.E.
A/Commanding Officer
No.1 Cdn. Eng. Reinf. Unit

CERTIFIED TRUE COPY:-

D C Hunter Capt. Adjt.
1 C. Eng. R.U.

#18

I THE UNDERSIGNED REQUEST THAT ~~AN~~ NO OFFICER BE PRESENT TO

REPRESENT ME AT MY TRIAL

I REQUEST THAT _____ OR _____

REPRESENT ME IF POSSIBLE

(A)

1st Lt. H. A. Thornton

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charge upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of April 1943

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B-29024 Spr. Leslie Arthur Thornton of the No.1 Cdn. Engineer Reinf. Unit

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets, are to be produced to Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R. 1935.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

	*Within last 12 months.		*Since Enlistment.	
For A.A.15(1) AWL.	4	times	12	times.
For A.A.10(4) Breaking out of Barracks	1	times	1	times.
For		times		times.
For		times		times.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

[redacted]

or,

There are no entries in the Conduct sheets of the accused.

2. [redacted]

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 43648/504 50,000 2/43 W. S. Ltd. 32—6894

N. Stott Maj. for OC 1 CEER

3. The accused is not under sentence at the present time,

or,

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges for days in Civil Custody,

and 8 days in Military Custody.

Total 8 days.

Of which 2 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 yrs. 11 mos.

6. The date of his attestation specified in his attestation paper is 7 Sep 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2-6/12 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 2-6/12 years' service.

9. The accused is entitled to reckon 2-6/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward

11.

12. , dated , and in his regiment (*or* corps *or* department) the rank of dated

13.

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B-29024, Sapper Leslie Arthur Thornton of the No.1 Cdn. Engineer Reinforcement Unit

NOTE.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
P.C.C.C.	12 Sep 41	A.A.15(1) ROAS-AWL- from 16 Aug 41 until apprehended at Newark 1615 hrs. 28 Aug 41	6 months Detention	60 Days Remitted

(*Continued overleaf*)

No.2 Road Constr, Coy, R.C.E. (C.A.S.F.)

M.F.M. 6 (A.F.B. 122)

No B-29024 Name Thornton, L.A. Sqn. Battery, or Company — Corps — Date of enlistment 7-9-39 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									Pay
North Bay	4-1-40	Spr.	Nil	A.W.L. While on duty	Cpl. Beatty	14 Days C.B.	16-1-40	E.J.Young	F'fts 1 da
On 7-3-40 this soldeir completed 6 mos service and in accordande with R.O.71 C.A.S.F. (Overseas) the above Regt'l Entries were transferred from previous sheet which was then destroyed 7-3-40.								E.J.Young	
Toronto	16-5-40	Spr.	Nil	A.W.L.	Cpl. Vannier Spr. Drouin	7 days C.B.	17-5-40	E.J.Young	1 dys pay
Aldershot	30-6-40	Spr.	Nil	AWL	Capt. Fraser	14 days C.B. 2 days pay	1-8-40	E.J.Young	2 dys pay
Aldershot	29-7-40	Spr.	Nil	AWL 1 da y 10 hrs.	Capt Fraser CSM Grant	7 days C.B. rest pay for 1 month	3-7-40	E.J.Young	
Bordon	10-8-40	Spr.	Nil	AWL-2130 hrs. 10-8-40 to 0900 hrs 16-8-40		6 days pay 21 days detn	17-8-40	E.J Young	D.O.90 (A)
Bordon	16-9-40	Spr.	Nil	AWL- 2145 hrs. 16-9-40 to 1700 hrs 28-9-40	L/C White	12 days pay 12 days C.B.	1-10-40	E.J Young	
Oxshott	24-11-40	Spr.	Nil	AWL- 16 hrs. 30 mins.	Cpl. Bolton	7 days C.B.	26-11-40	E.J.Young	1 dys pay

(P.T.O.)

CERTIFIED true copy:- Harry Obadon Lt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Oxshott	27-11-40	Spr.	Nil	Breaking out of barracks	CSM Grant	7 days C.B.	28-11-40	E.J.Young	
Oxshott	30-12-40	"	"	AWL 3 days 3 hours	Cpl. Herron CSM Grant	8 days pay	2-1-41	E.J.Young	4 days pay
Oxshott	5-5-41	Spr.	Nil	WOAS- AWL- from 0001 hrs.5-5-41 to 1600 hrs. 16-5-41	CSM. Grant	Deprived 6 days pay	17-541	E.J.Young	F'fts 12 days Total F'fts of p
Oxshott	6-7-41	Spr.	Nil	WOAS- AWL-from 2259 hrs. 6-7-41 to 0800 hrs. 7-7-41 total absence 8 hrs.	Cpl.Corbell	Deprived of 2 dys pay as punishment	10-7-41		F'fts 1 dys pay Total pay 3 dys.
Bordon	15 Aug 41	Spr.		WOAS-AWL-from 2200 hrs.16 Aug until apprehended at Newark 1615 hrs. 26 Aug 41 (A.A.15(1))	Documentary	6 Mos Detn. 80 dys remitted by Brig.Phelan	12 Sep 41	F.G.C.M.	Forfeits pay FRI(1)(a) 10 dys FRI(1)(c) 17 dys FRI(1)(b)123 Total 150 dys plus
Cove, Hants	8-12-41			Released from the Detention Barracks - WITLEY- on the 2 Dec 41- Sentence having expired. Remission earned under the Rules for Detention Barracks and Military Prisons - 41 dys- Commandants Initials -??????					£1-14-16 costs apprehension
Cove	11 Jan	Spr.		WOAS-A.A.15(1) AWL-2 dys,10 hrs 30 mins A.A.15(1) AWL- 7 hrs.-30 mins.	Cpl.Turner L/C Record L/C Green	14 days C.B. 168 hrs. Detn.	17Dec 41 13 Jan 42	Lt-Col. L.F.BARNES Lt-Col. L.F.Barnes	F'fts 3 dys pay F'fts 1 dys pay

L. S. M. - A - 142

Lieut. Thornton, L. F.

RECORDED AT CMHQ IN AB 160

Gen-A-14.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General ~~and District~~ Courts-Martial.

RECEIVED 12 SEP 1944 JAG BRANCH C.M.H.Q.

Proceedings of a GENERAL Court-Martial held at FIELD

on the 16th day of AUGUST 19 44 by order of

BRIG G.A. McCARTER

Commanding CDN RFT UNITS (ADV)

dated the 17th day of AUGUST 19 44

President.

COL W.E. MORGAN, OBE MC 6 CIRU

Members.

LT-COL J.E. CHABUT, OBE ED CIC 6 CIRU

MAJ P.H. LAMBERT CIC 6 CIRU

MAJ F.L. ROELOFSON CIC 2 CIRU

CAPT V.J. WESTFALL CIC 2 CIRU

CAPT W.R.MARSHALL, Barrister-at-Law, HQ C RU (ADV) Judge Advocate.

Trial of* LT LEIGH FOSTER THORNTON, Adv CRU Offrs Trg Coye, att 1 CIRU, an Offr of the Cdn Army Overseas.

PROCEEDINGS REVIEWED

Capt. 14 Sept 44.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Medical Cert produced by Prosecutor re Lt Thornton, accused offr.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ to serve owing to

~~awaiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt G.V.Archambault, R de Mais, 6 CIRU

Counsel‡ ~~or defending officer~~† Lt E. Arab, CIC, 4 CIRU

At 1600 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* A.1 No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Wt. W3263/1111. 40,000 pds. 11/40. K. & E., Ltd. 6857/11. Forms A 9/2.

The President, members and judge-advocate are duly sworn.

Q.2 Do you object to S/Sgt Thomas acting as shorthand writer? A.2 No sir.
(Ul681 S/Sgt EJ Thomas, Adv HQ CMU, duly sworn)

The following officers under instruction are duly sworn.

Maj C.H. Cook, CIC 6 CIRU

Capt A.A. Grove, CIC 2 CIRU

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Q.3 Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

A.3 NOT GUILTY, Sir. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

MEDICAL EXAMINERS CERTIFICATE

K.R. (CAN) PARA 547

I certify that I have this morning examined

Lt. LEIGH FOSTER THORNTON ....

ADV. CRU OFFRS TRG COYS. ..and in my opinion he

is fit unfit to undergo Trial by Court Martial.

Station. 1 CIRU .....

Date. 18 Aug 44 .....

R. F. Clarkson Capt.
Medical Officer RCAMC
attached 1 CIRU

3

COURTS - MARTIAL ARMY FORM A 47

FORM OR ORDER FOR THE ASSEMBLY OF A GENERAL OR DISTRICT COURT MARTIAL

ORDERS BY BRIG G.A. McCARTER

Commanding the CDN REF UNITS (ADV)

(Place and Date) FIELD, 17 Aug 44

LT LEIGH FOSTER THORNTON,
Adv CRU Offrs Trg Coys
att 1 CIRU

The detail of officers as mentioned below will assemble at 1 CIRU on the 18th day of AUG 44 at 1030 hrs for the purpose of trying by a GENERAL Court-Martial the accused person (~~persons~~) named in the margin (and such other person or persons as may be brought before them)

PRESIDENT.

COL W.E. MORGAN, CBE MC 6 CIRU

MEMBERS.

LT-COL J.E. CHABUT, CBE ED CIC 6 CIRU

MAJ P.H. LAMBERT CIC 6 CIRU

MAJ F.L. ROHLOFSON CIC 2 CIRU

CAPT V.J. WESTFALL CIC 2 CIRU

WAITING MEMBERS

MAJ C.H. COOK CIC 6 CIRU

CAPT A.A. GROVE CIC 2 CIRU

JUDGE-ADVOCATE

CAPT W.R. MARSHALL, Barrister-at-Law, HQ CRU(ADV)

~~has been (or where the convening officer has the appointment of a judge advocate,~~ is hereby) appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to HQ CRU(ADV)

Signed this 17th day of AUGUST 1944

(G.A. McCarter) ~~Brigadier~~
Deputy Commander
CANADIAN REINFORCEMENT UNITS (ADV)

5

CHARGE SHEET

The accused, Lieutenant Leigh Foster THORNTON, Adv. C.R.U. Officers Training Coys, attached 1 Canadian Infantry Reinforcement Unit, an Officer of the Canadian Army Overseas, is charged with:--

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Thoresby Camp, Ollerton, Notts., absented himself without leave from 1800 hours on the 6th day of August 1944 until 1900 hours 7 August 1944.

Total Absence: 1 day, 1 hour.

B2

.....Lt.-Col.
(J.H. Mothersill) A/Commander,
1 Cdn. Inf. Reinf. Unit.

Thoresby Park,
Ollerton, Notts.

8th day of August 1944.

TO BE TRIED BY GENERAL COURT MARTIAL

(G.A. McCarter) Brig
Deputy Comd
CDN REPT UNITS (ADV)

In the Field,
17 Aug 44

6

C

*Instruction (See R. P. 39 (A)) Question.

Proceedings on Plea of Not Guilty.

Q.4 *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. A.4 No sir.

~~The prosecutor makes an opening address (hands in a written address which is read, marked , signed by the President, and attached to the proceedings.)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. Maj MW Shields, Lake Sup Regt, Adv CMU Offrs Trg Coys att 1 CMU

being duly sworn, is examined by the prosecutor.

Q.5 Will you tell the court your rank, name and employment?
A.5 I am Maj MW Shields, Lake Sup Regt, Thoresby Camp, Civil Affairs Offr awaiting appointment.
Q.6 You recognize the accused and is he present?
A.6 Yes, over there (witness indicates accused).
Q.7 Do you recognize this document?
A.7 I recognize it as a Directive re Leave and it is contained in a cardboard folder on the Coy Orderly Room desk.
(MARKED EXHIBIT "A" with consent of Def Offr)
Q.8 What is this document?
A.8 This is an extract from Pt I Order #28 d/2 Aug 44 issued by Lt-col Kempton, CO. It reads "Para 344. Offrs Directive - The attn of all offrs is drawn to offrs directives which are published from time to time. Copies available at each coy orderly room, YMCA, Thoresby Hall Mess.
(MARKED EXHIBIT "B" with consent of Def Offr)
Q.9 To your knowledge did the accused have permission to leave camp on 5 Aug 44?
A.9 Yes, from 1345 hrs 5 Aug until 1800 hrs 6 Aug 44 for purpose of proceeding to Sheffield on leave.
Q.10 On Mon 7 Aug 44 were you aware of the fact that Lt Thornton had not returned?
A.10 Lt Thornton did not appear on morning parade at 0800 hrs.
Q.11 Did you take any steps after you noticed that Lt Thornton was not present on parade?
A.11 It was reported to the Bn Orderly Room by myself and by the Duty Offr.

CROSS EXAMINED BY THE DEFENCE

Q.12 Is Lt Thornton regimentally employed?
A.12 Yes.

Q.13 And offrs who are regimentally employed - do they report on company parade?
A.13 No.
Q.14 Then there was no necessity for Lt Thornton to report on that parade Mon morning?
A.14 That is correct.
Q.15 I produce these documents, will you explain them to the court?
A.15 These documents represent the nominal roll of #5 Coy.

(MARKED EXHIBITS "C", "D" & "E")

Q.16 These documents are a complete roll call of everybody in #5 Coy?
A.16 I assume they are.
Q.17 And if anybody is present on parade a check mark is made opposite the name?
A.17 Yes.
Q.18 And there is a check mark opposite Lt Thornton's name?
A.18 There is.
Q.19 And Lt Thornton being regimentally employed would not have to report on morning parades?
A.19 That is correct.
Q.20 Lt Thornton belongs to the Cat. Gp of offrs?
A.20 That is correct.
Q.21 He had no duties on Aug 5 - Sunday?
A.21 No.

RE-EXAMINED BY THE PROSECUTION

Q.22 Were you aware of the regimental duties of Mr Thornton?
A.22 Yes I was.
Q.23 What were they?
A.23 The Bn Orderly Room asked me to send someone up who could transfer infm from orders to cards. I sent Mr Thornton up.
Q.24 You detailed him for this duty on what date?
A.24 I don't know the date but I would imagine it was about Thursday - but I am not certain.
Q.25 Well previous to Aug 7th?
A.25 That is correct.
Q.26 To your knowledge did Lt Thornton report for regimental duties?
A.26 Yes I think he did - I am not certain - but I had no word back from Bn Orderly Room.

BY THE JA

Q.27 So as far as you know Lt Thornton was not absent, he could have been on regimental duties?
A.27 No, because I went up to the Bn Orderly Room in the morning to report him absent.
Q.28 Well how did you know he was absent?
A.28 He was not on parade.
Q.29 Did he have to be on parade?
A.29 No: but I went up to the Bn Orderly Room to report that he was not on parade.
Q.30 Lt Thornton, being regimentally employed, did not have to appear on parade 0800 hrs 7 Aug?
A.30 That's right.
Q.31 Then you said he was regimentally employed in the unit orderly room?
A.31 That's right.

Q.32 So as far as you know at 0800 hrs he was employed in the Orderly Room?
A.32 No he wasn't.
Q.33 Well, so far as you know he was supposed to be?
A.33 Yes.
Q.34 When did you find him absent?
A.34 I found him absent when I went to the Bn Orderly Room about 0815 hrs. He was not doing his job and had not reported there.
Q.35 Could he have been somewhere else and still have been regimentally employed?
A.35 I don't think he could have been - or the Adjt wouldn't have advised me.
Q.36 Do you know whether or not Lt Thornton left the camp in accordance with his leave application?
A.36 No.
Q.37 Did you see him on Sunday?
A.37 No.
Q.38 So the reason he was reported absent by you was from info received?
A.38 Yes, from the Duty Offr and the fact that he was not there himself.
Q.39 It is not expected that an offr or a clerk reporting for duty has to remain in his chair from 0800 hrs to 12 noon. He could have been in the toilet - he could have been anywhere?
A.39 Well if he doesn't report at the Coy Orderly Room he reports to the Bn Orderly Room - and he hadn't done so according to the Adjt.
Q.40 But he could have been somewhere else at 0815?
A.40 He evidently was.
Q.41 Within the unit?
A.41 He could have been; but he shouldn't have been.
Q.42 What I am coming to is this - he was not expected to be on parade, he was expected to report at the Orderly Room at 0800 hrs. When you went up there at 0815 you didn't see him?
A.42 That's right.
Q.43 He could certainly have been regimentally employed?
A.43 Yes, but I don't know whether he was or not.

BY THE COURT

Q.44 His duty was to be in the Orderly Room?
A.44 Yes.
Q.45 And at 0815 he was not there?
A.45 Yes.
Q.46 But he could have been somewhere else?
A.46 Yes.

(In the opinion of the court and of the JA it is not necessary to comply with RP 83(2))

2nd Witness Prosecution) Lt GJ Lafontaine, Adv CRU Offrs Trg Coys, att 1 CIRU, being duly sworn, is examined by the Prosecution:-

Q.47 Will you tell the court your rank, name, regiment and where you are stationed?
A.47 I am Lt GJ Lafontaine, CIC, A/Adm Offr #5 Coy OTC (Adv).
Q.48 On Sun 6 Aug 44 what were your duties?
A.48 As Coy Duty Offr around 2300 hrs I was checking the leave book to see if everyone had signed it. There were 2 offrs who had not signed in, one of them was Lt Thornton. I went to their quarters to see if they were in and they were not. I made out

a Tattoo Report.

Q.49 Your duties on Mon Aug 7, 44?
A.49 I was A/Adn Offr checking the roll and found out Lt Thornton was not on parade. I reported it to Maj Shields and he instructed me to make out an absentee report.

CROSS EXAMINED BY THE DEFENCE

Q.50 How do you fix the time you went to the quarters of Lt Thornton?
A.50 It was the time the Orderly Offr should go round.
Q.51 Did you make a check of all quarters?
A.51 I made a check of quarters of those who did not sign the book.
Q.52 What time was it you went around?
A.52 About 2300 hrs.
Q.53 Did you make any other search for them?
A.53 I did not.

BY THE JA

Q.54 According to the Offrs Directive No 4 a bed check will be made at 2245 hrs. Is it the custom in this Adv Offrs Trg Coys that after bed check is made that offrs may proceed from their quarters to the mess, and have they ever done so?
A.54 Not that I know of.
Q.55 They are supposed to stay in and go to bed?
A.55 Yes sir.
Q.56 Have there been occasions when they haven't done it and gone to the mess?
A.56 Not that I know of.
Q.57 Do you know whether Lt Thornton was regimentally employed?
A.57 He was not regimentally employed.
Q.58 Did he have to appear on parade at 0800 hrs?
A.58 Yes sir.
Q.59 Were you on parade the same day at 1330 hrs?
A.59 No sir.
Q.60 Was Lt Thornton supposed to be?
A.60 Yes sir.

DEF OFFR THRO' THE COURT

Q.61 Do I understand that you have never seen offrs in the mess after 2300 hrs?
A.61 Yes.

JA (CONTINUING)

Q.62 Why didn't you give me that answer?
A.62 Not that I know of, sir, but it is possible that some offrs go up to the mess.
Q.63 Is it the common practice?
A.63 I don't know, sir, I have never been in the mess after 2300 hrs.
Q.64 Where is Lt Thornton billeted?
A.64 His quarters are in the front of Thoresby Hall.
Q.65 Is that the building in which the Mess is?
A.65 It is the back of the building.
Q.66 Who occupies the room with Lt Thornton?
A.66 Capt Reid and Lt Scott.
Q.67 Did you go to their room on Sun 6 Aug?
A.67 Yes.
Q.68 Did Lt Thornton answer to his name?
A.68 There was only Capt Reid there.
Q.69 Did you look in at the Mess?
A.69 I did not.

Q.70 He might have been down in the mess?
A.70 It is possible sir.
Q.71 Was it before or after 2300 hrs?
A.71 Around 2300 hrs.

(In the opinion of the court and of the JA it is not necessary to comply with RP 83(B))

3rd Witness) Lt DA Bonnallie, CIC, Adv CRU Offrs Trg Coys att 1 CIRU, being
Prosecution) duly sworn, is examined by the Prosecution:-

Q.72 Will you tell the court your name, rank, regiment and where you are stationed?
A.72 Lt DA Bonnallie, CIC, and I am stationed at Adv CRU OTC.
Q.73 What were your duties on Sun 6 Aug 44?
A.73 On 6 Aug 44 I was Regtl Orderly Offr.
Q.74 As such would you tell the court what your duties were on evening 6 Aug 44 say from 1700 hrs on?
A.74 One of my duties was to initial the Leave Register as each offr signed on returning from his leave.
Q.75 Do you recognise this document, and if so, will you explain it to the court?
A.75 It is a sheet from the Leave Register #5 Coy. Offrs wishing leave sign out on it giving time they will be back and it is initialled by the Orderly Offr.
Q.76 And that is the sheet you were supposed to initial?
A.76 It is a copy.
Q.77 Are there any names on it?
A.77 Yes, Lt Thornton's name is on the sheet.
Q.78 Is his name shown as having returned?
A.78 No.

(MARKED EXHIBIT "F" with consent of Def Offr)

CROSS EXAMINED BY THE DEFENCE

Q.79 Do you know if Lt Thornton on Exhibit "F" is the accused here?
A.79 I did not see the accused until the Summary of Evidence was taken.
Q.80 Does it necessarily follow that everybody whose name appears in that leave book has actually left camp?
A.80 Well, if they do not leave camp they should tell the Coy Office - that is a request or application for leave.

(In the opinion of the court and of the JA it is not necessary to comply with RP 83(B))

4th Witness) Lt R Audette, R de Chaud, Adv CRU Offrs Trg Coys att 1 CIRU,
Prosecution) being duly sworn, is examined by the Prosecution:-

Q.81 Will you tell the court your rank, regiment, name and where you are stationed?
A.81 I am Lt R Audette, R de Chaud, att to OTC (Adv) CRU.
Q.82 On Mon 7 Aug 44 what were your duties?
A.82 I was Coy Orderly Offr for #5 Coy.
Q.83 In the course of the day did you have occasion to see the accused, Lt Thornton?

A.83 Yes, I saw him.
Q.84 Approx when?
A.84 Approx 1900 hrs.
Q.85 On what occasion?
A.85 He came in the office to collect his mail. I asked him his name and he told me Lt Thornton. I put his name and the time down.

CROSS EXAMINED BY THE DEFENCE

Q.86 Some offrs in #5 Coy are Regtl employed?
A.86 Right.
Q.87 And they go direct to their work?
A.87 Yes.
Q.88 So the only time you would see Lt Thornton is when he came to collect mail - that is if he were regimentally employed?
A.88 Well, I may see them on parade.

BY THE JA

Q.89 Was Lt Thornton employed in your Coy Orderly Room?
A.89 He was on parade - not regimentally employed in our Orderly Room.

DEFENDING OFFR THROUGH THE COURT

Q.90 Do you know where he was employed?
A.90 He was supposed to be on parade.
Q.91 Do you know whether he was supposed to be working in the Bn Orderly Room or not?
A.91 No, he was supposed to be on parade.
Q.92 On what do you base that remark?
A.92 I was Orderly Offr and I saw his name on the nominal roll as supposed to be on parade.
Q.93 Do you know whether that nominal roll tells you who should be on parade and who shouldn't. I will show you EXHIBIT "C". Who would know definitely in that Coy whether a man was regimentally employed or not?
A.93 The Adjt.
Q.94 Did Mr Thornton sign any book in your presence?
A.94 I don't know.
Q.95 So Lt Thornton might have been in camp long before 1900 hrs but you didn't see him till then?
A.95 Yes.

(In the opinion of the court and of the JA it is not necessary to comply with RP 83(2))

CASE FOR THE PROSECUTION CLOSED

JA TO ACCUSED: The case for the prosecution has now closed. You may now proceed with your defence. You may if you wish give evidence on oath as to the facts or your character or both, in which case you will be subject to cross examination. You may, however, make a statement without being sworn and you will not be subject to cross examination. But a statement which could have been made under oath will not carry with the court the same weight as sworn testimony. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

The prosecution is closed

Defence.

Q.96 *Question to the accused.* Do you apply to give evidence yourself as a witness?

A.96 *Answer.* No Sir.

Q.97 *Question.* Do you intend to call any other witness in your defence?

A.97 *Answer.* No Sir.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* **Instructions to the Court** *above*.)

13

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

CLOSING ADDRESS BY PROSECUTION:

Mr President & Gentlemen of the Court -

From the evidence given by the witnesses it is conclusive that the accused was not in his quarters on 6 Aug 44, did not appear on the parade on Monday morning 7 Aug 44 and was not accounted for until 1900 hrs on the same date. It has been brought out that the accused was regimentally employed at the Bn Orderly Room; but the first witness who went to the Orderly Room in person did not see the accused. I believe the evidence is conclusive and I ask the court to find the accused guilty of the charge laid against him.

CLOSING ADDRESS BY DEFENCE:

Mr President & Gentlemen -

I am just going to deal with this case briefly. I suggest, gentlemen, here we have a Cdn Offr charged with being AWL. Now, as I understand the law a man has to be proved guilty; the evidence has to be such that you cannot come to any other conclusion otherwise he is acquitted. It must be absolutely overall evidence with no reasonable doubt left whatsoever. Now in this case what have we got? First of all evidence that an offr went to his quarters and he wasn't there. Now, does it necessarily prove from that that Lt Thornton was not in Thoresby Camp on that night? Now, I haven't any evidence, but the offrs' mess in Thoresby Hall certainly does not close at 2300 hrs and I think you will find quite a number of offrs in the mess at 2300 hrs. He could easily have been in camp on that particular night. Secondly, as far as the next morning is concerned, the Coy Comd said he was regimentally employed. If he was regimentally employed it was not necessary for him to be on that morning parade. You have the documents with his name checked off - which seems to follow that he was present. The only other possible fact was at 0815 when the Coy Comd happened to be in the Bn Orderly Room, Lt Thornton was not there. From that how are you going to deduct that Lt Thornton was not in the camp? How many Bn Orderly Room can you go into and find everybody there working? Are you going to conclude from that that if you dropped into an Orderly Room and every many wasn't present, that those who weren't present were absent without leave? Now, as far as that book is concerned, I suggest that under the Directives it isn't necessary and that a lot of offrs are under the impression they don't have to sign in that book. On the other hand, he may have forgotten - there is no evidence to show that he even left camp. So I suggest, gentlemen, that upon this scanty evidence, a Cdn Offr who has served his country well, could not be convicted by a court; and I think the JA will agree that the law is the same as in a criminal case. He has to be proved guilty beyond a reasonable doubt and I suggest this evidence goes a long way from proving the case beyond a reasonable doubt.

SUMMING UP BY JA

Sir & Gentlemen: Mr Thornton is charged with an offence under Sec 15(1) AA in that he absented himself as alleged in the charge sheet. Absence without leave is defined in the Fn 1 to Sec 15 AA by stating that the absence must be from the place where it is his duty to be and where he ought to be found if wanted. The evidence adduced on behalf of the prosecution is somewhat conflicting. Let us look at the facts as adduced. He was absent from1800 hrs 6 Aug 44 until 1900 hrs 7 Aug 44 total absence of 1 day 1 hour. The absence of the accused was first noticed at the 0800 hrs parade 7 Aug 44 and again on the parade at 1330 hrs same day. In this connection we have the evidence of the Coy Comd, Maj Shields, who stated that in view of the fact that Mr Thornton was regimentally employed it

was not necessary for him to appear on the regular Coy Parades but to report to the Unit Orderly Room for his employment. Further, we have a Coy Parade Sheet for 7 Aug 44 which shows the accused present on parades on that date. As against this, we have the evidence of the Coy Adm Offr, Lt Lafontaine, who stated the accused was not regimentally employed and it was necessary for him to be on parade unless he was excused therefrom by the Coy Comd. From the evidence of Lt Audette, who was Orderly Offr on the day in question, his understanding from the roster of offrs required to be on parade, was that the accused should have been on parade. Maj Shields stated that at 0815 hrs on the day in question he attended at the unit Orderly Room and failed to see Mr Thornton on duty in his place there at that time. However, he did admit that it was possible that Lt Thornton could have reported into the Unit Orderly Room at 0800 hrs for regimental duty and be absent therefrom on duty at the time he entered. According to the evidence adduced it is necessary for offrs when returning from leave to report into the Orderly Offr and sign the Leave Book. This was not done by the accused. This part of the evidence is the conflicting part and the court are the sole judges of the facts. I have no right to render an opinion of the facts and, as a matter of fact, am prohibited from so doing. It is my duty to direct the court only on questions of Law arising from the facts. The onus is upon the prosecution to prove beyond reasonable doubt that Mr Thornton is guilty of the offence as stated in the charge sheet. If they believe that the prosecution has fulfilled the onus placed upon it then the accused must be found Guilty. If, however, they believe that the prosecution has failed to do this he must be acquitted and any reasonable doubt arising from the facts heard here today must be given in favour of the accused.

COURT CLOSED FOR CONSIDERATION OF ITS FINDING.

COURT REOPENS

JA TO ACCUSED: The court has carefully considered the evidence adduced here today and have come to the conclusion that the prosecution has failed to establish its case and you are accordingly ACQUITTED.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused Lieut Hugh Malcolm Thornton, C I C, 1 C I R U, is not guilty of the first charge.

W H Marshall Capt
Judge Advocate

In the 7 mil
18 aug 44

[illegible] mjr & Col
President

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a separate case, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

EXHIBIT "A" ADV CRU OFFRS TRG COYS OFFRS DIRECTIVE # 4 d/23 Jun 44

1. TATTOO ROLL CALL - Revised as follows:-

1. There will be a Bed Check and roll call at 2245 hrs daily by Coy OO.
2. The Coy Orderly Offr will hand in to Unit OO a Tattoo Report and the Coy "Permission to leave camp" book by 2300 hrs daily, except Saturday and Sunday when it will be turned in at 1200 hrs.

2. PERMISSION TO LEAVE CAMP - Offrs directive no 2 d/13 May 44 is hereby cancelled and the following substituted:-

1. No offr at any time will leave camp without permission.
2. Requests will be made by entering name, destination, time out and in, in the book provided for this purpose in the coy office.
3. No Offrs will leave the camp area until the coy comd or 2 IC has approved the request.
4. Requests will be made before 1645 hrs week days and 1200 hrs Saturday and Sunday.
5. 24 hrs leaves will be approved in theX same manner as above.
6. The "Permission to Leave Camp" book for each coy will be turned into the Adjts office after Tattoo Roll call at 2245 hrs and all offrs out on late pass will check in with the Unit Orderly Offr.

3. BOUNDS - Refernece Part I Orders No 3, para 32 d/13 May 44.
Bounds of the camp are as follows:-
To the North - The main road running through the estate. (Rd Bothamsall - Budby Corner)
To the South - The river Meden (300 yds from Thoresby Hall)
To the East - 500 yds from Thoresby Hall.
To the West - 500X yds from Thoresby Hall.

4. LEAVE -Part I Order No 24 d/19 Jul 44. Sub-paras 23B.

(a) After parade hrs (1700 hrs until 2245 hrs daily) ORs may travel within a 5 mile radius of the camp without a written pass. This radius has been extended to include the town of Mansfield.

(b) Offrs must have permission to leave camp as laid down in para 2 of Offrs Directives # 4 d/23 Jun 44.

(c) 24 hr passes may be granted beyond the 20 mile radius to which they were previously restricted, provided no leave to any point within 10 mile radius of CHARING CROSS, LONDON, SW 1 is envolved.

OFFRS DIRECTIVE # 5 AS AMENDED BY OFFRS DIRECTIVE # 6 d/22 Jul 44.

In view of the fact that no busses run on Sunday mornings, personnel leaving on the 1345 hrs busses on Saturdays may sign out until 1800 hrs Sunday. Period of leave to be from 1345 hrs Sat to 1800 hrs Sun. At any other period during the week end the 24 hrs limit will apply.

(Signed)

(L.W. Greer) Lt,
Adjt, Adv CRU Offrs Trg Coys.

/KMG

CERTIFIED TRUE COPY

(L.W. Greer) Lt,
Adjt, Adv CRU Offrs Trg Coys.

EXHIBIT "A"

EXHIBIT "B"

18

ADV CRU OFFRS TRG COYS
Part I Orders
By
LT-COL H.T. KEMPTON ED
COMMANDING OFFICER

ORDER # 28 2 Aug 44

344.- OFFICERS DIRECTIVE - The attention of all offrs is drawn to Offrs Directives which are published from time to time. Copies available at each coy orderly room, YMCA, Thoresby Hall Mess.

(Signed)

(L.N. Greer) Lt,
Adjt, Adv CRU Offrs Trg Coys.

/KMG

CERTIFIED TRUE EXTRACT

L.N. Greer

(L.N. Greer) Lt, Adjt, Adv CRU Offrs Trg Coys.

EXHIBIT "B"

EXHIBIT "C"

NAME	UNIT	DATE TOS	Pt II ORDER	MISCELLANEOUS
LTS GREGOIRE J.A.				
HARPER J.T.	SOS 10/8/44	TOS 7/10/44	TOS #3 SOS #	
LACROIX O.E.				
LAFONTAINE G.A.				
LANGEVIN J.A.E.				
LESAGE C.A.				
LAVIGNE E.J.				
RIVEST A.				
BORIGHAID E.E.				MAP ROOM
BOCH C.				
BOSS W.				

CERTIFIED TRUE COPY OF THE ORIGINAL

(L.N. Greer) Lt.,
Adjt., Adv CRU Offrs Trg Coys

EXHIBIT "D"

NAME	UNIT	DATE TOS	Pt. II ORDER	MISCELLANEOUS
LT SCOTT H.M.		SOS 8/44		
SCOTT H.M.				
THORNTON L.F.		SOS 8/44		
TRUDEAU J.				
THORNTON L.F.				

CERTIFIED TRUE COPY OF THE ORIGINAL

(L.E. Green) Lt
Adjt., Adv CHU Offrs Hq Sqn

EXHIBIT "E"

CIVIL AFFAIRS

NAME	UNIT	DATE TOS	Pt. II ORDER	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	MISCELLANEOUS
~~MAJ ARELL C.W.~~		30S 7 Aug	44	1 S O S	
SHIELDS H.W.				S	
TREMBLAY J.R.				S	
CAPT ARCHAMBAULT G.I.				S S	
CAMELFORD J.A.					
FOWLER J.A.					
INNES W.C.					
LT MOESER J.F.					
PHILLIP F.G.A.				S	

CERTIFIED THIS COPY OF THE ORIGINAL

(L.E. Green) Lt.
Adjt., Adv CHQ Offrs Flg Camp

REGIMENTALLY EMPLOYED

| NAME | UNIT | DATE TOS | Pt II ORDER | [illegible] | [illegible] | [illegible]

ATTACHED TO OTHER COYS

NAME	UNIT	DATE TOS	Pt II ORDER	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000	REMARKS
CAPT PAMERIN I.C.					# 2 Copy

DESTROY THIS COPY OF THIS ORIGINAL

Capt. Ground Ltr.
Adjt., ADV CHD Office Thg Camp

TRAINING

NAme.	UNIT	DATE TOC	Pt II ORDER	MISCELLANEOUS
CAPT BEULLAC J.B.A.				
" REID R.S.		SOS 9 Aug 44	#20	
" BROWN J.		SOS 9 Aug 44	#20	
LTS AUDETTE J.E.E.				
BELISLE J.P.E.				
BIBETTE L.		TO R.C.E.		
BOURASSA J.L.				
BROUILLETTE E.				
CLEMENT R.P.E.				
CLOUTIER R.				
CUILLERIER S.E.				
BELANGER				
DION C.L.				
FREEMAN J.S.				

CERTIFIED TRUE COPY FROM THE ORIGINAL

Adjt., [illegible]

EXHIBIT "C"

5 COY

ADV CRU OFFRS TRG COYS -----/PERMISSION TO LEAVE CAMP/----- # 5 COY.

RANK	NAME	DESTINATION	FROM HOUR	FROM DATE	TO HOUR	TO DATE	APPROVED BY	RETURN HOUR	RETURN DATE	INITIALS UNIT O.C.
Lt	SCOTT	Sheffield	1345	5 Aug	1800	6 Aug	G.J.L.			
Lt	THORNTON, L.F.	Sheffield	1345	5 Aug	1800	6 Aug	G.J.L.			

CERTIFIED TRUE COPY

EXHIBIT "F"

SUMMARY OF EVIDENCE

In the matter of Lt Leigh Foster THORNTON, C & Y, by direction of the Commanding Officer. The evidence herein is taken under oath.

FIRST WITNESS Maj N.W. Shields, Lake Superior Regt, having been duly sworn states:-

I am a Civil Affairs Officer awaiting a posting and temporarily A/Coy Comd of #5 Coy, Adv CRU Offrs Trg Coys, Thoresby Camp. Instructions for officers wishing to absent themselves from camp are posted in the Coy Orderly Room. There is a register kept in the Coy Orderly Room for all officers wishing to avail themselves of 24 hrs leave. Officers sign their names, showing time of departure, destination and time of return. This register is left in the Regimental Orderly Room for signature of officers returning from leave. Before sending the Register to Regimental Orderly room application for leave must be initialled by the Coy Comd. My instructions to Lt Lafontaine who was Coy Duty Officer on 5 Aug 44 were to initial the Register if I could not be there at the time said register was sent to Regimental Orderly Room. Lt. L.F. Thornton entered his name in the register as proceeding to Sheffield at 1345 hrs 5 Aug 44 to return 1800 hrs 6 Aug 44. On Monday morning 7 Aug 44 at approximately 0750 hrs Lt Thornton was not on parade and that he was reported on the Tattoo Report as absent from 1800 hrs 6 Aug 44.

QUESTION BY ACCUSED

Q 1 Are all These officer's directives referred to in your evidence read to or by all officers in the coy of which you are at present A/Coy Comd?

A No, they are not, due to the fact that personnel are passing in and out of the coy frequently and it would therefore be necessary to read the orders daily.

N.W. Shields Major
(N.W. Shields) Major

SECOND WITNESS Lt G.J. Lafontaine, CIC, having been duly sworn states:-

On 5 Aug 44 I had permission from Maj N.W. Shields A/Coy Comd of #5 Coy, Adv CRU Offrs Trg Coys, to initial the coy leave book. Lt. L.F. Thornton had entered his name in the leave book showing time of departure, destination and time of return. I initialed that entry and the book was taken to Regimental Orderly Room. On Sunday 6 Aug 44 I was Coy Duty Officer of #5 Coy. At approximately 2300 hrs I checked the leave book to see if every officer had signed in and found that Lt Thornton had not done so. I went to his quarters and did not find him and assumed he had not returned. I then made my Tattoo Report. On Monday 7 Aug 44 at approximately 0800 hrs I checked the roll of the coy and found Lt Thornton was not on parade. I reported the fact to Major Shields and he instructed me to make an Absentee Report, which I did.

The Accused declines to cross-examine the witness.

G.J. Lafontaine Lt
(G.J. Lafontaine) Lt.

WITNESS Lt D.A. Bonnallie, CIC having been duly sworn states:-

On 6 Aug 44 I was Regimental Orderly Officer at Adv CRU Offrs Trg Coys, Thoresby Camp. As part of my duties I had to initial the leave Register as each officer signed in. To my knowledge Lt L.F. Thornton had not signed in either before or after 1800 hrs 6 Aug 44. I also received a Tattoo Report from #5 Coy and it showed that Lt Thornton was absent. I present exhibit "C" #5 Coy leave book and exhibit "D" #5 Coy Tattoo Report.

The accused declines to cross-examine the witness.

D.A. Bonnallie

(D.A. Bonnallie) Lt.

FOURTH WITNESS Lt R. Audette, R de Chaud, having been duly sworn states:-

On 7 Aug 44 I was Coy Duty Offr of #5 Coy, Adv CRU Offrs Trg Coys. At approximately 1900 hrs Lt L.F. Thornton came in the Orderly Room looking for his mail. As Lt Thornton entered I asked him his name and wrote down the time he came in.

The accused declines to cross-examine the witness.

R. Audette

(R. Audette) Lt.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken by me in the presence and hearing of the accused and that R.P. 4 (c) (d) (e) and (f) have been complied with.

Guy V. Archambault Capt

(G.V. Archambault) Capt.,
Officer detailed to take
Summary of Evidence.

Thoresby Camp,
8 Aug 44.

PPP-100

PTE THORNTON SE

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D71017 Pte THORNTON, Stanley Eugene 2 CIRU CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Nil~~ ~~Adjudged under sentence for ... commencing on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 57 days, of which 24 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for NINETY DAYS.

(Sgd) ..... Judge-Advocate, if any. 16 JUN 44 Date awarded. (Sgd) McAlpine Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

~~PART II.~~ MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

~~Date ..... (Sgd) ..... Commanding .....~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further notice.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 17 Jun 44 Commanding (G S N Gostling) Brig "A" Gp Cdn Rft Units C A (O) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-71017 PTE. STANLEY EUGENE THORNTON.	18 Jun 44.	Cotlittlejohn, Capt. R C R.

~~ET II~~ ORDER No. 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 PPP100

FIELD GENERAL COURT-MARTIAL

CFA96 (To issue of AFA83) 40/P&B/16998 40/101 4/38B

REGISTERED 19 JUN 1944 A BRANCH C.M.H.Q.

Convened by Order of Brig G S N Gostling Comd "A" GP CRU dated 14 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D71017	Pte	Stanley Eugene	THORNTON	2 CIRU CIC

PROCEEDINGS REVIEWED 2 July 44

H.C. Inch Lieut

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 16 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

Nil A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ... as interpreter? Ans ... The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ... The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	M S McALPINE	2 CIRU
Member	Capt	H.A. EDWARDS	2 CIRU
Member	Lt	L.A. MITCHELL	2 CIRU
Waiting Member ~~Reserve~~	Capt	J.T. ROBB	2 CIRU
Prosecutor	Lieut.	W.L. LISCOMBE	2 CIRU
Defending Offr	Lieut.	S. FIDLER	2 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

Arraign A8. The accused D71017 Pte THORNTON, S E before arraignment make(s) (no) ~~no~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

Nil A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. B C initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character, or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused D-71017, Pte. Stanley Eugene THORNTON, C.I.C., on the strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with

SEC. 40 ARMY ACT — WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, during the month of February 1944, improperly and without authority did cash a cheque in the amount of £5-11-10, drawn on the Canadian Pacific Express Company, London, and payable to B-58114, Pte. E.J. Stark.

In the Field
8 June 44

.....
(M.K. Greene) Colonel
Commanding, 2 C.I.R.U.

To be tried by Field General Court Martial.

(G S W Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
14 Jun 44

President
16 JUN 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D71017	Pte		Stanley Eugene	THORNTON	2 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 14 Jun 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. [redacted]

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	M S McALPINE	2 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CIRU	
Lt	to be detailed by OC 2 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CIRU	

[redacted]

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 14 Jun 44

Commanding "A" Gp Cdn Rft Units C A (C)
(G S N Gostling)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In lieu of AFA3) 40/P & S/1607 (4031)

(See overleaf for oaths and notes for use on trial.)

M.I.R. 2 C.I.R.U.

This is to certify that I have examined D/11017 Pte Houston S G

on 16 June 1944 and I find him medically fit to stand

Trial by Court Martial.

J. A. Simpson Capt

Medical Officer
2 C.I.R.U.

Miscellaneous Major

PLEA OF MITIGATION

RE THORNTON

The accused has been a serving soldier since Sep. 39. Since his arrival overseas he has had only five crimes. He has pleaded guilty to this offence and has the money available and desires to make restitution. I would ask the court in awarding sentence to consider the fact that he has 5 under the S of Pulhems and should technical be discharged and that he has been awaiting trial the best part of 2 months.

S Fidler Lieut

A C
15011A

SUMMARY OF EVIDENCE

In the case of D-71017 Pte. Stanley Eugene THORNTON, C.I.C., on the strength of 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness Prosecution

M-1913, Sgt. R.S. Sutherst, No. 1 Special Investigation Section, Cdn. Provost Corps, 1st Cdn. Army.
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix 'A'. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

W.L.Liscombe Lt.
(W.L.Liscombe) Lieut. Officer detailed to take the Summary

The accused does not demand the attendance of this witness for the purpose of cross-examination.

Second Witness Prosecution

C-42000, Sgt. L.A. Gibbs, No. 1 Special Investigation Section, Cdn. Provost Corps, 1st Cdn. Army.
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix 'A'. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

W.L.Liscombe Lt.
(W.L.Liscombe) Lieut. Officer detailed to take the Summary

The accused does not demand the attendance of this witness for the purpose of cross-examination.

Third Witness Prosecution

B-58114, Pte. E.J. Stack, C.I.C. posted to Royal Hamilton Light Infantry, in the field.
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix 'B'. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

W.L.Liscombe Lt.
(W.L.Liscombe) Lieut. Officer detailed to take the Summary

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f)(g) have been complied with.

In the field
8 June 1944

W.L.Liscombe Lt.
(W.L.Liscombe) Lieut. Officer detailed to take the Summary

Appendix A

STATEMENT OF EVIDENCE IN THE CASE OF D-71017 PTE. THORNTON, S.E.

On 20 April 44, at about 14.00 hours, in company with Sgt. GIBBS, L.A., of 1. S.I.S., I saw Pte. THORNTON at Brigden's garage, Western Road, Brighton, Sussex, where he was undergoing a course of equipment repair. I told him who we were and that I had reason to believe that he had signed and cashed a Canadian Pacific Express Co., Cheque in the amount of £5-11-10d., the property of one B-58114 Pte. STACK, E.J. I showed him a photostatic copy of the cheque in question bearing his name and regimental number which I now produce. I cautioned him and he said, " Yes, I found the cheque at the White City." I asked him if he wished to make a written statement under caution concerning the cheque. He expressed willingness and made the following statement which I reduced to writing and now produce.

4 June 44.

.....Sgt.
U-1913 SUTHERST, R.S.
No. 1 Special Investigation Section,
First Canadian Army.

STATEMENT OF EVIDENCE IN THE CASE OF D-71017 PTE. THORNTON, S.E.

On the 20 April 44, I accompanied Sgt. SUTHERST, R.S., of No: 1 S.I.S., to Brigden's Garage, Western Road, Brighton, Sussex, where we saw Pte. THORNTON. Sgt. SUTHERST told THORNTON that he had reason to believe that he had cashed a Canadian Pacific Express Co., cheque in the amount of £5-11-10d., the property of B-58114 - Pte - STACK, E.J. He was shown a photostatic copy of the cheque in question, bearing his name and regimental number. He was then cautioned by Sgt. SUTHERST, and he said 'Yes I found the cheque at the White City'. He was then asked if he wished to make a statement in writing concerning the cheque. He expressed his willingness to do so, and a statement was taken down in writing by Sgt. SUTHERST.

4 Jun 44

Sgt.
Regt.No. C-42000 - L.A. Gibbs.
No:1 S.I.S. - First Cdn Army.

APPENDIX "A"
11-11.


CANADIAN PACIFIC EXPRESS COMPANY
PAID


CANADIAN AUTHORISED ACCOUNT. LIMITED SERIES No L 429427

CANADIAN PACIFIC EXPRESS COMPANY

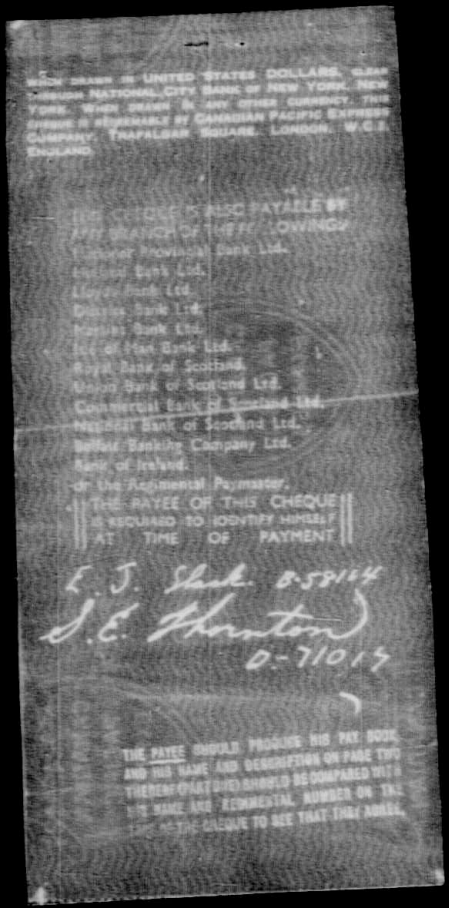
5 FEB 1944

PAID 5 11 10

17 FEB 1944

CANADIAN PACIFIC EXPRESS CO.
RAFALGAR SQUARE,
DON, W.C.2.

COUNTERSIGNED


UNITED STATES DOLLARS
NATIONAL CITY BANK OF NEW YORK, NEW YORK
CANADIAN PACIFIC EXPRESS COMPANY, TRAFALGAR SQUARE, LONDON, W.C.2, ENGLAND
Barclays Bank Ltd.
Lloyds Bank Ltd.
Martins Bank Ltd.
Royal Bank of Scotland.
Commercial Bank of Scotland Ltd.
National Bank of Scotland Ltd.
Northern Banking Company Ltd.
Bank of Ireland.
THE PAYEE OF THIS CHEQUE IS REQUIRED TO IDENTIFY HIMSELF AT TIME OF PAYMENT
L. J. Shek. 8-58164
J. E. Thornton
0-710.15
THE PAYEE SHOULD PRODUCE HIS PAY BOOK AND HIS NAME AND DESIGNATION ON PAGE TWO THEREOF (IF NOT DIED) SHOULD BE COMPARED WITH HIS NAME AND REGIMENTAL NUMBER ON THE FACE OF THE CHEQUE TO SEE THAT THEY AGREE.

Brown

20 April 44

W-71017 Pte Thornton, A.C.
2 C.I.B.U. - att 3 Technical Trg. Group Brighton
(British Unit).

I have been cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence.

A.E. Thornton.

On 13 February 1944, I was at the White City Stadium, London with the Canadian Rugby team. I was employed as the masseur. After the game was over and everyone had left the dressing room, I and the helpers who were clearing up, I found a Canadian Pacific Express Company cheque in the amount of £ 5-11-10d, made out to B-58114 Pte E.J. Stack. I knew Stack was connected with the team. The cheque was signed 'E J Stack, B-58114'. I intended to return the cheque to Stack, but a few days later I was broke and cashed the cheque at a bank in London. I can't remember the bank, but it was near Lancaster Gate. When I tendered the cheque at the Bank I signed my name and number on it and produced my pay-book to the Bank clerk. The clerk asked me about Stack's signature on the cheque and I told her that I had given Stack the money for it. I would like to say that I am very sorry for cashing this cheque and I will repay the money to Pte Stack. I have read over this statement and it is true.

A.E. Thornton.

Statement taken by R Sutherst Sgt. No 1 Special Investigation Section, First Can Army.

Appendix "B"
1944

I Private E.J. Stack, B.56114.
an enlisted soldier in the Royal Hamilton Light Infantry,
Canadian Active Service Forces

DO HEREBY CERTIFY THAT:-

(1) The Limited Cheque No L 429427 issued by the Canadian Pacific Express Coy. London, Eng., for the sum of Five pounds, eleven shillings and ten pence. (£5-11-10.)

and dated 5th February, 1944. has never been in my possession and therefore I could not have in any manner, knowingly or voluntarily, parted with it.

(2) That the missing cheque will be promptly returned to the Canadian Pacific Express Company, Trafalgar Square, W.C.2. should it ever come into my possession.

IN WITNESS WHEREOF I have hereunto set my signature this 10 day of March, 1944.

E J Stack
(Signature)

WITNESSED BY:

W.E. Whitaker
Lt-Col.
(Rank)
ORDERLY ROOM STAMP

ROYAL HAMILTON LIGHT INFANTRY
MAR 10 1944
ORDERLY ROOM

APPENDIX "B"
11-1-1

D

M.F.B. 355 Revised

22M—5-41 (572-3)
H.Q. 1772-39-629
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-71017	Pte.	S.T. Thornton	2 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General Regimental ~~or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sect. 15(1)	1 times	2 times
For Sect. 18(2)	times	1 times
For Sect. 9(2)	times	1 times
For Sect. 8(2)	times	1 times
For Sect. 40	times	1 times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Army Act~~ Air Force Act and dispensations with trial under ~~A.A. 73~~ A.A.A. 78 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for — days in civil custody, and ..... days in ~~military~~ Air Force custody, making a total of 31 days in custody, of which 24 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs. 8 mos.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 28 Sept. 1939

~~The service which the accused is allowed to reckon towards discharge is~~

~~The accused is entitled to reckon~~ ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. CVSM Pt II DO #17 1944

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the regimental~~ Air Force rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank

Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of June 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. 1 Destroyed 29-2-40

MFM 6 (AFB 122) 40/PAM/136 (3438)

No D.7101 Name THORNTON Stanley E Sqn. Battery or Company "A" Corps T.R.R. (T) CASF Date of enlistment 29-8-39 OC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Westmount	23-5-40	Pte		AWL from 0600 hrs 23-5-40 to 2300 hrs 26-5-40 (3 dys 17 hrs)	Sgt Chapman Sgt Waimsley Sgt Fraser	8 days CB	28-5-40	Major E.J. Trepanin	Forfeits 4 days pay.
Cotreau	20-7-40	Tpr		AWL from 1130 hrs 16-7-40 to 2340 hrs 21-7-40 (5 dys 10 hrs 10 mins)	Sgt Chapman	72 hrs Detn	22-7-40	Lt.Col Vining	Forfeits 6 days pay.
Borden	4-8-40	Tpr		AWL from 0100 hrs 31-8-40 to 3-9-40(3 dys 10 hrs)	L/Cpl Smith CQMS Nelson Tpr Boyle	7 days CB	4-9-40	Lt.Col Vining	Forfeits 4 days pay.
Borden	2-10-40	Tpr		AWL from 1630 hrs 7-10-40 to 2359 hrs 3-10-40 (Absent 1 days 7 hrs 29 mins)	Cpl Marchand	5 days CB	4-10-40	Major R. Stanford	Forfeits 2 days pay.
Borden	5-10-40	Tpr		(1) Failing to answer Def. Call from 1300 hrs. (2) Neg to obey an order. (3) Cond. to the prej. he did fail to appear on parade at 0800 hrs 22-10-40.	L/Cpl Shot A/Sgt Lowell A/Sgt Bontil	) 5 days CB lier 3 dys CB	7-10-40 23-10-40	Major Stanford Major Stanford	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TRANSFERRED TO THE VICTORIA RIFLES OF CANADA		19-11-40		Major Stanford	
	25 Nov 40	Rfn		AWL 0800 hrs 25 Nov 40 to 1030 hrs 30 Nov 40. AA 15 (1)	L/Cpl MacKay	72 hrs Det'n	30 Nov 40	C.O.	Amt Forf. 8 days pay.
St John's Nfld	4 Mar 41	Rfn		AA 8(2) Insubordinate language to sup. Off.		3 days CB	5 Mar 41	Capt. Carrique	
Airport, Nfld	23 Jul 41	Rfn		AA 9(2) Disobeying an order by Sup. Off.	Sgt Cricklow Sgt Hooper	21 dys Det'n	25 Jul 41	Maj. Allan	A.F. 21 dys pay.
Valcartier	13-10-41	Rfn		(AA 15-1) AWL from 0900 hrs 8-10-41 to 0210 hrs 10-10-41 and cost of apprehension of $6.23	Sgt Bowes Documentary	96 hrs Det'n plus $6.23	13-10-41	Lt-Col Eakin	
Nanaimo	8-12-41	Rfn		(AA 15-2) Failure to appear at place of parade.	CSM Stewart	4 dys CB	9-12-41	Major Eakin	
3/3/44		U.K.	L/Cpl.	A.W.L. 12 days 20 minutes.		Forfeits 13 days Pay and Reverted to Pte. (A.A. 15 (1),)			

As far as Records Show this is a true and certified Copy. L P Byrne

.....Lieut.
for Records Officer
C.I.R.C.

16 JUN 1944

(Officer having custody of the Regt'l Books)

RECEIPT FOR DOCUMENTS

I D-71017 Pte Stanley Eugene THORNTON, 2 Cdn Inf Reinf Unit hereby acknowledge receipt of a copy of the Summary of Evidence taken in England preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being being brought to Court Martial.

In the Field .....Hrs

8 June 1944

S.E. Thornton X

(Pte S.E. Thornton)

REQUEST FOR DEFENDING OFFICER

I D-71017 Pte Stanley Eugene THORNTON of 2 Cdn. Inf. Reinf. Unit hereby request that the Convening Officer appoint ..Lieut..S.Fidler,..R.C.I.R.U..... to represent me at my forthcoming Court Martial.

In the Field
8 June 1944

S. E. Thornton
(Pte.S.E. Thornton)

LIST OF WITNESSES

In the case of D-71017 Pte. Stanley Eugene THORNTON

(For the Prosecution)

1. U-1913, Sgt. R.S. Sutherst, No. 1 S.I.S. 1st Cdn. Army
2. C-42000, Sgt. L.A. Gibbs, No. 1 S.I.S. 1st Cdn. Army
3. B-58114, Pte. E.J. Stack, R.H.L.I., in the field

(For the Defence)

NIL

LIST OF EXHIBITS

In the case of D-71017 Pte. Stanley Eugene THORNTON

(For the Prosecution)

Exhibit "A" Photostatic copy of cheque drawn on Canadian Pacific Express Company referred to in the statement of U-1913, Sgt. R.S. Sutherst.

Exhibit "B" Statement of the accused purporting to be signed by him, dated 20 Apr 44, and referred to in the statement of U-1913, Sgt. R.S. Sutherst.

(For the Defence)

NIL

000-145

TPR THORNTON W.G.

48 Bm

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-52697 Tpr William George THORNTON, 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.W.L. 15 (1) (a)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of 30 days

(Sgd) ..... 18 June 44 (Sgd) H Courtney Maj
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) GF

(1. AA 57A. Delete if not used.)

Date 13 Jan 44 (Sgd) G Francoeur
Commanding (G. Francoeur) Brig
Comd 2 Cdn Base Sub Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K52697 Tpr THORNTON William George	14 JUNE 44	A Nowell Lt-Col
X-4 List CAC (Hd Qrs)		Coy, 12 Bn., 2 C.B.R. Group
12 C.B.R. Bn.		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Vol 1/2 CBRG P 7 RECORDED AT CMHQ IN 12/160 000-145

CFAA66 (To Item of AFAA) 40/PAM/D/1806 6/40

FIELD GENERAL COURT-MARTIAL

4 38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 9 JUN 44

RECEIVED 16 JUN 1944 CMHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Name(s).	Surname.	Unit.
K-52697	Tpr		William George	THORNTON	12 CBR Bn

PROCEEDINGS REVIEWED 23 Jun 44

G Francoeur Capt

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 15 June 44 D.J.A. Can. Sec. G.H.Q. 2 Echn. 1 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 12 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ~~No~~

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F B COURTNEY	SSR,	11 CBR Bn
Member	Capt	G G McKNIGHT	CAC,	12 CBR Bn
Member	Lieut	A R BOWLES	RCCS,	13 CBR Bn
Judge-Advocate				
Prosecutor	Major	J.S. HART		12 Bn
Defending Offr	Major	F.W.K. Bingham		12 Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Qn p 3.)

A8. The accused K52697 Tpr Thornton, WG before arraignment make(s) (no) ~~a~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(1) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B),,60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No Sir.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans In mitigation only.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182; RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

K-52697 Tpr. Thornton, William George, 12 Bn. 2 C.B.R. Group, a soldier in the Canadian Army (Overseas) is charged with:-

ABSENTING HIMSELF WITHOUT LEAVE

FIRST CHARGE
A.A. 15(1)

in that he

In the field, did absent himself without leave from 1320 hours 5 June 44 until 1450 hours 6 June 44. Total absence 1 day, 1 hr, 30 mins.

In the field
7 June 44.

.....Lt.-Col.
(A.O. Hood)
Commanding 12 Bn. 2 C.B.R. Gp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
9 JUN 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-52697	Tpr		William George	THORNTON	12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 JUN 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint an Judge Advocate to act the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	F B COURTNEY (*Must be named. RP 106.*)		SSR,	11 CBR Bn (*Unit.*)

MEMBERS.

Capt	G G McKNIGHT	CAC	12 CBR Bn
Lieut (*Rank.*)	A R BOWLES (*Named or detailed. RP 106.*)	RCCS	13 CBR Bn (*Unit.*)

WAITING MEMBER.

Capt (*Rank.*)	J H CAMPBELL (*Named or detailed, if any. RP 106.*)	12 CBR Bn (*Unit.*)

~~JUDGE ADVOCATE.~~

(*Rank.*)	(*Must be named, if any. RP 106.*)	(*Unit.*)

On Active Service in the Fd

in ENGLAND (*Country.*)

G Francoeur Brigadier
(*Signed personally. RP 105 fn 2.*) (*Rank.*)

(G Francoeur)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Date 9 JUN 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined K52697
(No.)
Pte (Rank) Thornton. W.G (Name) and in my opinion he is

~~fit~~ unfit to undergo trial by Court-Martial.

Station Field

Date. 12 June 44

Capt (Spd)
Medical Officer
(unit) 12 C.B.R. Bn.

Plea in Mitigation

K52697 Tpr. Thornton W. R.

The defending officer stated that the accussed and two other soldiers won a concidorable sum jointly in a "Crap Game". They proceeded to Aldershot ~~got~~ and after visiting several public houses became 'under the influence.' They discovered themselves on "D Day" absent without leave and made all haste to get back to camp.

It was also pointed out that the accused was a tradesman of value and had a fair record in over 4 years of service.

SUMMARY OF EVIDENCE IN THE CASE OF
K-52697 TPR. THORNTON, WILLIAM GEORGE, 12 BN. 2 C.B.R.Gp.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

H-26442 L/Sgt. Gauthier, R.D. 57 Coy, 12 Bn. 2 C.B.R.Gp having been duly sworn, states:-

On the 5 June 44, at about 1320 on the afternoon parade, I called the troop roll. I found the accused absent. I immediately placed his name on the absentee report. Later on I sent Cpl. MacAuley through the lines to look for K-52697 Tpr. Thornton, W.G. Cpl. MacAuley reported to me that the accused could not be found.

The accused declines to cross-examine this witness.

R. Gauthier
.....
(L/Sgt. Gauthier, R.D.)
57 Coy, 12 Bn. 2 C.B.R. Gp.

Second Witness for the Prosecution

A-44039 Sgt. Heddle, H.S. 57 Coy, 12 Bn. 2 C.B.R. Gp having been duly sworn, states:-

On 6 June 44 I was on duty as Coy Orderly Sgt. Tprs. Thornton, W.G., Revelle, K.S. and Henry, V. reported to me as a body at 1430 hrs 6 June 44. I placed them under close arrest and charged them with being absent without leave.

The accused declines to cross-examine this witness.

H. S. Heddle
.....
(Sgt. Heddle, H.S.)
57 Coy, 12 Bn. 2 C.B.R. Gp.

B. Gauthier Sgt

The accused was cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give any statement or evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of Two (2) pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) & (F) have been complied with.

In the field
7 June 44

J.A. Howard .....Capt.
(J.A. Howard)
12 Bn. 2 C.B.H. Group

No K52697 Name Thornton, W.G. | Sqn, Battery, or Company | Corps CAC | Date of enlistment 23-9-39 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 23-3-40 last entry 4-3-40 no cases drunkenness. J.				Freedman, Lieut.	
Field	2-10-40	Pte		WOAS AWL 2 days, 17½ hrs AA 15(1)	Cpl Staines	S/Cpl Lynch H 7 days F.P. 7 days Pay	6-10-40	Maj Ferrie	
Field	6-3-41	Pte		WOAS Dirty rifle & neglect to unload rifle Sec 40	CQMS Welbourn	7 days C.B.	11-3-41	Maj J.D.Ferrin	
Field	27-6-41	Pte		WOAS Insubordinate language to an NCO	Sgt. Eggie Sgt. Bennet	10 days F.P.	16-7-41	Col. Ferrie	
Field	2-12-41	Pte		WOAS Disobeying an order from an NCO	Sgt Bennett	7 days C.B.	3-12-41	Lt.S.V. Thomson	
Field	17-1-42	Pte		WOAS AWL 19 hours A.A. 15 (1)	L/Cpl Holman	7 days F.P. 8 days Pay	22-7-42	Maj Tait	
Field	6-2-43	Tpr		A.A. Sec 15 (1) WOAS AWL 2200 hours 6 Feb 43 to 0550 hrs 7 Feb 43	Cpl Fullerton Documentary Cpl Wilson	10 days F.P. 10 days Pay	8-2-43	J.H.Perry Lt-Col	Forf 1 days pay AR 4 1 146(1)a Cor, 10 days AR 4 1 136(1)b

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF RECORDS IN MY CUSTODY.					
				"D"					
					(L.B. Skinner) Capt. Adj. 12 Bn. 2 C.B.D. Group Officer having custody of documents.				

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
K-52697	Tpr.	Thornton, W.G.	12 Bn. 2 C.B.N. Group

* 1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court.-

For A.A. 15 (1) Three times

For A.A. 40 Three times

For _____ _____ times

For _____ _____ times

Date of first entry in Field Conduct Sheet 2 Oct. 1940

Date of last entry in Field Conduct Sheet 6 Feb. 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for _____ days in civil custody; and for _____ days in military custody, i.e., _____ days in open arrest, 5 days in close arrest; of which _____ days were spent in hospital.

5. The present age of the accused is 23 yrs 3 mos, 11 days

6. The date of his ~~enlisting-up for Military Service~~ attestation is 23 Sept. 39

7. The service which the accused is allowed to reckon is 4 yrs, 8 mos, 18 days

8. The accused is in possession of*

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date:

	Date of promotion
In the substantive rank of _____	_____
In the war substantive rank of _____	_____
In the acting rank of _____	_____

INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

*Strike out if not applicable.

(Its anvl held by accused.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Discription of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18 day of

H B Thomas

GG-5
PTE THORNTON W.J.C.

GG-5

PROCEEDINGS

On Active Service, this tenth day of May 1943.

Whereas it appears to me, the undersigned, an officer in command of Royal Canadian Artillery, 1 Canadian Division, on active service that the person named in the annexed schedule, being subject to Military Law, has committed the offences in the said Schedule mentioned;

And whereas I am of the opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial;

I hereby convene a Field General Court-Martial to try the said person, and to consist of the Officers hereunder named.

President

Major W.G. Ledingham. 2 Cdn Lt. A.A. Regt R.C.A.

Members

Capt. C.L. Robins. R.C.A.P.C.
Lieut. H.E. Matthews. No. 3 C.A.R.U.

RECEIVED 12 MAY 1943 1 Cdn Div

Signed
(K.B.Lockett) Lt.-col. A/CRA 1 Cdn Div.
Convening Officer.

16

SCHEDULE

Number, Rank, Name and Unit of accused.	Offence charged	Plea.	Finding, and if convicted, Sentence.	How dealt with by confirming officer.
L1248 Pte THORNTON William James Campbell. 1 Cdn Div Sp Bn (SLI).	First Charge A.A. Sec 15 (1)	Guilty	Guilty	I confirm the finding & sentence of the Court.
	Second Charge A.A. Sec 24 (2)	Guilty	Guilty	
			* 180 days detention	

Question to be asked of the accused if he pleads not guilty (RP 39 A)

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? NA

Answer:

(Signed) Convening Officer. D/CRA 1 Cdn Div.

(Signed) President.

* and stoppages of £1-14-1 being cost of apprehension and 19/8½ being deficiencies of Kit

1 July 43.

C H A R G E S H E E T

The accused, No L-1048 Pte THORNTON, William James Campbell, a soldier of the 3 Cdn Inf Bde Sp Gp (Sask L.I.), Canadian Army Overseas, is charged with

First Charge
A.A.Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

In that he

While in the Field, absented himself without leave from his Unit from 2359 hrs, 9 Aug 42, until apprehended in military Uniform in CIRENCESTER at 1710 hrs, 18 Apr 43, thereby incurring costs of apprehension of one pound fourteen shillings and one penny, (£1.14.1). Total time absent, 250 days, 17 hours and 11 minutes.

Second Charge
A.A.Sec 24(2)

WHILE ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES,

in that he

While in the Field, did lose certain articles of kit on charge to him from 3 Cdn Inf Bde Sp Gp (Sask L.I.) to the value of nineteen shillings and eight pence one half-penny (£0-19.8½) the articles being valued at 75% vocabulary rates.

D E Walker Major

In the Field
5 May 43.

(D.E. Walker) Major,
Commanding, 3 Cdn Inf Bde Sp Gp.,
(Saskatoon Light Infantry),

The Second Charge
A.A.Sec 94(E)

Against the accused, No L-1248 Pte THORNTON, William James Campbell, a soldier of the 3 Cdn Inf Bde Sp Gp (Sask L.I.), Canadian Army Overseas, is ~~xxxxxxxxxxxx~~ amended to read:

WHILE ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES,

In that he
While in the field, did lose the undermentioned articles of kit on charge to him from 3 Cdn Inf Bde Sp Gp(Sask L.I.)

Article		100% Vocab Rates.	75% Vocab.Rates.
Brushes,button.	1	£0-0-8	£0-0-6
Caps,Comforter.	1	0-1-1½	10
Combs,hair.	1	0-0-2	0-0-1½
Dressings,First Field.	1	0-1-1	0-0-10
Forks,table.	1	0-0-5	0-0- 4
Holdall	1	0-0-9	0-0- 6½
Jackets,sweater.	1	0-5-7	0-4- 2
Knives,clasp.	1	0-2-10	0-2- 1½
Knives,table.	1	0-0- 8½	0-0- 7
Towels,hand.	1	0-0-11½	0-0- 8½
Spoons,table.	1	0-0-4½	0-0- 3
Shorts,P.T.	2	0-3-10	0-2- 10½
Shirts,P.T.	1	0-1- 6	0-1- 1½
Bags,rations,	1	0-0- 7½	0-0- 5½
Covers,mess tin.	1	0-0- 4½	0-0- 3
Tins,mess.	1	0-2- 1	0-2- 4
Eyeshields,A/G.	6	0-2- 3	0-1- 8
		£1.6.5	£0-19-8½

(These prices are as set forth in the declaration of the Court of Inquiry.)

In the field
10 May 43

D.E.Walker Major
(D.E.Walker) Major,
Commanding, 3 Cdn Inf Bde Sp Gp.,
(Saskatoon Light Infantry),.

To be Tried by Field General Court Martial.

Field.
10 May 43

Bennett Brig.
A/Comd 1 Cdn Div.

MEDICAL CERTIFICATE FOR COURT MARTIAL.

Certified that I have today examined No. L-1248 Pte. Thornton, W.J.C. of the 1 Cdn Div Sp Bn (S.L.I.), and find him fit to undergo trial by court-martial.

Dated 11 May 43

R.C. Steinthal Capt RCAMC,
R.M.O., 1 Cdn Div Sp Bn (SLI)

Proceedings in the case of 11248 Pte Thornton, William James Campbell.
I, Colin Dick Sp Bn (SAE) Field Brigade General Court Martial do hereby on the 11th day of July 1943.

1. The Court was closed to satisfy itself that it was properly constituted, (R 22).

2. The Court was declared open and the accused and witnesses were marched in.

3. The Order convening the Court was read and the accused was asked if he objected to being tried by the President or any of the members. Answered: No Sir.

4. The President and members of the Court were duly sworn.

5. All witnesses were marched out of the Court.

6. The Charge Sheet of Private of the accused to stand Trial was presented to the Court by the Prosecuting Officer.

7. The accused answered to his name, rank and unit and the Charges on Charge

7. The charge sheet was read to him. He was asked to plead separately to each charge. He pleaded Guilty to each.

8. The accused was informed in simple language the essentials of the offence. The maximum punishment he could be given, how procedure differed from ordinary trial and was again asked if he pleaded to his plea of Guilty.
Answer: Yes Sir.

9. The Prosecuting Officer read the Summary of Evidence.

10. The adjt. Capt R.W. Wilson, having been duly sworn, produced a true Statement of Evidence of the accused together with a Certified copy of the accused's MFM 6. The Court asked the witness the questions as set out in MML pag. 755 and received satisfactory answers.

11. The Court determined that the accused was not present at the taking of the Summary of Evidence when Capt R.W. Wilson gave his evidence.

12. The Defendant offered evidence a statement in mitigation of punishment and referred to the accused's misfortunes although in this Country and pleaded that he was absent in order to earn his wife's allowance to be cut off the accused work his time during the absence.

13. The Court closed to consider the finding and sentence.

W. Fleming Lowe
Lieut R.C.A.

"A"

RECORD of the Declaration of a Court of Enquiry assembled at WADHURST, Sx on the 2nd day of SEPTEMBER 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of

L1248 Pte Thornton, W. J. C.

DECLARATION

The Court declare, that L1248 Pte Thornton, W.J.C. of "D" Coy, Sask.L.I.(MG), 1 Cdn Div, illegally absented himself without leave at GREYSTONE, High Hurstwood, Near UCKFIELD, Sussex, at 2359 hrs 9 AUG 43, and that he is still so absent, and that on 2 SEP 42 he was deficient, and that he is still deficient of the articles listed below, the total value being £7-6/11½ at the vocabulary rate, or £5-2/2½ at 75% of the vocabulary rate:-

Article:		Vocabulary Rate:	75% of Vocab. Rate:
Anklets, web, prs	1	3/ 5	2/ 7
Blouses, serge,	1	1- 7/ 8	1- 0/ 9
Trousers, serge	1	1- 7/11	1- 0/10
Boots, ankle, prs	1	1- 1/ 6	16/ 1½
Brushes, boot, polishing	1	9	6½
,, , button	1	8	6
,, , shaving	1	1/ 4	1/ 0
Caps, comforter	1	1/ 1½	10
Combs, hair	1	2	1½
Dressings, F.F.	1	1/ 1	10
Forks, table	1	5	4
Holdall	1	9	6½
Jackets, sweater	1	5/ 7	4/ 2
Knife, clasp	1	2/10	2/ 1½
Knife, table	1	9½	7
Shirts, angora	1	9/ 2	6/10
Towels, hand	2	1/11	1/ 5
Spoon, table	1	4½	3
Shorts, P.T.	2	3/10	2/10½
Shirts, P.T.	2	3/ 0	2/ 3
Bags, Ration	1	7½	5½
Covers, Mess tin	1	4½	3
Tins, Mess	1	3/ 1	2/ 4
Respirator, A/G Complete	1	16/ 6½	12/ 5
Eyeshields A/G	6	2/ 3	1/ 8
Ointment, A/G No3 Jars	1	9½	7
TOTALS		£7/6/11½	£5/ 3/ 2½

Names of President and Members

President - Capt. J.W.R. LeBlond Sask.L.I.(MG) C.A.O.
Member - Lieut. A. Finlayson, Sask.L.I.(MG).

SIGNATURE OF COMMANDING OFFICER:-
(sgd) E.J. Scott Dudley, Lieut-Colonel.

CERTIFIED TRUE COPY OF ENTRY IN A.B. 161:-

(R.W. Wilson), Capt & Adjt.,
1 Cdn Div Sp Bn (SLI)

"B"

Clothing & Eqt in possession of Lt. Col. the Honble W. J. C. on his return to Canada 3rd May 1813.

Belts Cross	Trousers	2
	Trousers	2
Shirts U.S.		1
Shirts Eagles		2
Pouch Belts pro		1
Gaiters pro		1
Caps U.S.		1
Belts cap		1
Brushes Coat &c		1
Brushes Shaving		1
Razors		1
Jacks woollen pro		1
Brushes Tooth		1
Combs Head		1
Haversacks Knap		1
Garters pr		1
Cartridge Box Belts		1
Sashes Regl		1
Jacks Gt Coats Part		1

A Hay Lieut

Officer Commanding,
Re:-

"C" File No. 12/303...

L.12/3 Pte. [illegible] W.J.S. of above unit

1. Forwarded for your information and necessary action, please, and disposal under C.A.I.O. No. 388 dated 28 Oct. 40.

London

(A. Com) D.A.A. & Q.M.G.,
London Area.

Capt.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECT. 163(1)(jj)

I certify that No. 4/1245 Rank. Pte. Name. THORNTON W.T.

Unit. SASKATOON LIGHT INFANTRY

on the 28 day of APRIL 1943. at 1710 hours in military uniform.

Oxford,
29/4/1943.

Signature of Provost Marshal, A.P.M. or other Officer, into whose custody the above named soldier was taken on arrest.

Staff Lieut.
109, H.C. Prov
Coy. H.C.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 12348 Rank Pte. Name Thornton, W.J. Unit C.M.P.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Cheltenham

Date	Particulars	Amount £	s	d
1 May 43	Escorts return fare from LONDON To Cheltenham		17	7
	Prisoners single fare to LONDON From Cheltenham		8	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	6	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 4124[illegible] Rank Pte Name Thornton W.J.C. Unit Sask L.I.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
2 May 43	Escorts return fare from LONDON To Lewes		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J.R. Edgar Lieut.
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Summary of Evidence in the case of

L1248 PRIVATE WILLIAM JAMES CAMPBELL THORNTON.

By direction of the Commanding Officer, the evidence is taken on oath.

1st WITNESS FOR THE PROSECUTION

L1793 A/CSM TRIBE, F.H. having been duly sworn states,-

I am L-1793 A/CSM TRIBE F.H., the Sgt Maj of the Norton coy of No. 3 Gp., 1 Cdn Div Sp Bn. (Sask L.D.)

I submit ~~herewith~~ a record of declaration of a Court of Inquiry held on 2 Sep 42 to inquire into and report upon the illegal absence of L1248 Pte THORNTON J.W.C. from 2359 hrs 9 Aug 42. At the time Pte Thornton absented himself, he was a member of "D" Coy Sask L.D. of which Coy. I have been C.Q.M.S. or C.S.M. from that time to the present. Pte Thornton did not report to "D" Coy from the 2nd day of September when he was declared absent by Court of Inquiry until he was returned to the Bn guard room under escort on 2 May 43. EXH "A"

Q. Do you identify the accused as the Pte Thornton of whom you speak.
A. Yes, Sir.

The accused does not wish to cross-examine the witness.

L-1793 C.S.M. TRIBE

2ND WITNESS FOR THE PROSECUTION

L1730 C.Q.M.S. HOPKINS, H.H. having been duly sworn states,-

I am L-1730 C.Q.M.S. HOPKINS H.H., the Quartermaster sgt of the HA Coy of No 3 Gp., 1 Cdn Div Sp Bn (Sask L.D.)

Pte Thornton was brought to me at Coy. O.M. Stores on the morning of 3 May 43. I submit a list of the military equipment which he had in his

2nd WITNESS FOR THE PROSECUTION

possession at that time (Appx "B")

The accused cross-examines the witness.

Q.- I want a list of the shortages of my kit as there are some things of which I was issued only one. For instance I was issued with only one towel before 9 Aug 42.

A. Each soldier is issued with two towels, sir.

S. Lapointe.

3RD WITNESS FOR THE PROSECUTION

CAPTAIN R.W. WILSON, H.Q. 1 CDN DIV SP BN (SASK L.I.) having been duly sworn states,-

I am Captain R.W. Wilson, Adjutant 1 Cdn Div Sp Bn (Sask L.I.) I submit herewith the following documents (Appx "C") regarding the accused which were received from DAAG London Area.

(i) Certificate in accordance with AH 163(1)

(ii) Two expense vouchers totalling £1:14:1

R.W. Wilson

The accused is cautioned in accordance with Rules of Procedure 4(E) & reserves his defence.

Certified that Rules of Procedure 4 (C)(D)(E) & (F) have been complied with.

Taken down by me in the presence & hearing of the accused this third day of May 1943.

Chester D. Beatty, Lieut
OFFR TAKING SUMMARY
OF EVIDENCE

SUMMARY OF EVIDENCE in the case of
L 1248 Private William James Campbell THORNTON.

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

L1793 A/CSM Tribe, F.H., having been duly sworn, states:-

"I am L-1793 A/CSM Tribe, F.H., the Sergeant-Major of the Mortar Coy of No. 3 Group, 1 Cdn Div Sp Bn (SLI). I submit a record of declaration of a Court of Enquiry held on 2 SPT 42 to inquire into and report upon the illegal absence of L1248 Pte. Thornton, W.J.C. from 2359 hrs 9 AUG 42 (Appdx "A"). At the time Pte. Thornton absented himself, he was a member of "D" Coy, Sask.L.I.(MG), of which Coy I have been C.Q.M.S. or C.S.M. from that time to the present. Pte Thornton did not report to "D" Coy from the 2nd day of SEPTEMBER when he was declared absent by Court of Enquiry until he was returned to the Bn guard room under escort on 2 MAY 43."

Q. Do you identify the Accused as the Pte Thornton of whom you speak?
A. Yes, Sir.

The Accused does not wish to cross-examine the witness.

.....
L1793 CSM Tribe, F.H.

2ND WITNESS FOR THE PROSECUTION:

L 1730 C.Q.M.S. Hopkins, H.H., having been duly sworn, states:-

"I am L-1730 CQMS Hopkins, H.H., the quartermaster-Sgt of the A.A. Coy of No. 3 Gp, 1 Cdn Div Sp Bn (SLI). Pte Thornton was brought to me at Coy Q.M. Stores on the morning of 3 MAY 43. I submit a list of the military equipment which he had in his possession at that time (Appdx "B")

The Accused cross-examines the witness:

Q. I want a list of the shortages of my kit, as there are some things of which I was only issued one. For instance, I was issued with only one towel before 9 AUG 42.

A. Each soldier is issued with two towels, Sir.

3RD WITNESS FOR THE PROSECUTION

Captain R.W.Wilson, HQ, 1 Cdn Div Sp Bn (SLI), having been duly sworn, states:-

"I am Captain R. W. Wilson, Adjutant, 1 Cdn Div Sp Bn (SLI). I submit herewith the following documents (Appdx "C") regarding the Accused which were received from DAPM, London Area.

(i) Certificate in accordance with A.A. 163(1)
(ii) Two expense voucher totalling £1-14/1.

The Accused is cautioned in accordance with Rules of Procedure 4(E) and reserves his defence.
Certified that Rules of Procedure 4(C)(D)(E) & (F) have been complied with.
Taken down by me in the presence and hearing of the accused this THIRD day of MAY 1943.

Charles D Beatty Lieut
.....
OFFR TAKING SUMMARY OF EVIDENCE

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED.

L12488 Pte. THORNTON, W.J.C.

(a) The accused has been in confinement awaiting trial on the present charges for Nil days in Civil Custody and 13 days in Military Custody, making a total of 13 days, of which Nil days were spent in hospital.

(b) The present age of the accused according to his attestation papers is 36 years.

(c) The date of his attestation specified in his attestation papers is 18 SEP 39..

(d) The accused is in possession of and/or entitled to no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental books in my custody.

11 MAY 43. [signature]

I request the services of Lieut L.C. Robson, 3 Cdn Inf Bde ~~Lff Lgff~~ (Sask L.I.) as defending officer if available. If he is not available I will accept an officer appointed to me as Defending Officer

In the Field
4 May 43

Signed: W.J.C. Thornton
WJC THORNTON

Witness: Chester D. Beatty Lieut
C.D. BEATTY

I certify that the above Court assembled on the 11 day of July 1943 and duly tried the person named in the Schedule, and that the plea, finding, and sentence in the case of such person were as stated in the third and fourth columns of that Schedule.

I also certify that

1. The members of the Court ✓
2. The witnesses ✓

were duly sworn.

Signed this 11 day of July 1943.

[signature] Lt-Col

President of the Court-Martial.

I have dealt with the findings and sentence in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

Signed this 11 day of May 1943.

[signature]

(K.B.Lockett) Lt.-col. A/CRA 1 Cdn Div.
Convening Officer.

Promulgated and extracts taken on the case of L.1248 Pte THORNTON, William James Campbell of 1 CDN DIV SP. BN. (S.L.I.)

Dated. 12 MAY 43 (Signed) [signature] Lt-Col
1. C.D.S.B. (S.L.I.)

56-65.

Mr. Thorpe, J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : P-55369 Pte Joseph Thorpe 3 Inf Bde 2 Div Sig Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	[illegible]	[illegible]	
2nd	[illegible]	[illegible]	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be reprimanded and forfeit two years and to be discharged with Ignominy from His Majesty's Service.

(Sgd) [illegible]
Judge-Advocate, if any.

12 Nov 44
Date awarded.

(Sgd) [illegible] Lieut Colonel
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Not Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 20 Nov 44 (Sgd) [illegible]
Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
P-55369 Pte Joseph Thorpe	4 Dec 44	A.G. Wood, Lt-Col O.C. 12 Fd, 2 CBR Coy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Apan copy 5C-65

CFApe (in lieu of APA8) 10/P & S/1698 (4970) 4/38B

Convened by Order of [illegible] Comd 2 Div Sig dated [illegible]

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-55369	Pte	Joseph	Thorpe	3 Inf Bde 2 Div Sig Coy

Certified true copy
[illegible]
D.J.A.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) [illegible] on (date(s)) 21 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to [illegible] as interpreter ? Ans~~
~~The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer ? Ans~~
~~The shorthand writer is sworn.~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	W.A. Ives	Con Pl 2 Div Sig
Member	Major	M.L. Gray	HQ 1 Corps Sig Regt
Member	Capt	W.A. Robinson	Con Pl 2 Div Sig
Judge-Advocate	Lt-Col	J.A.G. Simpson	Deputy JA 2 Div Corps
Prosecutor	Capt	W.G.B. Hungerford	FGAGC att 2 Div Sig
Defending Offr			

Questions by President : Is the Prosecutor a lawyer ? Ans Yes. Is the Defending Offr a lawyer ? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate [illegible] Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and R.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

thereto, or, (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (part) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s) ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1) and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

I B-55369 Pte Joseph Thorpe desire to have an Officer assigned to represent me at my trial by court martial. I desire the services of Capt. W.G.D. Hungerford if he is available.

15 Oct 44

(sgd) Thorpe J.

CHARGE SHEET

The accused, No H-55509 Pte Joseph Thorpe, of the Royal Regiment of Canada, attached No. 21 Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE.

In that he

In the Field on 22 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the Field on 22 Jul 44 while with his regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

In the Field,
12 October, 1944

(sgd) W.M. Cameron, Colonel,
OC No 21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
21 Oct 44.

(sgd) A.W. Beament, Brigadier,
DDMS
Cdn Sec GHQ 1 Cdn Bd A Gp

T.P. Lee, Maj
Pres

F.P. Lee
Maj
Pres

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
[illegible]	Pte		Joseph	Thorpe	R Dept C att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, who is subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 25 Oct 46 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed hereunder.

4. ~~I am unable to appoint (A) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.P. Lee	Con List- Cdn Sec GHQ 1 Feb 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Gray	Al. Inf. att. Cdn Sec GHQ 1 Feb 21 A Gp
Capt	F.S. Ballarson	Can Lias att Cdn Sec GHQ 1 Feb 21 A Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (*Country.*) A.E. Present, (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

Dat 25 Oct 46 Commanding Cdn Sec GHQ 1 Feb 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Approved
EW Howard Capt
ADJA

B-55369 Pte Joseph Thorpe, R R of C

Lieut H.T. Verrette, Cdn Sec GHQ, 2 Ech,

attended as Officer under Instruction.

E.P.I.
Pte

P-55369 Pte Joseph Thorpe, R R of C

Lieut H.T. Vergette, Cdn Sec GHQ, 2 Ech,
attended as Officer under instruction.

W.P.L.
Pres

MEDICAL CERTIFICATE

I certify that I have this morning examined Reg.No. D958369, Pte Thorpe, Joseph, and he is fit to undergo trial by Court-Martial.

11 Nov 44

(sgd) L. Kirkham
Medical Officer

N.F. Lee
Major
Pres

D-55369 Pte Joseph Thorpe R R of C.

D2

This is case where the Prosecution will endeavor to show that the accused shot himself with own weapon in his own barracks his left foot. Unfortunately the witnesses mentioned in the accused's statement have been killed in action and are not now available and prosecution must rely on accused's statement and medical evidence.

D3

FIRST WITNESS PROSECUTION

C-7050 L/Cpl Wheaton, C. S Prov Coy 4 Cdn Armd Div, being duly sworn, attests:-

I recognize the accused whom I interviewed at 8 Cdn Gen Hosp, 4 Aug 44, in presence of L/Cpl Brisbany R Prov Coy. We identified ourselves said we were Cdn Provost and were investigating circumstances surrounding his wound. The accused was cautioned in the following words: " You do not have to say anything unless you wish to do so but whatever you do say will be taken down in writing and may be given in evidence." The accused appeared to understand the caution. The statement was voluntary there was no promise - threat the accused was not under arrest.

The Defending Officer has no objection to the statement.

The statement was taken down in writing and read over to the accused and he read it himself he then signed it in the presence of the witness and myself. This is the statement (produced) and put in evidence as "Exhibit "A". There are no changes in the statement.

No Cross-examination

R.P. 83(B) Complied with.

SECOND WITNESS PROSECUTION

Captain L.A. Kitchen RCAMC attached 8 Cdn Gen Hosp., being duly sworn, states:-

I have examined the accused and find scar on his left foot between the first and second metatarsal dorsal approx 2" in length and on the plantor surface there is a scar circular approx ¼" in diameter. There is a scar on the two surfaces indicating the possibility of a through and through wound. Wound in direction of long axis of his body if it were through and through. It could have been caused by a weapon held by accused in his own hands. Healed now but there is a painful scar, cannot say if there was any fracture. Accused states that he has no pain. The wound is largely subjective With accused's present attitude there will be no lowering of Category.

By the Court

There was scar on upper surface of foot 2" long and lower ¼" in diameter. Not necessarily caused by a bullet. Could have been caused by operation or infection.

R.P. 83 (B) Complied with.

THIRD WITNESS PROSECUTION

Major J.A. Walters RCAMC attached 8 Cdn Gen Hosp., being duly sworn, states:-

I am neuro-psychiatric specialist. I produce certified copy of report which is my report on the accused.

The Defending Officer has no objection to the medical report being produced and read.

His account was story as I took it at that time. This was put down in writing as answers were given by the accused.

This report was written as a summary containing the important and significant information only, at the end of an interview which might last from 10 to 30 mins. During which by conversation and examination I would have attempted to survey and assess the medical issues at stake. Report was written immediately following the interview. My mind would be clear and fresh. Medical report produced are marked by "M".

Cross-examination

I have had some experience in dealing with psychopathic cases in this way. I can account for these cases in a few words. For can I make generalisations. It is a problem of human posting in difficulties under its multiple facets. Human beings develop behaviour which is inefficient, awkward to themselves and society from many causes, medically one is faced with the problem of establishing why such behaviour appears and also weighing and controlling factors which may be physical, or mental or social in the alleviations of the persons discomfort or society's embarrassement. The physician's methods for establishing the influential factors in a behaviour problem consist of, one, a biographical study of the at individual with his family background. Secondly- a physical examination, thirdly- a systematic mental examination which includes a precise evaluation of his thinking, feeling and willing. Fitally social factors outside the individual can be studied by direct examination of environment. Such studies searching for why man does foolish things presumes of philosophical attitude which sees him as not a body and a mind and a will similar to other humans but sees each human being as a single unit, body and mind one, rather than dual. This unit is to a great extent biological, under biological law. His inheritance, his past behaviour, the nature of his physical tissues, the state of his temperment the development of his character will be factors in determining what he does in any one situation. There will be unconscious and habitual influences there will be chemical and electrical influences there will be degrees of free choosing in his ultimate action. Clinical judgement - when a physician uses such clinical methods, physical, mental and social, over many years applying the same rigid and exhaustive inquiry to many different human beings he acquires an experience of which easily leads him to sort out his patients into different groups. What is clear to him by his ll, his is the extreme individual character of one human being unlike anyone else. The medical profession has over years conveniently used labels such as " neurosis " "psychosis " and " psychopathic personality " are useful memories to sort out human beings. They are not diseases they are often only the expression of a man having trouble or not fitting well into his environment. Generally they imply not an immediate transient difficulty but a tendancy to be frequently in such straits. term "Psychosis " is applied to people who have extremely abnormal mental life, the layman thinks they are crazy. and while there abnormality persists most of them would satisfy the legal definition of insanity. It includes transient deleriums and confusions. Temporary states of exaltation or depression and states of delusions or hallucinations of varying duration. It also includes the enfeebled mentality of old age or brain disease. Neurosis are people who are not crazy but who have physical disorders or upset feelings due to thier failing struggle with environment. Patients come to a physician with indigestion, heart burn, headache, paralized limbs, blindness, sweating, backache. They are in discomfort. Thier real problem is something they are trying to avoid by taking refuge unconsciously in a physical paralysis or blindness or they are emotionaly upset and the xxxphysical manifestations of emotions become interpreted by sickness. Psychopathic personality: neither psychosis nor neurosis accounts for a group of individuals who are often a trouble to society if not to themselves and thier pattern of failure, evil doing , or eccentricity seems to have persisted for most of thier lives. Thier record suggests they were born that

way. Such people are called psychopathic personality to indicate a deviation in the persons make up rather than his his nervous system or mental state at any one time. The weak characters who fail easily by foolish, lazy, timid or shy behaviour are called inadequate types. The repeated evil doer who has repeated crimes or brags habitually to his fellows and no regard for any consideration except himself, is called anti-social. The third type includes the cranks the queer the dreamy the dilletente, the bohemian - those who live in unusual ways and with unusual standards and just cannot be considered crazy. These are the eccentric. Mental defectives are a fourth group. They have always lacked brains. Their keeness of intellect and capacity to reason was arrested below normal standards as they developed. They may be sound solid citizens and make excellent unskilled labourers. They lack the capacity to learn. They make excellent batmen. But such people by and large have less confidence in thier powers as they have met situations they have been unable to cope with.

In the case of the accused the reference to diagnosis in Exhibi "B" indicates that the accused does not fall into any one of these defined neuro psychiatric categories which are for every purposes recognized as abnormal and warrant consideration in weighing a mans actions.

re-examination

Human beings are suggestable and more so in groups than in couples. What others do they more easily follow. What others avoid they do with more difficulty. Examples in the world of fashion, taste, mob panic and such observations all verify this Military History provides similar examples.

by the Court

The physician is dependent for his diagnosis on observed evidence for neuro psychiatric diagnosis comes from the mans story the physicians observations of the man and his body. If there is no verification of the mans storythe physician has to rely ir the judgements of the reliability of his evidence. The reliability of the eventual diagnosis depends on ethical judgement of the physician in weighing these elements which are not objective and verified.

D4 Prosecution closed

A.A. 93 (3) Complied with.

Motion for dismissal by defending Officer.

The accused is charged with wilfully injuring himself and in the alternative negligently xxxxinjuring . The accused has to be found guilty of"intent" in the first and "negligence" in the second" The prosecutor has failed to prove intent. There is only the evidence in the statement by the accused produced in evidence and the hazy medical evidence. There is the diagnosis of Major Walter stating that the accused is normal in everyway I submittx that there is no evidence before the court to properly convict the accused on either charges and ask that both charges be dismissed.

Prosecuting Officer not called on for a reply.

D6 Defending Officers submission is not allowed by court.

FIRST WITNESS DEFENCE The accused, B-86386 Pte Joseph Thorpe, R Regt C having been duly sworn states:-

Defending Officer:

I propose to submit the evidence of the accused in chief by reading to him his prepared statement in consultation with his defending Officer.

The court rules that the procedur will not be allowed and

evidence in chief will have to be prod and viva voce

I was born Broadsworth, [illegible] Yorkshire, England on 10 May 17. Went to Canada in 1927 at 10 years of age, settled at Charlton Ont near Kirkland Lake. Went to 3rd form High School, quit at age of 16. I went farming for awhile then in 1936 went to Lake Shore Gold Mines as a driller and continued until 13 Aug 40 when I enlisted. When I first started I was getting $4.65 for an 8 hrs shift and that was raised to $5.15. Enlisted with Algonquins trained with them in Canada and [illegible] and came to U.K. 18 Sep 43 as a reinforcement. I spent sometime in reinforcement unit went to RU or C on 24 Dec 43 Came overseas to Force with them 6 Jul 44. I saw action with them until this happened 22 Jul 44. I actually went into action with the Royals about night of 12th and was in constantly without rest as a rifleman until 22nd. This happened about 1600 hrs. Pte Beaton was in the trench at the time this happened. I was sitting on the left hand side of the trench going to clean my rifle I chose this time to clean my rifle because the mortars had quietened down for about half an hour. I had cleaned my rifle two days before not since because we were too busy going into attacks I had fired fired it constantly. I thought it would be safer on side of the trench because if any mortars came over I could get into it fast. The trench about 6' in length 2' across , about 5' deep. There was just enough room for the two of us and not enough to clean rifle and that is the reason I was sitting on the edge of the trench. I started cleaning my rifle, heard the mortars coming over, as I went to roll over into the trench, the bayonet was not on my rifle. There were tanks in the vicinity. Witness demonstrates going that he was at the back of the trench facing the front and at about the middle of the same Pte Beaton was to my right in the trench and parrallel thereto. The bolt was open, the magazine was on (Prosecutor objects and states that the witness first said that the magazine was "off" and not " On ") The magazine was on. When I heard the mortar shells come over, I closed the bolt and rolled over on my right side to get into my trench with the rifle parrallel to my legs and practically atween the two. I rolled right into trench and my rifle went off as I rolled over. There were sticks and grass all the way around the trench. No cover over the trench. Roots sticking out on the side of the trench. I think a stick or something caught and caused the rifle to go off. From the time I heard the bombs until I rolled into the trench was only a matter of 2 or 3 seconds I closed the bolt automatically. When you pull the bolt back and with magazine in puts a round in the chamber. I was always taught then in battle to load your rifle and keep it loaded at all times. But when cleaning it I had just started to clean it . I knew my magazine had rounds in it. I rolled in trench I heard a round go off and felt a burning in my foot. I am fine now and want to get back to action. I have had a brother killed and would like to get revenge. He was with the RCLI . My brother was killed about a month ago, after this he joined Those is no reason why I should shoot myself now as I joined up to fight for my king and country. I am satisfied. No dependents but send my mother $20 .00 per month had no worries on my mind I'd do my best if I went back to fight now. I want to go back and I'm ready to go this afternoon.

cross-examination

The Prosecutor states that he proposes to question the veracity of the accused's statement . xxx that he is willing and wishes to return to the front lines.

R.P. 83 (3) complied with.

The court rules that this cross-examinatiy must not extend to general evidence of bad character and cannot be given for the prosecution but the Prosecutor has the right by cross-exam to test the veracity of statement given by accused. (MM P 60 top read by the court)

Q. Were you ever charged with an offence that would indicate that you were not willing to serve your King and Country?

A. I was charged once with an offence that would indicate that I was not willing to serve, that was a charge of malingering

Q. Was that just prior to the invasion of europe?

A. That was before.

Q. Just before?

A. I could not say Sir?

Q. Was it the 2nd of June ?

A. I dont know Sir.

Q. was it a few days ?

A. I dont know.

Q. What was the charge ?

A. It was my ears when I was in 7 Gdn Gen I was getting treatmer for my ears.

Q. You were charged with counterfeiting deafness with intention of evading duty ?

A. Not deafness. My ears were sore, They had me up for that charge and I was convicted.

Q. Was there any other charge against you that would lead anyone to believe that you were unwilling to serve ?

A. No Sir.

Q. Were you ever charged as a deserter ?

A. No, I was A.W.L. for 54 days.

Q. Were you convicted on that charge ?

A. Yes Sir A.W.L.

Q. Served from 1940 till 22 Jul 44 ?

A. Yes Sir.

Q. Do you consider youself well trained soldier.

A. As well as any.

Q. Well trained with rifle ?

A. Yes Sir.

Q. Were you shaken up very much ?

A. No Sir.

Q. Not at all ?

A. No Sir.

Q. You knew other people had been badly shaken ?

A. Yes Sir, I had seen them too.

Q. Do you know L/Cpl Dempsey ?

A. Yes, Sir: just to see him he was in the same company. I don' know when he was wounded. I know of one S.I.". in my Regt

Pte McKinnon, knew of no others. I had not heard of people S.I.W.'s prior to 22 Jul 44. I remember a Major took a statement from me at 7 Cdn Gen Hosp could not tell you the date or his name. I think it was the doctor who gave eviden e here this morning the third witness. Had accident at quie time while in reserve Coy. Quiet compared to what it was. I dont recall telling him about Mortar bombs. I dont know if there is anything in my signed statement about cleaning my rifle. As the statement now stands there is nothing in it stating that I was cleaning my rifle. The slit trench was dug the night before I was there all night and until 1500 hrs the following afternoon, in reserve, the enemy no where near. We were busy moving so I didnt have opportunity to clean my rifle before. Must get some sleep if you are on guard all night. I could not have cleaned in the trench because dirt falls in again. Pte Soaton was also in trench and there was not enough room. I sat the easiest way to clean rifle and was taking safety precautions in sitting tha t way. I was going to go into trench head first. I was going to roll in. I did not think of rolling feet first. I closed bolt because that was automatic. Heard the mortar closed the bolt and rolled i to the trench. That is the way it happened. I did not tell the Psychiatrist a different story. I told him thesame thing that I am telling you now I dont know why it isn't in his report. I have never seen the Psychiatrists report. (accused reads psychiatrists report) that is the report I gave him. It is automatic to put on the safety catch after closing the bolt but I do not know why I didnt put on the safety catch. The wound i perpendicular but not through and through according to Doctor who made the examination.

Q. When asked by your counsel how this incident occurred you first said that the magazine was "off" the bolt was open and after that again the magazine was "on".

A. No, Sir I said the magazine was on, I never said it was "off"

Q. You realize the portend of your answer.

A. Yes, Sir the magazine was on.

Defence Closed

R.P. 83 (B) Complied with.

FOURTH WITNESS PROSECUTION in rebuttal

L-18012 Pte Collard, A.P., Provost Corps, sworn, states:-

Q. When Counsel for Defence asked the accused how this incident occurred and the accused started to demonstrate what did the accused say.

A. I understood the accused to say the chamber was " off"

Q. What was it you heard ~~him~~?

A. I heard the accused say the magazine was " off "

R.P. 83 (B) Complied with.

PROSECUTION CLOSING ADDRESS

I wish to point out the inconsistency of the accused evidence which is quite apparent. He is intelligent and yet we find on his own record he is willing to serve admits he went absent for 55 days and that he was also charged and convicted with malingering as he called it. Charge was evading duties. That was just prior to invasion of the continent. I submit therefo re his post actions assist court materially in deciding if the wound was wilfully, with intention of evading service. The prosecution finds itself in nearly all these cases has no eye witness. The accused knew witnesses were going into action There is nothing in accused statement saying this man was in

slit trench at the time. Then you have evidence of Major Walters that the information obtained by questions and answer from accused that he was in reserve in quiet sector cleaning rifle when accident occident occured. Then later accused is examined by member of Provost Corps. I submit he is intelligent enough to know that what he told Major Walters was not good enough and that he therefore gave a different story which is now befor you. Until cross-examination did not say anything about quiet sector but under fire and rolled into trench in an emergency and rifle went off. Position extraordinary, also that he had to roll in head first. Closed bolt automatically but did not put safety catch on automatically as he was accustomed to. If he had time to close why didnt he get into trench feet first. I suggest to you that it was the only way the accused could explain having shot himself. Draw your attention to evidence of the witness called in rebuttal who was during the demonstration facing the accused who stated that the accused first said that the magazine was off. I submit that there is sufficient evidence to find the accused guilty on the first charge.

E 3 PLEA IN MITIGATION

It is hard to picture a hard rock miner as this man was in civil life to find himself in the predicament he is in to-day When one finds one of them as a soldier suspected of such a dastardly crime as this it is very hard to believe. A man possesing those fine qualities as such men portray is not the type either by virtue of his own negligence or preconceived plan to commit such a thing as a wound on his own body. I dont wish to labour this mans career save to say that this man finds himself in this predicament by virtue of a course of conduct he has pursued during his army career, probably due to lack of control rather than anything else. He would be ashamed to return to Canada without proving to his comrades and his country that he is equal to carrying out his expressions of loyalty and faithfulness to the cause. And if such must be the case it certainly will be most unfortunate. I therefore can only ask that the court exercise mercy as this lad may deserve after all is said and done - and as the psychiatrist has said here to-day human beings are often guilty of anti-social behaviour but the important thing for the Army is to try and make something out of this man. The accused sees the error of his ways and I ask for a recommendation that the soldier be returned to the line at the earliest possible opportunity. It is this last expression of his willingness to serve that he wants to leave with this court.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B55369 Pte Joseph Henri Rene Hope C 12 C.B.R. 2 Can Inf Bde

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(a) alternative 1st 4 c	not guilty	guilty	
2nd	not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N / A beginning on (date) N / A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's service

(Sgd) — Judge-Advocate, if any. 11 Nov 44 Date awarded. (Sgd) E P Lee President. (RP 53, 54)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I direct that the accused be not committed to prison or detention barracks with further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) W H Clement

Date — Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr
B55369 Pte Joseph Henri Rene Hope C	4 Dec 44	Lt-Col O.C., 12 Bn., 2 C.B.R. Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5C-65

FIELD GENERAL COURT-MARTIAL

CFAB8 (To limit of AFA31 40-P & S 11008 (40100) 4/38B

Convened by Order of Brigadier W W Bleasdell Comd 2 C.I.B. Con see 4 in 4 1 Cdn A 21 A Gp dated 25 Oct 44

ACCUSED.

(For the trial of two or more charged jointly see RP 34, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B55369	Pte	Joseph	Henri Rene Hope	12 C.B.R.

PROCEEDINGS REVIEWED 10 Apr 45 Lt-Col Deputy Registrar, Legal Branch C.M.H.Q.

PRESIDING OFFICER, JUDGE ADVOCATE

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~

The shorthand writer is sworn.(1)

(1. RP 71. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E P Lee	4 Cdn Armd Bde, 1 Cdn Inf Div, 21 Army Gp
Member	Major	H A Day	2 C.I.B., 1 Cdn Inf Div, 21 Army Gp
Member	Capt	J A Baillargeon	5 Cdn Armd Bde, 2 C.I.B., 1 Cdn Inf Div, 21 Army Gp
Judge-Advocate			
Prosecutor	Lt Col	J. G. Thompson	Asst J.A. 1 Cdn Corps
Defending Offr	Capt	L. G. D. Hungerford	R.C.A.S.C. attached 2 C.I.B., 1 Cdn Inf Div

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans ~~No~~ Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or to one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2 A 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A Vol 2 page 33

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS O[illegible] GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans no (2)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence in.* RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge. The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that(3) the submission is disallowed on the first and second charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the ~~latter~~ charge(s). ~~but the accused is (are) found No~~ guilty on ~~the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I give evidence on oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fn* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and second charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.
and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor states Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex ..... respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, I rely on my defence on oath.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here at previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 40. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas KO* 309, 2323, *RP* 40. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (a) the Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whatever part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans no sir .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first and second charge(s), and allowed as to the ~~charge(s)~~, and that, accordingly, the trial will proceed on the ~~finding that the accused is (are) found Not Guilty on the latter charge(s)~~.(4) ECF ECF
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans yes sir on oath ..... Do you intend to call witnesses on your behalf ?
Ans no sir ..... Are they witnesses as to character only ? Ans N/A .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and second charge(s), being subject to confirmation, will be promulgated later.(1)

D9. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D10. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans no sir .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor ~~tenders~~ Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex ..... respectively.(3) are not available as evidence
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes sir by my defending officer .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2312, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B.55369 Pte Joseph THORPE, of the Royal Regiment of Canada, attached No.21 Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 22 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 22 Jul 44 while with his regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

In the Field,
2 October, 1944.

(H.W. Cameron) Colonel,
OC No 21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
25 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.55369	Pte		Joseph	THORPE	R Regt C att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Oct 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. P. Lee	Gen List-Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy	Alg Regt att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F.A. Baillargeon	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(A W Beament)

Dat 25 Oct 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1097 (6143)

(See overleaf for oaths and notes for use on trial.)

approved Lieut-Colonel Adjt

B 55369 Pte Joseph Thorpe, R.R. & C

Lieut H. T. Vergette, Can Sec. G.H.Q.,
2 Ech. attended as Officer under
instruction.

MEDICAL CERTIFICATE

I certify that I have this morning examined Reg.No. B-55369, Pte. THORPE, Joseph, and he is fit to undergo trial by Court-Martial.

11 th Nov 44 R.C.

Medical Officer

B 55369 Pte Joseph Thorpe R.R.R.C.

D2

This is case where "~~accused~~" the prosecution will endeavour to show that accused shot himself with own weapon in his own hands in his left foot. Unfortunately the witnesses mentioned in the accused's statement have been killed in action and are not now available and prosecution must rely on accused's statement and medical evidence

D3

first witness for prosecution

G 7050 A/Cpl Wheaton G. 3 Prov Coy 4 Cdn Armd Div. being duly sworn states:-

I recognize the accused whom I interviewed at 7 Cdn Gen Hosp, 4 Aug 44, in presence of A/Cpl Bithrey 2 Prov Coy. We identified ourselves and we were Cdn Provost and were investigating circumstances surrounding his wound. The accused was cautioned in the following words:" you do not have to say anything unless you wish to do so but what you do say will be taken down in writing and may be given in evidence". The accused appeared to understand the caution. The statement was voluntary there was no promises. threat the accused was not under arrest

The Defending Officer has no objection to the statement

The statement was taken down in writing and read over to the accused and he read it himself & then signed it in the presence of the witness and myself. This is the statement (~~submitted~~ produced and put in evidence as Ex" A".) There are no changes in the statement.

No Cross-examination

R.P. 83(B) complied with.

second witness for prosecution

Captain A. Hickham RCAMC attached 7 Cdn Gen Hosp. being duly sworn states:

I have examined the accused and one scar on his left foot between the 2" in length and on metatarsal dorsal approx there is a scar, circular, approx 1/4" in diam. There is a scar on the two surfaces indicating the possibility of a through and through wound. Wound in direction of long axis of his body if it were through and through. It could have been caused by a weapon held by accused in his own hands. Healed now but there is a painful scar. Cannot say of there was any fracture. Accused states that he has no pain. The wound is largely subjective. With accused's present attitude there will be no lowering of category.

By the Court

There was scar on upper surface of foot 2" long and lower 1/4" in diameter. Not necessarily caused by a bullet. Could may have been caused by operation or infection.

A.P. 83(B) Complied with.

third witness for prosecution

Major J. A. Walters R.C.A.M.C. attached 7 Cdn Gen Hosp. being duly sworn states:-

I am neuro-psychiatric specialist. I produce certified copy of report which is my report on the accused.

The defending officer has no objection to the medical report being produced and read.

His account was story as I took it at that time. This was put down in writing as answers were given by accused.

This report was written as a summary containing the important and significant information only, at the end of an interview which might last from 10 to 30 minutes.

second witness for prosecution

Captain A. Rickham RCAMC attached 7 Cdn Gen Hosp. being duly sworn states:

I have examined the accused and find scar on his left foot between the first and second metatarsal dorsal approx 2" in length and on the plantar surface there is a scar, circular, approx 1/4" in diam. There is a scar on the two surfaces indicating the possibility of a through and through wound. Wound in direction of long axis of his body if it were through and through. It could have been caused by a weapon held by accused in his own hands. Healed now but there is a painful scar. Cannot say if there was any fracture. Accused states that he has no pain. The wound is largely subjective. With accused's present attitude there will be no lowering of Category

By the Court

There was scar on upper surface of foot 2" long and lower 1/4" in diameter not necessarily caused by a bullet. Could have been caused by operation or infection.

S.P. 83(B) Complied with.

third witness for prosecution

Major J. A. Walters R.C.A.M.C. attached 7 Cdn Gen Hosp. being duly sworn states:-

I am neuro-psychiatric specialist. I produce certified copy of report which is my report on the accused.

The defending officer has no objection to the medical report being produced and read.

His account was story as I took it at that time. This was put down in writing as answers were given by accused. This report was written as a summary containing the important and significant information only, at the end of an interview which might last from 10 to 30 minutes.

during which by conversation and question I would have attempted to survey and assess the medical issues at stake. Report was written immediately following the interviews. My mind would be clear and fresh. Medical report produced and marked Ex "B".

Cross-examination

I have had some experience in dealing with psychopathic cases in this war. I can't account for these cases in a few words, nor can I make generalization it is a problem of human nature in difficulties under its multiple facets.

Human beings develop behavior which is inefficient, awkward to themselves and society from many causes, medically one is faced not with the problem of social responsibility but with the problem of establishing why such behaviour appears and also weighing and estimating factors which may be physical, or mental or social in the alleviation of the persons discomfort or society's embarrassment. The physicians methods for establishing the influential factors in a behaviour problem consist of, one, a biographical study of that individual with his family background. Secondly - a physical examination, Thirdly - a systematic mental examination which includes a precise evaluation of his ~~thought~~ thinking, feeling and willing. Finally social factors outside the individual can be studied by direct examination of environment.

Such studies searching for why man does foolish things, ~~or~~ presumes of the physiological ~~and~~ attitude which sees him

as not a body and a mind and a will similar to other humans but sees each human being as a single unit, body and mind one, rather than dual. This unit is to a great extent biological, under biological law. His inheritance, his past behaviour, the nature of his physical tissues, the state of his temperament the development of his character will be factors in determining what he does in any one situation. There will be unconscious and habitual influences there will be chemical and electrical influences and there will be degrees of free choosing in his ultimate action.

Clinical judgment – when a physician uses such clinical methods, physical, mental and social over many years applying the same rigid and exhaustive enquiry to many different human beings he acquires an experience which easily leads him to sort out his patients into different groups. What is clear to him by his sights is the extreme individual character of one human being unlike anyone else – the medical profession has over years conveniently used labels such as "neurosis" "psychosis" and "psychopathic personality" as useful ~~names~~ neurosis to sort out human beings. They are not diseases they are often only the expression of a man having trouble or not fitting well into his environment. Generally they simply not an immediate ~~to~~ treatment differently but a tendency to be frequently in such ~~day~~ "states". Term "Psychosis" as applied to people who have extremely abnormal mental life, the

The layman thinks they are crazy, and while their abnormality prevents most of them would perhaps the legal definition of insanity. It includes transient delusions and confusions, temporary states of depression or depression and states of delusions or hallucinations of varying duration. It also includes the disabled mentality of old age or brain disease.

Neurosis are people who are not crazy but who have abnormal reactions or what feelings due to their failing struggle with environment. Patients come to a physician with indigestion, heart pain, headache, paralyzed limbs, blindness, sweating, backache. They are in discomfort. Their real problem is something they are trying to avoid by taking refuge unconsciously in a abnormal paralysis or blindness as they are emotionally upset and the abnormal manifestations of emotions become interpreted by sickness.

Psychopathic personality includes psychopaths or neurotic accompanied by a group of individuals who are often a trouble to society if not themselves and their history of failure, trial doing or eventually seems to have benefited for most brain type. They made suppose they were born that way. Such people are called psychopathic personality to indicate a deviation

in the human make up varies from
two extremes of them a mental
state at any one time. The weak
thereafter who fail easily by
foolish legislation or they
behaviour are called mediocrats
types. The defendant all does
who has repeated crimes or
drags habitually down his fellows
and no regard for any consideration
upon humanity, is called anti
social. He is a thief by his methods
the banks the jewels the drawing
the dollars, the lawless
those who live in unusual
ways and with unusual standards
and yet cannot be branded as crazy.
These are the eccentric.
Mental deficiencies a found
group. They have always lacked
brains. They are those persons
of intellect and capacity a
reason was arrested below
normal standards as they
developed. They may be found
as the idiots and make excellent
unskilled labourers. They lack
the capacity to learn very
much excellent batman. But
and people by and large have
those impediments in their powers
as they have mis functions they
have been unable to the end.

In the case of the accused the
opinions & diagnosis in
Exhibit B. indicates that the
accused does not fall into

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any one of these defined
neurasthenic calyxes which
are for any purposes recognized as
abnormal and warrant consideration
in applying a mans actions.

re. examination:-

Human beings are suggestible and
more so in groups than in crowds
what rules do they more easily
follow. what rules avoid they
do with more difficulty. Examples
in the hands of jackies, tools
and having and such examinations
all imply this. - military history
provides similar examples.

By the court

The physician has abundant
proofs for his diagnosis in planned
evidence and only such. Evidence
for neurasthenic diagnosis
comes from the mans story,
the physicians observations of
the man and his body. If there
is no information of the mans
story the physician has to
rely on the judgment of the
reliability of his evidence.
The reliability of the mental
diagnosis depends on clinical
judgment of the physician in
applying those elements which
he has observed and compared.

D4
Prosecution closed

R[illegible] 8 S (BB) employed
[illegible]

Motion for dismissal by Defending Officer

The accused is charged with wilfully injuring himself and in the alternative negligently ~~wound~~ injuring. The accused has to be found guilty of "intent" in the first and "blameworthy" in the second. The prosecution has failed to prove intent. There is only the evidence in the statement by accused produced in evidence and the hazy medical evidence. There is the diagnosis of Major Walter stating that the accused is normal in every way. I submit that there is no evidence before the Court to properly ~~commit~~ convict the accused on either charges and ask that ~~they~~ both charges be dismissed.

Prosecuting Officer was not called on for a reply.

Defending Officer's submission is not allowed by Court.

first witness for defence D.6

The accused B 55369 Pte Joseph Thorpe R. Regt C. having been duly sworn states: -

Defending Officer

I propose to submit the evidence of the accused in chief by reading to him his prepared statement in consultation with his defending officer

The Court rules that that procedure will not be allowed and evidence in chief will have to be ~~put~~ adduced viva voce.

I was born Broadsworth, ~~[illegible]~~ of English Parents on 10 May 17. Went to Canada in 1927 at 10 yrs of age, settled at Charlton, Ont Nr. Kirkland Lake. Went to 2nd form High School part at age of 16. I went farming for awhile then in 1935 went to Lake Shore Gold mines as a driller and continued until 13 Aug 40 when I enlisted. When I first started I was getting 44¢ per an 8 hr shift and that was

raised to $5.15. Enlisted with Algonquin Unmixed with them in Canada and New and came to U.K. 18 Sep 43 as a re-inforcement. I spent sometime in reinforcement Unit and went to R R & C on 24 Dec 43 came overseas to France with them 6 Jul 44. I saw action with them until this happened 22 Jul 44. I actually went into action with the Regals about night of 12th and was in constantly without rest as a rifleman until 22nd. This happened about 1500 hrs. Pte Beaton was in the trench at the time this happened. I was sitting on the left hand side of the trench going to clean my rifle. I chose this time to clean my rifle because the mortars had quietened down for about half an hour. I had cleaned my rifle two days before, not since because we were too busy going into attacks I had fired it constantly. I thought I would be safer on side of the trench because if any mortars came over I could get into it fast. The trench about 6' in length 2 ft across about 5' deep. There was just enough room for the two of us and not enough to clean rifle and that is the reason I was sitting on the edge of trench. I started cleaning my rifle, heard the mortars coming over, so I went to roll into the trench, the bayonet was not on my rifle. There were tanks in the vicinity witness demonstrates showing that he was sitting at the back of the trench facing the front and at about the middle of the same Pte Beaton was to my right in the trench. My legs were outside the trench and parallel thereto. The bolt was open, the magazine was on (prosecutor objects and states that the witness first said that the magazine was "off" gbh

and not "one".) The magazine was on. When I heard the mortar shells come over, I closed the bolt and rolled over on my right side to get into my trench with the rifle parallel to my legs and practically between the two. I rolled right into the trench and my rifle went off as I rolled over. There were sticks and grass all around the trench. No cover over the trench. Roots sticking out on the side of the trench. I think a stick or something caught and caused the rifle to go off. From the time I heard the bombs until I rolled into the trench was only a matter of 2 or 3 seconds. I closed the bolt automatically. When you pull the bolt back and forth with magazine in puts a round in the chamber. I was always taught when in battle to load your rifle and keep it loaded at all times. Not when cleaning it. I had just started to clean it. I knew my magazine had rounds in it. ~~When~~ I rolled in trench I heard a round go off and felt a burning in my foot. I am fit now and want to go back into action. I have had a brother killed and would like to get revenge. He was in the R H & L. My brother was killed about a month ago, after this happened. There is no reason why I should shoot myself because I joined up to fight for my King and Country. I am not married. No dependents but send my mother $20 per mo. I had no worries on my mind. I'd do my best to fight if I went back now. I want to go back and I'm ready to go back this afternoon.

Cross-examination

The prosecutor states that he proposes to question the veracity of the accused's statement that he is walking and wants to

return to the front line.
M.P. 83(2) Complied with.

The Court rules that this cross-exam must not extend to verbal evidence of bad character, but the prosecution has the right by cross-exam to test veracity of statements given by accused. (MM p 69 top read by the Court)

Q. "were you ever charged with an offence the would indicate that you were unwilling to serve your term and country"
A. I was charged once with an offence that would indicate that I was not willing to serve, that was a charge of malingering.
Q. Was that just prior to the invasion of Europe?
A. That was before
Q. Just before?
A. I could not say sir.
Q. Was it the 2nd of June?
A. I don't know sir.
Q. Was it a few days?
A I don't know.
Q What was the charge?
A. It was my ears when I was in Camp Ben I was getting treatment for my ears.
Q. You were charged with contributing deafness with intention of evading duty?
A Not deafness. My ears were sore. They had me up for that charge and I was convicted.
Q. Was there any other charge against you that would lead anyone to believe that you were unwilling to serve?
A. No sir.
Q. Were you ever charged as a deserter?
A No, I was A.W.L. for 54 days
Q. Were you convicted on that charge?
A. Yes sir A.W.L.

Q. Served from 1940 till 22 Jul 44?
A. Yes Sir.
Q. Do you consider yourself well trained soldier?
A. As well as any.
Q. Well trained with rifle?
A. Yes, Sir.
Q. Were you shaken up very much?
A. No sir
Q. Not at all?
A. No sir.
Q. You knew other people had been badly shaken?
A. Yes, sir I had seen them too.
Q. Do you know L/Cpl Dempsey?
A. Yes. Sir. ~~I knew~~ just to see him he was in the same Coy. I don't know when he was wounded. I know of one S.I.W. in my regiment Pte R. Kinmon, knew of no others. I had not heard of people S.I.W's prior to 22 Jul 44. I remember a major took a statement from me at 7 Can Gen Hosp could not tell you the date or his name. I think it was the doctor who gave evidence here this morning the third witness. Had accident at quiet time while in reserve Coy. quiet compared to what it was. I don't recall telling him about mortar bombs. I don't know of there is anything in my signed statement about cleaning my rifle. As the statement now stands there is nothing in it stating that I was cleaning my rifle. The slit trench was dug the night before I was there all night and until 15-00 hrs following afternoon, in reserve, ~~some distance~~ the enemy no where near. We were busy morning so I didn't have opportunity to clean my rifle before. Must get some sleep if you are on guard all night. I could not have cleaned in the trench because dirt falls in again. Pte Easton

was also in trench and there was not enough room. I sat the easiest way to clean rifle and was taking safety precautions in sitting that way. I was going to go into trench head first. I was going to roll in. I did not think of rolling feet first. I closed bolt because that was automatic. Heard the mortar close the bolt and rolled into trench. That is the way it happened. I did not tell the psychiatrist a different story. I told him the same thing that I am telling you now. I don't know why it isn't in his report. I have never seen the psychiatrists report (Assumed reads psychiatrists report) That is the report I gave him. ~~I~~ It's automatic to put on the safety catch after closing the bolt but I do not know why I didn't put on the safety catch. The wound is ~~superficial~~ perpendicular but not through and through according to doctor who made the examination.

Q. When asked by your counsel how this incident occurred you first said that the magazine was "off" the bolt was open and after that again the magazine was "on".

A. No, sir I said the magazine was "on". I never said it was "off".

Q. You realize the portion of your answer.

A. Yes, sir the magazine was on.

Defence closed. P.P. 3(2) complied with.

fourth witness for prosecution is recalled

L 18012 Pte Pellard A.H. Provost Corps. sworn states:

Q. When counsel for defence asked the accused how this incident occurred and the accused started to demonstrate what did the accused say.

A. I understood the accused to say

the chamber was Off.

Q. What was it you heard?

A. I heard the accused say the magazine was Off.

R.P. 53(B) Complied with.

Prosecution closing address:-

I wish to point out the inconsistency of the accused evidence what is quite apparent He is intelligent and yet we find on his own record he is willing to serve admits he went absent for 5 days and that he was also charged and convicted with malingering as he called it. Charge was evading duties. That was just prior to invasion of the Continent. I submit his past actions therefore would count materially in deciding if this wound was wilfully, with intention of evading service. The prosecution finds itself in nearly all these cases has no eye witness. The accused knew intimately were going into action. There is nothing in accused statement saying this man was in slit trench at the time. Then you have evidence of Major Walters that the 4 men returned by questions and answers from accused that he was in reserve was quite safe during night when accident occurred. The latter accused is examined by member of Provost Corps. I submit he is intelligent enough to know that what he told Major Walters was not good enough and that he therefore gave a different story which is now before you. Until cross-exam did not say anything about quiet sector but under fire and rolled into trench in an emergency and rifle went off. Pointing extraordinary, also that he had to roll into head first. Shock-bolt automatically but did not put safety catch on automatically as he was accustomed to. If he

had time to close bolt why didn't he go into breech feet first. I suggest to you that it was the only way the accused could explain having shot himself. Draw your attention to evidence of the witness called in rebuttal who was facing the accused who stated that the accused first said that the magazine was off. I submit that there is sufficient evidence to find the accused guilty on the first charge.

C 3. Plea in mitigation

It is hard & future a hard
sick mans as this man was
in last life to find himself
in the predicament he is in to day.
when one finds one of them as
a soldier suddenly such as this it
is very hard & future a
man possessing that fine
qualities as such men portray
is not the first time by mistake
of his own negligence or
inconsiderate blame & commit
such a thing as a murder on his
own body. I dare not to
believe this mans tale same
to say that this man finds
himself in this predicament
by virtue of a course of
conduct he has pursued during
his army career, but hardly
due to lack of control rather
than by any thing else. He would
be ashamed & return to Canada
without honour & his comrades
and his country that he is
equal to carrying out his
expressions of loyalty and
faithfulness & the cause and
if such must be the case it
certainly will be most
unfortunate. I therefore can
only ask that the court express
mercy as circled may deserve
by the act as said and done. and
to the forgiveness has been

here to-day human beings and
[illegible] guilty of anti social
behaviour, but the impartial
Eph thing for the army to do is to try
and [illegible] something about
of this man - [illegible] the accused
takes the view of his ways
and I ask for a recommendation
that this soldier be returned
to the line at the earliest
possible opportunity. Give
this last expression of his
willingness to learn until this
court

E Elton
Major
DAG

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.55369 Pte Thorpe, J., Royal Regiment of Canada, attached 21 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS Major M.T. Kobrinsky, No.21 Cdn Gen Hospital RCAMC, sworn, states:

I am Major M.T. Kobrinsky, Medical Officer at 21 Cdn General Hospital. B.55369 Pte Thorpe, J., was admitted to 21 Cdn Gen Hospital on 2 Oct 44. Review of his medical documents reveal that he had received a gunshot wound in his left foot on 22 Jul 44. The wound was a penetrating wound of the left foot which caused a fracture of the second metatarsal. On examination to-day there is evidence of an old injury in the region of the second left metatarsul. There is still present a longitudinal two and a half inch superficial tender scar otherwise healing has been complete. In all likelihood there will not be any necessity for lowering his 'L' grade. He should be fit for full duty in approximately two weeks' time. The wound was of such a nature that it could have been caused by a weapon in the man's own hands.

The accused declines to cross-examine this witness.

M T Kobrinsky Maj
Witness.

SECOND WITNESS G.7050 L/Cpl Wheaton, G., Cdn Provost Corps, attached 21 Cdn General Hospital, sworn, states:

On the 4 Aug 44 I interviewed the accused, whom I recognize, in company with L/Cpl Britney, Cdn Provost Corps, at No. 7 Cdn General Hospital. We identified ourselves to the accused as members of the Cdn Provost Corps and informed him we were investigating the circumstances surrounding his wound. He was cautioned in the following manner, that he did not have to make a statement unless he wished to do so but if he did, it would be taken down in writing and may be given in evidence. He understood the caution. He made a statement and the statement was reduced to writing. After it was reduced to writing, it was read over to him and he read it himself and then signed it. This is the statement I refer to.

Q. Are there any alterations, erasions or interlineations since it was signed?
A. No, sir, it is in the same form. That is the accused's signature. He was not under arrest at the time. The statement was voluntary. There were no promises of reward, threats or inducements made.

The accused declines to cross examine this witness.

G Wheaton
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

THIRD WITNESS Major J.A. Walters, No.10 Cdn Gen Hospital RCAMC.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and a certified true copy is attached hereto as Exhibit 'B'.

Officer taking Summary.

I do not require the attendance of Major J.A. Walters for the purpose of cross-examination.

Accused

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"No, there is nothing I have to say at this time".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
13 Oct 44.

Officer detailed to take Summary of Evidence.

I, B.55369 Pte Joseph Thorpe.....desire to have an officer assigned to represent me at my trial by court martial. I desire the services of..Capt. W.G.D. Hungerford.....if he is available.

15 Oct 44.

J Thorpe

(Signature of Accused)

CORRECTION

This document has been rephotographed to assure legibility

GG-5
PTE THORNTON W.J.C.

GG-5

PROCEEDINGS

On Active Service, this tenth day of May 1943.

Whereas it appears to me, the undersigned, an officer in command of Royal Canadian Artillery, 1 Canadian Division, on active service that the person named in the annexed schedule, being subject to Military Law, has committed the offences in the said Schedule mentioned;

And whereas I am of the opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial;

I hereby convene a Field General Court-Martial to try the said person, and to consist of the Officers hereunder named.

President

Major W.G. Ledingham. 2 Cdn Lt. A.A. Regt R.C.A.

Members

Capt. C.L. Robins. R.C.A.P.C.
Lieut. H.E. Matthews. No. 3 C.A.R.U.



Signed
(K.B.Lockett) Lt.-col. A/CRA 1 Cdn Div.
Convening Officer.

(16)

SCHEDULE

ber, ak, Name i Unit of ccused.	Offence charged	Plea.	Finding, and if convicted, Sentence.	How dealt with by confirming officer.
L1248 Pte THORNTON William James Campbell. 1 Cdn Div Sp Bn (SLI).	First Charge A.A. Sec 15 (1)	Guilty	Guilty	I confirm the finding & sentence of the Court.
	Second Charge A.A. Sec 24 (2)	Guilty	Guilty	
			* 180 days detention	

Question to be asked of the accused if he pleads not guilty (RP 39 A)

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? NA

Answer:

(Signed) Convening Officer.

(Signed) President.

O/C RA 1 Cdn Div.

* and stoppages of $1-14-1 being cost of apprehension and $19/87 being deficiency cost of kit

1 July 42.

C H A R G E S H E E T

The accused, No L-1[illegible] Pte THORETON, William James Campbell, a soldier of the 3 Can Inf Bde Sp Gp (Sask L.I.), Canadian Army Overseas, is charged with

First Charge
A.A.Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

In that he

While in the Field, absented himself without leave from his Unit from 1359 hrs, 3 Aug 42, until apprehended in Military Uniform in CIRENCESTER at 1710 hrs, 28 Apr 43, thereby incurring costs of apprehension of one pound fourteen shillings and one penny, (£1.14.1). Total time Absent, 269 days, 17 hours and 11 minutes.

Second Charge
A.A.Sec 24(f)

WHILE ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES,

in that he

While in the Field, did lose certain articles of kit on charge to him from 3 Can Inf Bde Sp Gp (Sask L.I.) to the value of nineteen shillings and eight pence one half-penny (£0-19.8½) the articles being valued at 75% vocabulary rates.

D E Walker Major

In the Field
3 May 43.

(D.E.Walker) Major,
Commanding, 3 Can Inf Bde Sp Gp.,
(Saskatoon Light Infantry).

The Second Charge A.A. Sec 24(2)

Against the accused, No L-1248 Pte THORNTON, William James Campbell, a soldier of the 3 Cdn Inf Bde Sp Gp (Sask L.I.), Canadian Army Overseas, is ~~xxxxxxxxxxxxx~~ amended to read:

WHILE ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES,

In that he
While in the field, did lose the undermentioned articles of kit on charge to him from 3 Cdn Inf Bde Sp Gp(Sask L.I.).

Article		100% Vocab Rates.	75% Vocab.Rates.
Brushes,button.	1	£0-0-8	£0-0-6
Caps,Comforter.	1	0-1-1½	10
Combs,hair.	1	0-0-2	0-0-1½
Dressings,First Field.	1	0-1-1	0-0-10
Forks,table.	1	0-0-5	0-0- 4
Holdall	1	0-0-8	0-0- 6½
Jackets,sweater.	1	0-5-7	0-4- 2
Knives,clasp.	1	0-2-10	0-1- 1½
Knives,table.	1	0-0- 8½	0-0- 7
Towels,hand.	1	0-0-11½	0-0- 8½
Spoons,table.	1	0-0-4½	0-0- 3
Shorts,P.T.	2	0-3-10	0-2- 10½
Shirts,P.T.	1	0-1- 6	0-1- 1½
Bags,rations,	1	0-0- 7½	0-0- 5½
Covers,mess tin.	1	0-0- 4½	0-0- 3
Tins,mess.	1	0-0- 1	0-0- 4
Eyeshields,A/G.	6	0-2- 3	0-1- 8
		£1.8.5	£0-13-8½

(These prices are as set forth in the declaration of the Court of Inquiry.)

In the field
10 May 43

D E Walker Major

(D.E.Walker) Major,
Commanding, 3 Can Inf Bde Sp Gp.,
(Saskatoon Light Infantry),.

To be tried by Field General Court martial.

Field.
10 May 43

D Beckett Brig.
A/Comd 1 Cdn Div.

MEDICAL CERTIFICATE FOR COURT MARTIAL.

Certified that I have today examined No. L-1248 Pte. Thornton, W.J.C. of the 1 Cdn Div Sp Bn (S.L.I.), and find him fit to undergo trial by court-martial.

Dated 11 May 43

R.C. Steinel
Capt RCAMC,
R.M.O., 1 Cdn Div Sp Bn (SLI)

Proceedings in the case of 11248 Pte Thornton, William James Court held by Lieut Col Ben (SLI) Trial by Field General Court Martial on the 11th day of July 1943.

1. The Court was cleared to decide if it was properly constituted (R22).

2. The Court was declared open and the accused and witnesses were marched in.

3. The Order convening the Court was read and the accused were asked if he objected to being tried by the President or any of the members. Answer: No Sir.

4. The President and members of the Court were duly sworn.

5. All witnesses were marched out of the Court.

6. The medical certificate of fitness of the accused to stand trial was presented to the Court by the Prosecuting officer.

7. The accused answered to his number, name and unit and the Charges as set out

The charge sheets were read to him. He was asked to each plead separately Guilty or Not Guilty to each charge. He pleaded Guilty to each charge.

8. The accused was informed in simple language the essentials of the offence. The maximum punishment he could be given, how procedure differed from ordinary trial and was asked if he pleaded Guilty. His plea of Guilty. Answer: Yes Sir.

9. The prosecuting Officer read the Summary of Evidence.

10. The Court then duly sworn. Capt R.W. Wilson, Court Shedding and Detective was a Chief Constable of the accused's MFM 6. The accused was asked if he wished to question any witness as per MML pag. 755 and he replied satisfactorily

11. The accused was not cautioned that he was not bound to make a statement at the taking of the Summary of Evidence when Capt R.W. Wilson gave his evidence.

12. The Presiding officer made a statement in explanation of the punishment and referred to the accused's misfortune although in this Country and that he would ask the Court that he be allowed to absent himself in order to carry his wishes afterward to be put off. He also stated that the accused would have hours during the absence.

13. The Court closed to consider the findings and sentence.

W. Frederick Lowe
Judge R.C.A.

"A"

RECORD of the Declaration of a Court of Enquiry assembled at WADHURST, Sx on the 2nd day of SPETEMBER 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of

L1248 Pte Thornton, W. J. C.

DECLARATION

The Court declare, that L1248 Pte Thornton, W.J.C. of "D" Coy, Sask.L.I.(MG), 1 Can Div, illegally absented himself without leave at GREYSTONE, High Hurstwood, Near UCKFIELD, Sussex, at 2359 hrs 9 AUG 43, and that he is still so absent, and that on 2 SEP 42 he was deficient, and that he is still deficient of the articles listed below, the total value being £7-6/11½ at the vocabulary rate, or £5-2/2½ at 75% of the vocabulary rate:-

Article:		Vocabulary Rate:	75% of Vocab. Rate:
Anklets, web, prs	1	3/ 5	2/ 7
Blouses, serge,	1	1- 7/ 8	1- 0/ 9
Trousers, serge	1	1- 7/11	1- 0/10
Boots, ankle, prs	1	1- 1/ 6	16/ 1½
Brushes, boot, polishing	1	9	6½
,, , button	1	8	6
,, , shaving	1	1/ 4	1/ 0
Caps, comforter	1	1/ 1½	10
Combs, hair	1	2	1½
Dressings, F.F.	1	1/ 1	10
Forks, table	1	5	4
Holdall	1	9	6½
Jackets, sweater	1	5/ 7	4/ 2
Knife, clasp	1	2/10	2/ 1½
Knife, table	1	9½	7
Shirts, anzora	1	9/ 2	6/10
Towels, hand	2	1/11	1/ 5
Spoon, table	1	4½	3
Shorts, P.T.	2	3/10	2/10½
Shirts, P.T.	2	3/ 0	2/ 3
Bags, Ration	1	7½	5½
Covers, Mess tin	1	4½	3
Tins, Mess	1	3/ 1	2/ 4
Respirator, A/G Complete	1	16/ 6½	12/ 5
Eyeshields A/G	6	2/ 3	1/ 8
Ointment, A/G No3 Jars	1	9½	7
TOTALS		£7/6/11½	£5/ 3/ 2½

Names of President and Members

President - Capt. J.W.R. LeBlond Sask.L.I.(MG) C.A.O.
Member - Lieut. A. Finleyson, Sask.L.I.(MG).

SIGNATURE OF COMMANDING OFFICER:-
(sgd) E.J. Scott Dudley, Lieut-Colonel.

CERTIFIED TRUE COPY OF ENTRY IN A.B. 161:-

(R.W. Wilson), Capt & Adjt.,
1 Cdn Div Sp Bn (SLI)

"B"

Kit and Eqt. in possession of Lt. A.E. Thornton D.J.C. on his return to unit 2/May/1915.

Belt Leather Breeches	2
Trousers	2
Shirts K.T.	1
Shirts Cotton	2
Boots Ankle pr.	1
Leggets pr.	1
Caps S.D.	1
Caps Hat	1
Buttons Best Pat.	1
Buttons Staining	1
Razor	1
Socks woollen pr.	1
Brushes Teeth	1
Towels Hand	1
Housewife Complete	1
Cyst Jute Cloth Kim	1
Sac Provn. Resp	1
Packs M & Pat 37	1

A. E. Thornton Lieut.

"C" File No. 12/102 . . .

Officer Commanding,

Re:- [illegible] Saskatoon Light Infantry

L.12A8 Pte. THURSTON W.J.C. of above unit

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 30th Oct. 40.

London

1 May 41

(Form) D.A.A.G. M.,
London Area.

Capt.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECT. 163(1)(jj)

I certify that No. [illegible]/1245 Rank. Pte. Name. THORNTON W.T.S.

Unit. SASKATOON LIGHT INFANTRY, was arrested at GLOUCESTER

on the 25th day of APRIL 1943. at 1710 hours. in military uniform.

Oxford,
29/4/1943.

Signature of Provost Marshal, A.P.M. or other Officer, into whose custody the above named soldier was taken on arrest. } [illegible] Staff Lieut. I59, H.C.Prov Coy. H.C.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. L2484 Rank Pte Name Thornton, W.J. Unit S.C.1

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Cheltenham

Date	Particulars	Amount		
1 May 43	Escorts return fare from LONDON To Cheltenham		17	7
	Prisoners single fare to LONDON From Cheltenham		8	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	6	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

.....
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Expense Voucher No.

Ref: K.R. & O. (Can) 539

Reg. No. 4248 Rank Pte Name Stanton W.J. Unit Sask L.I.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
2 May 43	Escorts return fare from LONDON To Lewes		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. Edgar Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

Summary of Evidence in the case of

L 1248 PRIVATE WILLIAM JAMES CAMPBELL THORNTON

By direction of the Commanding Officer, the evidence is taken on oath.

1st WITNESS FOR THE PROSECUTION

L 1793 A/CSM TRIBE, F.H. having been duly sworn states;

I am L-1793 A/CSM TRIBE F.H., the Sgt Maj of the mortar coy of no. 3 Gp., 1 Cdn Div Sp Bn. (Sask L.I.)

I submit ~~herewith~~ a record of declaration of a Court of Inquiry held on 2 Sept 42 to inquire into and report upon the illegal absence of L 1248 Pte THORNTON J.W.C. from 2354 hrs 9 Aug 42. At the time Pte Thornton absented himself, he was a member of "D" Coy Sask L.I. of which I am Coy. I have been C.Q.M.S. or C.S.M. from that time to the present. Pte Thornton did not report to "D" Coy from the 2nd day of September when he was declared absent by Court of Inquiry until he was returned to the Bn guard room under escort on 2 May 43.

EXHIBIT "A"

Q. Do you identify the accused as the Pte Thornton of whom you speak.

A. Yes, Sir.

The accused does not wish to cross-examine the witness.

L-1793 C.S.M. F.H. Tribe

2ND WITNESS FOR THE PROSECUTION

L 1730 C.Q.M.S. HOPKINS, H.H. having been duly sworn states,-

I am L-1730 C.Q.M.S. HOPKINS H.H., the quartermaster sgt of the HA Coy of no 3 Gp., 1 Cdn Div Sp Bn (Sask L.I.)

Pte Thornton was brought to me at Coy. O.R. Stores on the morning of 3 May 43. I submit a list of the military equipment which he had in his

2nd WITNESS FOR THE PROSECUTION

possession at that time (Appx "B")

The accused cross-examines the witness.

Q.- I want a list of the shortages of my kit as there are some things of which I was issued only one. For instance I was issued with only one towel before 9 Aug 42.

A. Each soldier is issued with two towels, sir.

L. Lapthorn

3RD WITNESS FOR THE PROSECUTION

CAPTAIN R.W. WILSON, H.Q. 1 CDN DIV SP BN (SASK L.I.) having been duly sworn states,-

I am Captain R.W. Wilson, Adjutant 1 Cdn Div Sp Bn (Sask L.I.) I submit herewith the following documents (Appx "C") regarding the accused which were received from DAAG London Area.

(i) Certificate in accordance with AH 163(i)

(ii) Two expense vouchers totalling £1.14.1

R.W. Wilson

The accused is cautioned in accordance with Rules of Procedure 4(E) & (F) reserves his defence.

Certified that Rules of Procedure 4 (C)(D)(E) & (F) have been complied with.

Taken down by me in the presence & hearing of the accused this third day of May 1943.

Chester D. Beatty, Lieut
OFFR TAKING SUMMARY
OF EVIDENCE

SUMMARY OF EVIDENCE in the case of
L 1248 Private William James Campbell THORNTON.

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

L1793 A/CSM Tribe, F.H., having been duly sworn, states:-

"I am L-1793 A/CSM Tribe, F.H., the Sergeant-Major of the Mortar Coy of No. 3 Group, 1 Cdn Div Sp Bn (SLI). I submit a record of declaration of a Court of Enquiry held on 2 SPT 42 to inquire into and report upon the illegal absence of L1248 Pte. Thornton, W.J.C. from 2359 hrs 9 AUG 42 (Appdx "A"). At the time Pte. Thornton absented himself, he was a member of "D" Coy, Sask.L.I.(MG), of which Coy I have been C.Q.M.S. or C.S.M. from that time to the present. Pte Thornton did not report to "D" Coy from the 2nd day of SEPTEMBER when he was declared absent by Court of Enquiry until he was returned to the Bn guard room under escort on 2 MAY 43."

Q. Do you identify the Accused as the Pte Thornton of whom you speak?
A. Yes, Sir.

The Accused does not wish to cross-examine the witness.

.....
L1793 CSM Tribe, F.H.

2ND WITNESS FOR THE PROSECUTION:

L 1730 C.Q.M.S. Hopkins, H.H., having been duly sworn, states:-

"I am L-1730 C.Q.M.S Hopkins, H.H., the quartermaster-Sgt of the A.A. Coy of No. 3 Gp, 1 Cdn Div Sp Bn (SLI). Pte Thornton was brought to me at Coy A.A. Stores on the morning of 3 MAY 43. I submit a list of the military equipment which he had in his possession at that time (Appdx "B")

The Accused cross-examines the witness:

Q. I want a list of the shortages of my kit, as there are some things of which I was only issued one. For instance, I was issued with only one towel before 9 AUG 42.

A. Each soldier is issued with two towels, Sir.

3RD WITNESS FOR THE PROSECUTION

Captain R.W.Wilson, HQ, 1 Cdn Div Sp Bn (SLI), having been duly sworn, states:-

"I am Captain R. W. Wilson, Adjutant, 1 Cdn Div Sp Bn (SLI). I submit herewith the following documents (Appdx "C") regarding the Accused which were received from DAPM, London Area.

(i) Certificate in accordance with A.A. 163(1)
(ii) Two expense voucher totalling £1-14/1.

The Accused is cautioned in accordance with Rules of Procedure 4(E) and reserves his defence.
Certified that Rules of Procedure 4(C)(D)(E) & (F) have been complied with.
Taken down by me in the presence and hearing of the accused this THIRD day of MAY 1943.

.....
OFFR TAKING SUMMARY OF EVIDENCE

SHORT STATEMENT AS TO PARTICULARS
OF SERVICE OF THE ACCUSED.

L1248 Pte. THORNTON, W.J.C.

(a) The accused has been in confinement awaiting trial on the present charges for Nil days in Civil Custody and 13 days in Military Custody, making a total of 13 days, of which Nil days were spent in hospital.

(b) The present age of the accused according to his attestation papers is 35 years.

(c) The date of his attestation specified in his attestation papers is 18 SEP 39..

(d) The accused is in possession of and/or entitled to no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental books in my custody.

11 MAY 43.

I request the services of Lieut L.C. Robson, 3 Cdn Inf Bde Sff Sgft (Sask L.I.) as defending officer if available. If he is not available I will accept an officer appointed to me as Defending Officer

In the Field
4 May 43

Signed: W. C. Thornton
W.C. THORNTON

Witness: Chester D. Beatty, Lieut
C.D. BEATTY

I certify that the above Court assembled on the 11 day of July 1943 and duly tried the person named in the Schedule, and that the plea, finding, and sentence in the case of such person were as stated in the third and fourth columns of that Schedule.

I also certify that

1. The members of the Court ✓
2. The witnesses ✓

were duly sworn.

Signed this 11 day of July 1943.

[signature] Lieut.-Col.

President of the Court-Martial.

I have dealt with the findings and sentence in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

Signed this 11 day of May 1943.

[signature]

(K.B.Lockett) Lt.-col. A/CRA 1 Cdn Div.
Convening Officer.

Promulgated and extracts taken on the case of L.1248 Pte THORNTON, William James Campbell of 1 CDN DIV SP. BN. (S.L.I.)

Dated. 12 MAY 43 (Signed) [signature] Lieut.
1. CDN SP. BN. (S.L.I.)

First Sheet dstroyed 17 March 41 Date of last entry 12-4-40 Cases of drunkeness NIL

No. L-1248 Name Thornton, W.J. Sqn., Battery, or Company D Corps SLI(MG) Date of enlistment 18/9/39 G.C. Badges NIL Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 40/F & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ockley	24/11/40	Pte	Nil	WOAS Conduct to the predjudice of good order etc., in that he was absent from 1030 roll call Contrary to(A.A.Sec 40)	F.S.M.Booth	Reprimand	25/11/40	Capt deFaye	
Brighton	7/11/41	Pte	Nil	WOAS Conduct to the predjudice etc. In that he did walk out of barracks improperly dressed. Contrary to A.A.Sec 40.	L/C Grant Pte Orcutt	3 days C.B.	8/1/41	Capt DeFaye	
Chipstead	18/3/41	Pte	Nil	WOAS was AWL from 2230hrs 2/3/41 to 2230 hrs 16/3/41	Sgt Kirby	28 days F.P.		C.McKerron,Lt-Col	
Chipstead	7/5/41	Pte	Nil	WOAS Conduct to the predjudice etc. did make a fire in his billets Contrary to Bn. Orders(A.A.Sec 40.	C/Sgt Tribe	4 days C.B.		Capt deFaye.	

(P.T.O.)

Sheet "2"

M.F.M. 6
(A.F.H. 122)
40/P & S/136 (2637)

No. L-1248 Name Thornton, W.J.C. Sqn., Battery, or Company "D" Corps Sask.L.I.(MG) Date of enlistment 18/9/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. Capt T.deFaye | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27/6/42	Pte	Nil	WOAS Prejudice to Good Order etc. in that he failed to go on morning runA.A.Sec 40.	Sgt Kerr	3 days C.B.	27/6/42	L.Clough Capt	

Certified a true Copy.

~~XXXXXXXX~~ .....Capt & Adjt,
~~XXXXXXXX~~ 3 Can Div Sp Bn(Sask.L.I.)

(P.T.O.)

56-65.

Pte. Thorpe, J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : P-[illegible] Pte Joseph Thorpe 2 Corps Tp Coy RASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	[illegible]	[illegible]	
2nd	[illegible]	[illegible]	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~A~~ beginning on (date) ~~A~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of [illegible] days, of which [illegible] days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be ~~[illegible]~~ imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... 13 Nov 44 (Sgd) [illegible], Lt-Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Not Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) [illegible], Brig

Date 25 Nov 44 Commanding [illegible] Corps Tps Coy RASC 1 Corps
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
P-55869 Pte Joseph Thorpe	4 Dec 44	A.O. Hood, Lt-Col O.C. 12 Fd, 2 CER Tps

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Appendix 5C-65

FIELD GENERAL COURT-MARTIAL

CP496 (In lieu of AFA8) 40/P.S.B./1606 (40791) 4/38B

Convened by Order of Lt/Col A.M. Campbell Command HQ 1 Corps dated 22 Oct 44
(HQ 1 Feb RI A Gp)

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
P-55869	Pte	Joseph	Thorpe	2 Corps Tp Coy RASC

Certified true copy
[illegible]
D.J.A.
HQ 1 Feb RI 21 Army Gp

PROCEEDINGS REVIEWED IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 21 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At [illegible] hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused : Do you object to [illegible] as interpreter ? Ans~~

~~The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer ? Ans~~

~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A.C., Inns	(HQ 1 Feb RI A Gp)
Member	Major	M.H., Abdy	(HQ 1 Feb RI A Gp)
Member	Capt	P.A., Cunningham	(HQ 1 Feb RI A Gp)
Judge-Advocate	Lt-Col	J.R.G., Dickson	(HQ 1 Feb RI A Gp)
Prosecutor	Capt	W.G.D., Hempsted	PCASO 8th Bn Somerset LI
Defending Offr			(HQ 1 Feb RI A Gp)

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dr p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(at)~~ plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support at against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement in Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the ~~former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor ~~produces~~ Statement(s) as to Character and Particulars of Service(1) and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

I B-55369 Pte Joseph Thorpe desire to have an Officer assigned to represent me at my trial by court martial. I desire the services of Capt. W.G.D. Hungerford if he is available.

15 Oct 44 (sgd) Thorpe J.

CHARGE SHEET

The accused, No H-85369 Pte Joseph Thorpe, of the Royal Regiment of Canada, attached No. 21 Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

In that he

In the Field on 22 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In the Field on 22 Jul 44 while with his regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

In the Field,
12 October, 1944

(sgd) N.M. Cameron, Colonel,
OC No 21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
25 Oct 44.

(sgd) A.W. Beament, Brigadier,
OIC
Cdn Sec CMQ 1 Feb 41 A Gp

T.F. Lee, Maj
Pres

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-[illegible]	[illegible]	[illegible]	Joseph	Thorpe	1 Regt d att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, ~~[illegible]~~ subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on [illegible] (date) endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed ~~[illegible]~~ detailed hereunder.

4. ~~I am unable to appoint (A) three Offrs to~~ form the Court, (b) ~~a Fd Offr as President, for the reasons I have attached hereto~~. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee		Gen List- Con Sec GHQ 1 Feb 21 A Gp

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	W.L. Prey		Adv Dept att Cdn Sec GHQ 1 Feb 21 A Gp
Capt	[illegible]		[illegible] 1 Feb 21 A Gp

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.)

Dated 25 Oct 44

A.T. Pearson, (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding Cdn Sec GHQ 1 Feb 21 A Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/F & B/169T (6143)

Approved
EW Howard Capt
ADJA

B-55369 Pte Joseph Thorpe, R R of C

Lieut H.T. Verrette, Cdn Sec GHQ, 2 Mch,

attended as Officer under instruction.

W.P.L.
Pres

MEDICAL CERTIFICATE

I certify that I have this morning examined Reg.No. B955369, Pte Thorpe, Joseph, and he is fit to undergo trial by Court-Martial.

11 Nov 44

(sgd) L. Muldoon
Medical Officer

E.P. Lee
Major
Pres

H-55369 Pte Joseph Thompe R R of C.

D2

This is case where the Prosecution will endeavor to show that the accused shot himself with own weapon in his own hand in his left foot. Unfortunately the witnesses mentioned in the accused's statement have been killed in action and are not now available and prosecution must rely on accused's statement and medical evidence.

D3

FIRST WITNESS PROSECUTION

C-7050 L/Cpl Wheaton, C. 8 Prov Coy 4 Cdn Armd Div, being duly sworn, states:-

I recognize the accused whom I interviewed at 7 Cdn Gen Hosp, 4 Aug 44, in presence of L/Cpl Brimmey 2 Prov Coy. We identified ourselves said we were Cdn Provost and were investigating circumstances surrounding his wound. The accused was cautioned in the following words: " You do not have to say anything unless you wish to do so but whatever you do say will be taken down in writing and may be given in evidence." The accused appeared to understand the caution. The statement was voluntary there was no promise - threat the accused was not under arrest.

The Defending Officer has no objection to the statement.

The statement was taken down in writing and read over to the accused and he read it himself he then signed it in the presence of the witness and myself. This is the statement (produced) and put in evidence as Exhibit "A". There are no changes in the statement.

No Cross-examination

R.P. 83(B) Complied with.

SECOND WITNESS PROSECUTION

Captain L.A. Kickham RCAMC attached 8 Cdn Gen Hosp., being duly sworn, states:-

I have examined the accused and find scar on his left foot between the first and second metatarsal dorsal approx 2" in length and on the plantar surface there is a scar circular approx ¼" in diameter. There is a scar on the two surfaces indicating the possibility of a through and through wound. Wound in direction of long axis of his body if it were through and through. It could have been caused by a weapon held by accused in his own hands. Healed now but there is a painful scar, cannot say if there was any fracture. Accused states that he has no pain. The wound is largely subjective With accused's present attitude there will be no lowering of Category.

By the Court

There was scar on upper surface of foot 2" long and lower ¼" in diameter. Not necessarily caused by a bullet. Could have been caused by operation or infection.

R.P. 83 (B) Complied with.

THIRD WITNESS PROSECUTION

Major J.A. Walters RCAMC attached 8 Cdn Gen Hosp., being duly sworn, states:-

I am neuro-psychiatric specialist. I produce certified copy of report which is my report on the accused.

The Defending Officer has no objection to the medical report being produced and read.

His account was story as I took it at that time. This was put down in writing as answers were given by the accused.

This report was written as a summary containing the important and significant information only, at the end of an interview which might last from 30 to 90 mins. during which by conversation and question I would have attempted to survey and assess the medical issues at stake. Report was written immediately following the interview. My mind would be clean and fresh. Medical report produced and marked by "me".

Cross-examination

I have had some experience in dealing with psychopathic cases in this war. I can account for these cases in a few words. For me a rude generalization. It is a problem of human routine in difficulties under its multiple facets. Human beings develop behaviour which is inefficient, awkward to themselves and society. How many causes, and really one is faced with the problem of establishing why a man behaviour appears and also weighing and controlling factors which may be physical, or mental or social in the alleviations of the persons discomfort or society's embarrassement. The physic- ians methods for establishing the influential factors in a behaviour problem consist of, one, a biographical study of the individual with his family background. Secondly- a physical examination, thirdly- a systematic mental examination which includes a precise evaluation of his thinking, feeling and willing. Finally social factors outside the individual can be studied by direct examination of environments. Such studies searching for why man does foolish things presumes a philosophical attitude which sees him as not a body and a mind and a will similar to other humans but sees each human being as a single unit, body and mind one, rather than dual. This unit is to a great extent biological, under biological law. His inheritance, his past behaviour, the nature of his physical tissues, the state of his temperament the development of his character will be factors in determining what he does in any one situation. There will be unconscious and habitual influences there will be chemical and electrical influences there will be degrees of free choosing in his ultimate action. Clinical judgement - when a physician uses such clinical methods, physical, mental and social, over many years applying the same rigid and exhaustive inquiry to many different human beings he acquires an experience of which easily leads him to sorting his patients into different groups. What is clear to him by his lights is the extent individual character of one human being. Like anyone else. The medical profession has over years conveniently used labels such as " neurosis " "psychosis " and " psychopathic personality " are useful mnemonics to sort our human beings. They are not diseases they are after only the expression of a man having trouble or not fitting well into his environment. Generally they imply not an immediate transient difficulty but a tendancy to be frequently in such straits. term " Psychosis " is applied to people who have extremely abnormal mental life, the layman thinks they are crazy. and while there abnormality persists most of them would satisfy the legal definition of insanity. It includes transient delerium and confusions. temporary states of exaltation or depression and states of delusions or hallucinations of varying duration. It also includes the enfeebled mentality of old age or brain disease. Neurosis are people who are not crazy but who have physical disorders or upset feelings due to thier failing struggle with environment. Patients come to a hysteria with indigestion, heart burn, headache, paralized limbs, blindness, sweating, backache. They are in discomfort. Their real problem is something they are trying to avoid by taking refuge unconsciously in a physical paralysis or blindness or they are emotionally upset and the psychophysical manifestations of emotions become interpreted by sickness. Psychopathic personality: neither psychosis nor neurosis accounts for a group of individuals who are often a trouble to society if not to themselves and thier pattern of failure, evil doing , or eccentricity seems to have persisted for most of thier lives. Thier record suggests they were born that

way. Such people are called psychopathic personality to indicate a deviation in the persons make up rather than his his nervous system or mental state at any one time. The weak characters who fail easily by foolish, lazy, timid or shy behaviour are called inadequate types. The repeated evil doer who has repeated crimes or brags habitually to his fellows and no regard for any consideration except himself, is called anti-social. The third type includes the cranks the queer the dreamy the dilletente, the bohemian - those who live in unusual ways and with unusual standards and that cannot be consider so crazy. Those are the eccentric. Mental defectives are a fourth group. They have always lacked brains. Their keeness of intellect and capacity to reason was arrested below normal standards as they developed. They may be sound solid citizens and make excellent unskilled labourers. They lack the capacity to learn. They make excellent batmen. But such people by and large have less confidence in their powers as they have met situations they have been unable to cope with.

In the case of the accused the reference to diagnosis in Exhibi "B" indicates that the accused does not fall in to any one of the defined neuro psychiatric categories which are for every purposes recognized as abnormal and warrant consideration in weighing a mens actions.

re-examination

Human beings are suggestable and more so in groups than in couples. What others do they more easily follow. What others avoid they do with more difficulty. Examples in the world of fashion, taste, mob panic and such observations all verify this Military History provides similar examples.

by the Court

The physician is dependent for his diagnosis on observed evidence for neuro psychiatric diagnosis comes from the mens story the physicians observations of the man and his body. If there is no verification of the mens storythe physician has to rely in the judgement of the reliability of his evidence. The reliability of the eventual diagnosis depends on clinical judgement on the physician in weighing these elements which are not objective and verified.

D4 Prosecution closed

R.P. 83 (B) Complied with.

Motion for dismissal by defending Officer.

The accused is charged with wilfully injuring himself and in the alternative negligently ~~xx~~injuring . The accused has to be found guilty of "intent" in the first and "negligently in the second" The prosecutor has failed to prove intent. There is only the evidence in the statement by the accused produced in evidence and the hazy medical evidence. There is the diagnosis of Major Walter stating that the accused is normal in everyway I submittk that there is no evidence before the court to properly convict the accused on either charges and ask that both charges be dismissed.

Prosecuting Officer not called on for a reply.

D6 Defending Officers submission is not allowed by court.

FIRST WITNESS DEFENCE The accused, B-55396 Pte Joseph Thorpe, R Regt C having been duly sworn states:-

Defending Officer:

I propose to submit the evidence of the accused in chief by reading to him his prepared statement in consultation with his defending Officer.

The court rules that the procedure will not be allowed and

evidence in chief will have to be produced viva voce

I was born Broadsworth, S Yorkshire England on 10 May 17, came to Canada in 1927 at 10 years of age, settled at Charlton Ont near Airhland lake. Went to 2nd form High School, quit at age of 16. I went farming for awhile then in 1936 went to Lake Shore Gold Mines as a driller and continued until 13 Aug 40 when I enlisted. When I first started I was getting $4.65 for an 8 hrs shift and that was raised to $5.1b. Enlisted with Algonquins trained with them in Canada and Eng and came to F.W. 10 Sep 43 as a reinforcement. I spent sometime in reinforcement unit went to RR of C on 24 Dec 43 Came overseas to France 6th then 6 Jul 44. I saw action with them until this happened 22 Jul 44. I actually went into action with the Royals about night of 12th and was in constantly without rest as a rifleman until 17th. This happened about 1800 hrs. The Seaton was in the trench at the time this happened. I was sitting on the left hand side of the trench pulling to clean my rifle I chose this time to clean my rifle because the mortars had quietened down for about half an hour. I had cleaned my rifle two days before not since because we were too busy going into attacks I had fired fired it constantly. I thought it would be safer on side of the trench because if any mortars came over I could get it to it fast. The trench about 6' in length 2' across , about 5' deep. There was just enough room for the two of us and room to clean rifle and that is the reason I was sitting on the edge of the trench, I started cleaning my rifle, heard the mortars coming over, so I went to roll over into the trench, the bayonet was not on my rifle. There were no one in the vicinity. Witness draws rates showing that he was at the back of the trench facing the front and at about the middle of the same Pte Seaton was to my right in the trench and parrallel thereto. The bolt was open, the magazine was on (Prosecutor objects and states that the witness first said that the magazine was "off" and not " On ") The magazine was on. When I heard the mortar shells come over, I closed the bolt and rolled over on my right side to get into my trench with the rifle parrallel to my legs and practically atween the two. I rolled right into the trench and my rifle went off as I rolled over. There were sticks and grass all the way around the trench. No cover over the trench. Roots sticking out on the side of the trench. I think a stick or something caught and caused the rifle to go off. From the time I heard the bombs until I rolled into the trench was only a matter of 2 or 3 seconds I closed the bolt automatically. When you pull the bolt back and with magazine in puts a round in the chamber. I was always taught when in battle to load your rifle and keep it loaded at all times. Not when cleaning it I had just started to clean it . I knew my magazine had rounds in it. I rolled in trench I heard a round go off and felt a burning in my foot. I am fine now and want to go back to action. I have had a brother killed and would like to get revenge. So was with the R.C.I. My brother was killed about a month ago, after this happened There is no reason why I should shoot myself because I joined up to fight for my king and country. I am married. No dependents but send my mother $20 .00 per month I had no worries on my mind I'd do my best if I went back to fight now. I want to go back and I'm ready to go this afternoon.

cross-examination

The Prosecutor states that he proposes to question the veracity of the accused's statement . and that he is willing and wishes to return to the front lines.

R.P. 83 (3) complied with.

The court rules that this cross-examination must not extend to verbal evidence of bad character and cannot be given for the Prosecution but the Prosecutor has the right by cross-exam to test the veracity of statement given by accused. (by R CO top read by the court)

Q. Were you ever charged with an offence that would indicate that you were not willing to serve your King and Country?

A. I was charged once with an offence that would indicate that I was not willing to serve, that was a charge of malingering

Q. Was that just prior to the invasion of europe?

A. That was before.

Q. Just before?

A. I could not say Sir?

Q. Was it the 2nd of June ?

A. I dont know Sir.

Q. was it a few days ?

A. I dont know.

Q. What was the charge ?

A. It was my ears when I was in 7 Con Gen I was getting treatmer for my ears.

Q. You were charged with counterfeiting deafness with intention of evading duty ?

A. Not deafness. My ears were sore, They had me up for that charge and I was convicted.

Q. Was there any other charge against you that would lead anyone to believe that you were unwilling to serve ?

A. No Sir.

Q. Were you ever charged as a deserter ?

A. No, I was A.W.L. for 84 days.

Q. Were you convicted on that charge ?

A. Yes Sir A.W.L.

Q. Served from 1940 till 22 Jul 44 ?

A. Yes Sir.

Q. Do you consider youself well trained soldier.

A. As well as any.

Q. Well trained with rifle ?

A. Yes Sir.

Q. Were you shaken up very much ?

A. No Sir.

Q. Not at all ?

A. No Sir.

Q. You knew other people had been badly shaken ?

A. Yes Sir, I had seen them too.

Q. Do you know L/Cpl Dempsey ?

A. Yes, Sir; just to see him he was in the same company. I don know when he was wounded. I know of one S.I.". In my Regt

Pte McKinnon, knew of no others. I had not heard of people S.I.W.'s prior to 22 Jul 44. I remember a Major took a statement from me at 7 Cdn Gen Hosp could not tell you the date or his name. I think it was the doctor who gave evidence here this morning the third witness. Had accident at quiet time while in reserve Coy. Quiet compared to what it was. I dont recall telling him about Mortar bombs. I dont know if there is anything in my signed statement about cleaning my rifle. As the statement now stands there is nothing in it stating that I was cleaning my rifle. The slit trench was dug the night before I was there all night and until 1500 hrs the following afternoon, in reserve, the enemy no where near. We were busy moving so I didnt have opportunity to clean my rifle before. Must get some sleep if you are on guard all night. I could not have cleaned in the trench because dirt falls in again. Pte Seaton was also in trench and there was not enough room. I sat the easiest way to clean rifle and was taking safety precautions in sitting that way. I was going to go into trench head first. I was going to roll in. I did not think of rolling feet first. I closed bolt because that was automatic. Heard the mortar closed the bolt and rolled it to the trench. That is the way it happened. I did not tell the Psychiatrist a different story. I told him thesame thing that I am telling you now I dont know why it isn't in his report. I have never seen the Psychiatrists report. (accused reads psychiatrists report) that is the report I gave him. It is automatic to put on the safety catch after closing the bolt but I do not ~~xxxx~~ ~~xxxxx~~ know why I didnt put on the safety catch. The wound i perpendicular but not through and through according to Doctor who made the examination.

Q. When asked by your counsel how this incident occurred you first said that the magazine was "off" the bolt was open and after that again the magazine was "on".

A. No, Sir I said the magazine was on, I never said it was "off"

Q. You realize the portend of your answer.

A. Yes, Sir the magazine was on.

Defence Closed

R.P. 83 (B) Complied with.

FOURTH WITNESS PROSECUTION in rebuttal

L-18012 Pte Collard, A.', Provost Corps, 'sworn, states:-

Q. When Counsel for Defence asked the accused how this incident occurred and the accused started to demonstrate what did the accused say.

A. I understood the accused to say the chamber was " off"

Q. What was it you heard ~~the~~?

A. I heard the accused say the magazine was " off "

R.P. 83 (B) Complied with.

PROSECUTION CLOSING ADDRESS

I wish to point out the inconsistency of the accused evidence which is quite apparent. He is intelligent and yet we find on his own record he is willing to serve admits he went absent for 53 days and that he was also charged and convicted with malingering as he called it. Charge was evading duties. That was just prior to invasion of the continent. I submit therefore his post actions assist court materially in deciding if the wound was wilfully, with intention of evading service. The prosecution finds itself in nearly all these cases has no eye witness. The accused knew witnesses were going into action. There is nothing in accused statement saying this man was in

I, B.55369 Pte Joseph Thorpe.....desire to have an officer assigned to represent me at my trial by court martial. I desire the services of..Capt. W.G.D. Hungerford.....if he is available.

15 Oct 44.

Thorpe J
(Signature of Accused)

slit trench at the time. When you have evidence of Major Walt
ers that the information obtained by questions and answer from
accused that he was in reserve in quiet sector cleaning rifle
when accident occident occured. Then later accused is examined
by member of Provost Corps. I submit he is intelligent enough
to know that what he told Major Walters was not good enough
and that he therefore gave a different story which is now befor
you. Until cross-examination did not say anything about quiet
sector but under fire and rolled into trench in an emergency
and rifle went off. Position extraordinary, also that he had t
o roll in head first. Closed bolt automatically but did not
put safety catch on automatically as he was accustomed to. If
he had time to close why didnt he get into trench feet first.
I suggest to you that it was the only way the accused could
explain having shot himself. Draw your attention to evidence
of the witness called in rebuttal who was during the demonstrat
ion facing the accused who stated that the accused first said
that the magazine was off. I submit that there is sufficient
evidence to find the accused guilty on the first charge.

E 3 PLEA IN MITIGATION

It is hard to picture a hard rock miner as this man was in civil life to find himself in the predicament he is in to-day When one finds one of them as a soldier suspected of such a dastardly crime as this it is very hard to believe. A man possessing those fine qualities as such men portray is not the type either by virtue of his own negligence or preconceived plan to commit such a thing as a wound on his own body. I dont wish to labour this mans career save to say that this man finds himself in this predicament by virtue of a course of conduct he has pursued during his army career, probably due to lack of control rather than anything else. He would be ashamed to return to Canada without proving to his comrades and his country that he is equal to carrying out his expressi rs of loyalty and faithfulness to the cause. And if such must be the case it certainly will be most unfortunate. I therefore can only ask that the court exercise mercy as this lad may deserve after all is said and done - and as the psy chiatrist has said here to-day human beings are often guilty of anti-social behaviour but the important thing for the Army is to try and make something out of this man. The accused sees the error of his ways and I ask for a recommendation that the soldier be returned to the line at the earliest possible opportunity. It is this last expression of his willingness to serve that he wants to leave with this court.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 55369 Pte Frost Frank R Regt C 2 C I B 2 C I B

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(c) alternative	not guilty	guilty	
2nd 1939 44	not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned and kept at labour for two years and to be discharged with ignominy from His Majesty's service

(Sgd) — Judge-Advocate, if any. 11 Nov 44 Date awarded. (Sgd) E C Lee President.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) H K Elwood Lt-Col

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 526, 577.)

Accused.	Date.	Signature of Offr.
B55369 Pte Frost Frank	4 Dec 44	H K Elwood Lt-Col O.C., 12 Bn., 2 C.B.R. Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5C-65

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P & S/1008 (40001) 4/38B

APPROVED JAN CHANCERY LANE W.C.2

Convened by Order of Brigadier W H Bennett Comd 2 I C Div dated 25 Oct 44 (See 4 I C 1 Cdn Inf Bde 21 Army Gp)

ACCUSED.

(For trial of two or more charged jointly see RP 70, 71, 109. As to reasons for showing (a) permanent or confirmed (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B55369	Pte	Joseph	Monde	1 R Regt

PROCEEDINGS REVIEWED 10 Apr 45 Lt-Col Deputy Judge Advocate General CMHQ. REVIEWING OFFICER, 1 C.I.C. (A) CMHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CS A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) Do you object to ..... ~~as shorthand writer?~~ Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 73. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E P Lee	4 I C 1 Cdn Inf Bde 21 Army Gp
Member	Major	A E Day	4 I C 1 Cdn Inf Bde 21 Army Gp
Member	Capt	J A Cullingham	4 I C 1 Cdn Inf Bde 21 Army Gp
Judge-Advocate			
Prosecutor	Lt Col	J M G Thompson	A/J A 2 Cdn Corps
Defending Offr	Capt	L G D Humphrey	R C A S C attached 4 I C 1 Cdn Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Com-in-C. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 55(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 55(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are (and no rebuttal to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), ~~not allowed as to the charges~~, and that, accordingly, the trial will proceed on the ~~charge~~, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(E).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor ~~states~~ tenders Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2123, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B.55369 Pte Joseph THORPE, of the Royal Regiment of Canada, attached No.21 Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 22 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 22 Jul 44 while with his regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

In the Field,
2 October, 1944.

(H.W. Cameron) Colonel,
OC No 21 Cdn Gen Hospital.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
25 Oct 44.

(A.W. Beament) Brigadier,
OIC
Cdn Sec GHQ 1 Ech 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B. 55369	Pte		Joseph	THORPE	R Regt C att 21 Cdn Gen Hospital

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

(a) I have unable to appoint (c) three Offrs to form the Court, (b) a 3d Offr as President, for the reasons I have stated herein.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(c) I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E. P. Lee	Gen List - Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy	Alg Regt att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F.A. Baillargeon	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE
(Country.)

Dat 25 Oct 44

A W Beament
(Signed personally. RP 105 fn 2.)
(A W Beament)
Brigadier
(Rank.)
Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) A.G./P & S/1697 (S145) (See overleaf for oaths and notes for use on trial.)

Approved
Lieutenant Colonel
ADJA

B 55369 Pte Joseph Thorpe. RR & C

Lieut H. T. Vergette, Can Sec. G.H.Q.,
2 Echn. attended as Officer under
instruction.

MEDICAL CERTIFICATE

I certify that I have this morning examined Reg.No. B-55369, Pte. THORPE, Joseph, and he is fit to undergo trial by Court-Martial.

Medical Officer

11th Nov 44 PK.

second witness for prosecution

Captain A Rickham RCAMC attached 7 Cdn Gen Hosp. being duly sworn states:

I have examined the accused and find scar on his left foot between the first and second metatarsal dorsal approx 2" in length and on the planter surface there is a scar, circular, approx 1/4" in diam. There is a scar on the two surfaces indicating the possibility of a through and through wound. Wound in direction of long axis of his body if it were through and through. It could have been caused by a weapon held by accused in his own hands. Healed now but there is a painful scar. Cannot say if there was any fracture. Accused states that he has no pain. The wound is largely subjective. With accused's present attitude there will be no lowering of Category

By the Court

There was scar on upper surface of foot 2" long and lower 1/4" in diameter. Not necessarily caused by a bullet. ~~Could~~ may have been caused by operation or infection.

S.F 83(B) Complied with.

third witness for prosecution

Major J. A. ~~Walters~~ "Walter" RCAMC. attached 7 Cdn Gen Hosp. being duly sworn states:-

I am neuro-psychiatric specialist. I produce certified copy of report which is my report on the accused.

The defending officer has no objection to the medical report being produced and read.

His account was story as I took it at that time. This was put down in writing as answers were given by accused.

This report was written as a summary containing the important and significant information only, at the end of an interview which might last from 10 to 30 minutes.

WA

B 55369 Pte Joseph Thorpe R.R.R.C.

D2

This is case where "accused" the prosecution will endeavour to show that accused shot himself with own weapon in his own hands in his left foot. Unfortunately the witnesses mentioned in the accused's statement have been killed in action and are not now available and prosecution must rely on accused's statement and medical evidence.

D3

first witness for prosecution

G 7050 A/Cpl Wheaton G. 8 Prov Coy 4 Cdn Armd Div being duly sworn states:-

I recognize the accused whom I interviewed at 7 Cdn Gen Hosp, 4 Aug 44, in presence of A/Cpl Brittney 2 Prov Coy. We identified ourselves and we were Can Provost and were investigating circumstances surrounding his wound. The accused was cautioned in the following words:" you do not have to say anything unless you wish to do so but what you do say will be taken down in writing and may be given in evidence". The accused appeared to understand the caution. The statement was voluntary there was no promise. that the accused was not under arrest

The Defending Officer has no objection to the statement

The statement was taken down in writing and read over to the accused and he read it himself he then signed it in the presence of the witness and myself. This is the statement (~~produced~~ and put in evidence as Ex" A") There are no changes in the statement.

No Cross-examination

R.P. 83(8) complied with.

do not a body and a mind and a will similar to other humans but sees each human being as a single unit, body and mind one, rather than dual. This unit is to a great extent biological, under biological law. His inheritance, his past behaviour, the nature of his physical tissues, the state of his temperament the development of his character will be factors in determining what he does in any one situation. There will be unconscious and habitual influences there will be chemical and electrical influences and there will be degrees of free choosing in his ultimate actions.

Clinical judgment – When a physician uses such clinical methods, physical, mental and social, over many years applying the same rigid and exhaustive enquiry to many different human beings he acquires an experience which easily leads him to sort out his patients into different groups. What is clear to him by his slights is the extreme individual character of one human being unlike anyone else – the medical profession has over years conveniently used labels such as "neurosis", "psychosis" and "psychopathic personality" as useful ~~mnemonics~~ mnemonics to sort out human beings. They are not diseases they are often only the expression of a man having trouble or not getting well into his environment. generally they simply mark an immediate ~~to~~ moment differently but a tendency to be frequently in such "~~day~~" situations. Term "psychosis" is applied to people who have extremely abnormal mental life, the

during which by conversation and question I would have attempted to survey and assess the medical issues at stake. Report was written immediately following the interview. My mind would be clear and fresh. Medical report produced and marked Ex "B".

Cross-examination

I have had some experience in dealing with psychopathic cases in this war. I can't account for these cases in a few words, nor can I make generalization as it is a problem of human nature in difficulties under its multiple facets.

Human beings develop behavior which is inefficient, awkward to themselves and society from many causes, medically one is faced not with the problem of social responsibility but with the problem of establishing why such behaviour appears and also weighing and evaluating factors which may be physical or mental or social in the alleviation of the persons discomfort or society's embarrassment. The physicians methods for establishing the influential factors in a behavior problem consist of, one, a biographical study of that individual with his family background. Secondly - a physical examination, Thirdly - a systematic mental examination which includes a precise evaluation of his ~~thought~~ thinking, feeling and willing. Finally social factors outside the individual can be studied by direct examination of environment.

Such studies, searching for why man does foolish things, ~~is~~ presumes a philosophical ~~view~~ attitude which sees him

in the human make up varies from
the normal system or mental
state at any one time. The weak
characters who fail easily by
comparison being termed weak
behaviours are called mediocrats
by me. The hardened ill doer
who has repeated crimes or
lags habitually about his fellows
and no regard for any consideration
except himself, is called anti
social. He is that by his methods
the cranks the queer the dreamy
the dull lands, the [eccentrics]
those who live in unusual
ways and omit normal standards
and yet cannot be considered lazy.
These are the eccentric.
mental deficiencies are found
greek. They have always lacked
brains. They are those persons
of intellect and capacity a
reason was arrested by lower
normal standards as they
developed. They may be found
as the aliens and most excellent
unskilled labourers. They lack
the capacity to learn. They
make excellent batmen. But
and people by and large have
less confidence in their powers
as they have mis speaking they
have been unable to the land.

In the case of the accused the
report & diagnosis in
Exhibit B. indicates that the
accused does not fall under

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the layman thinks they are crazy. and while this abnormality persists most of them would perhaps the legal definition of insanity. It includes transient delusions and confusions, temporary states of exaltation or depression and states of delusions or hallucinations of varying duration. It also includes the expected mentality of old age or brain disease.

Neurosis are people who are not crazy but who have abnormal reactions or what feelings due to their failing struggle with environment. Patients come to a physician with indigestion, heart pain, headache, paralyzed limbs, blindness, sweating, backache. They are in distress. Their real problem is something they are trying to avoid by taking refuge unconsciously in a physical paralysis or blindness as they are emotionally upset and the physical manifestations of emotions become interpreted by sickness.

Psychasthenic personality includes psychoneurosis and neurosis account for a group of individuals who are often troubled to some by of not to themselves and this feeling of failure, and doing is prominently seems to have developed in most of their life. Their inner supports they were taken that way. such persons are called psychasthenic personality to indicate a demarkation

Motion for dismissal by Defending Officer

The accused is charged with wilfully injuring himself and in the alternative negligently ~~wounds~~ injuring. The accused has to be found guilty of "intent" in the first and "blameworthy" in the second. The prosecution has failed to prove intent. There is only the evidence in the statement by accused produced in evidence and the hazy medical evidence. There is the diagnosis of Major Walter stating that the accused is normal in every way. I submit that there is no evidence before the Court to properly ~~convict~~ convict the accused on either charges and ask that "~~the~~" both charges be dismissed.

Prosecuting Officer was not called on for a reply.

Defending Officer's submission is not allowed by Court.

D.O. first witness for defence

The accused B 55369 Pte Joseph Thorpe R. Regt C. having been duly sworn states; -

Defending Officer.

I propose to submit the evidence of the accused in Chief by reading to him his prepared statement in consultation with his defending officer

The Court rules that that procedure will not be allowed and evidence in Chief will have to be ~~produced~~ adduced viva voce.

I was born Broadsworth, ~~Yorks~~ N. English Parents on 10 May 17. Went to Canada in 1927 at 10 yrs of age. settled at Charlton, Ont Nr. Kirkland Lake. Went to 2nd form High School quit at age of 16. I went farming for awhile then "$" in 1938 went to Lake Shore Gold mines as a driller and continued until 13 Aug 40 when I enlisted. When I first started I was getting ~~$~~ 4.6 for an 8 hr shift and that was

any one of these defined
neurasthenic categories which
can be any human reaction as
abnormal and warrant consideration
in altering a man's actions.

re examination:-

Human beings are suggestible and
more so in groups than in crowds.
What rises do they more easily
follow. What rises would they
do build more difficulty. Examples
in the hands of Jackson, Lenin
and Hitler and such personalities
all amply this. Military history
provides similar examples.

By the court

The physician has demonstrated
for his diagnosis no financial
evidence and only such evidence
for neurasthenic diagnosis
comes from the mans story,
the physicians observations of
the man and his body. If there
is no confirmation of the mans
story the physician has to
rely on the judgment of the
reliability of his evidence.
The reliability of the mental
diagnosis depends on clinical
judgment of the physician in
weighing those elements which
he has gathered and weighed.

DH
Prosecution closed

RP 8 S (BB) employed
Lieut.

and not "one".) The magagine was on. When I heard the mortar shells come over, I closed the bolt and rolled over on my right side to get into my trench with the rifle parallel to my legs and practically between the two. I rolled right into the trench and my rifle went off as I rolled over. There were sticks and grass all around the trench. No cover over the trench. Boots sticking out on the side of the trench. I think a stick or something caught and caused the rifle to go off. From the time I heard the bombs until I rolled into the trench was only a matter of 2 or 3 seconds. I closed the bolt automatically. When you pull the bolt back and with magagine it puts a round in the chamber. I was always taught when in battle to load your rifle and keep it loaded at all times. Not when cleaning it. I had just started to clean it. I knew my magagine had rounds in it. ~~When~~ I rolled in trench I heard a round go off and felt a burning in my foot. I am fit now and want to go back into action. I have had a brother killed and would like to get revenge. He was in the R H & I. My brother was killed about a month ago, after this happened. There is no reason why I should shoot myself because I joined up to fight for my King and Country. I am not married. No dependents but send my mother $20 per mo. I had no worries on my mind. I'd do my best to fight if I went back now. I want to go back and I'm ready to go back this afternoon.

Cross-examination

The prosecutor states that he proposes to question the veracity of the accused's statement that he is willing and wishes to go

raised to $5.15. Enlisted with Algonquin transfered with them in Canada and New and came to U.K. 18 Sep 43 as a re-inforcement. I spent sometime in reinforcement unit and went to R.H.Q.C on 24 Dec 43 came overseas to France with them 6 Jun 44. I saw action with them until this happened 22 Jul 44. I actually went into action with the Royals about night of 12th and was in constantly without rest as a rifleman until 22nd. This happened about 1500 hrs. Pte Beaton was in the trench at the time this happened. I was sitting on the left hand side of the trench going to clean my rifle. I chose this time to clean my rifle because the mortars had quietened down for about half an hour. I had cleaned my rifle two days before, not since because we were too busy going into attacks I had fired it constantly. I thought I would be safer on side of the trench because if any mortars came over I could get into it fast. The trench about 6' in length 2 ft across about 5' deep. There was just enough room for the two of us and not enough to clean rifle and that is the reason I was sitting on the edge of trench. I started cleaning my rifle, heard the mortars coming over, as I went to roll into the trench, the bayonet was not on my rifle. There were tanks in the vicinity witness demonstrates showing that he was sitting at the back of the trench facing the front and at about the middle of the same Pte Beaton was to my right in the trench. My legs were outside the trench and parallel thereto. The bolt was open, the magazine was on (Prosecutor objects and states that the witness first said that the magazine was "off"

Q. Served from 1940 till 22 Jul 44?
A. Yes Sir.
Q. Do you consider yourself well trained soldier?
A. As well as any.
Q. Well trained with rifle?
A. Yes, Sir.
Q. Were you shaken up very much?
A. No Sir
Q. Not at all?
A. No Sir.
Q. You knew other people had been badly shaken?
A. Yes, sir I had seen them too.
Q. Do you know L/Cpl Dempsey?
A. Yes. Sir. ~~I know~~ just to see him he was in the same Coy. I don't know when he was wounded. I know of one S.I.W. in my regiment Pte McKinnon, knew of no others. I had not heard of people S.I.W's prior to 22 Jul 44. I remember a major took a statement from me at 7 Can Gen Hosp could not tell you the date or his name. I think it was the doctor who gave evidence here this morning the third witness. Had accident at quiet time while in reserve Coy. quiet compared to what it was I don't recall telling him about mortar bombs. I don't know if there is anything in my signed statement about cleaning my rifle. As the statement now stands there is nothing in it stating that I was cleaning my rifle. The slit trench was dug the night before I was there all night and until 1500 hrs following afternoon, in reserve, ~~some distance~~ the enemy no where near. We were busy morning so I didn't have opportunity to clean my rifle before. Must get some sleep if you are on guard all night. I could not have cleaned in the trench because dirt falls in again. Pte Seaton

return to the front line.
R.P. 83(2) Complied with.

The Court rules that this cross-examination must not extend to verbal evidence of bad character, and cannot be given for the prosecution but the prosecution has the right by cross-examination to test veracity of statements given by accused. (MM p 69 top read by the Court)

Q. "were you ever charged with an offence that would indicate that you were not willing to serve your King and country"
A. I was charged once with an offence that would indicate that I was not willing to serve, that was a charge of malingering.
Q. Was that just prior to the invasion of Europe?
A. That was before
Q. Just before?
A. I could not say sir.
Q. Was it the 2nd of June?
A. I don't know sir.
Q. Was it a few days?
A I don't know.
Q What was the charge?
A. It was my ears when I was in 7 Can Gen I was getting treatment for my ears.
Q. You were charged with contributing deafness with intention of evading duty?
A Not deafness. My ears were sore. They had me up for that charge and I was convicted.
Q. Was there any other charge against you that would lead anyone to believe that you were unwilling to serve?
A. No sir.
Q. Were you ever charged as a deserter?
A No, I was A.W.L. for 54 days
Q. Were you convicted on that charge?
A. yes sir A.W.L.

the chamber was off.

Q. What was it you heard?

A. I heard the accused say the magazine was off.

R.P. ¶ 83(B) Complied with.

Prosecution closing address:-

I wish to point out the inconsistency of the accused evidence which is quite apparent he is intelligent and yet we find on his own record he is willing to admit he went absent for 5 days and that he was also charged and convicted with malingering as he called it. Charge was evading duties. That was just prior to invasion of the Continent. I submit his past actions therefore could count materially in deciding if this wound was wilfully with intention of evading service. The prosecution finds itself in nearly all these cases has no eye witness. The accused knew witnesses were going into action. There is nothing in accused statement saying this man was in slit trench at the time. Then you have evidence of Major Walters that the ifom obtained by questions and answers from accused that he was in reserve not front rank when accident occurred. Then later accused is examined by member of Provost Corps I submit he is intelligent enough to know that what he told Major Walters was not good enough and that he therefore gave a different story which is now before you. Until cross-exam did not say anything about point rack but under fire and rolled into trench in an emergency and safe mark off. Points extraordinary, also that he had to roll into head first. Closed bolt automatically but did not put safety catch on automatically as he was accustomed to. If he

was dug in trench and there was not enough room. I was the easiest way to clean rifle and was taking safety precautions in setting that way. I was going to go into trench head first. I was going to roll in. I did not think of rolling feet first. I closed bolt because that was automatic. Heard the mortar closed the bolt and rolled into trench. That is the way it happened. I did not tell the psychiatrist a different story. I told him the same thing that I am telling you now. I don't know why it isn't in his report. I have never seen the psychiatrists report. (Accused reads psychiatrists report) That is the report I gave him. It is automatic to put on the safety catch after closing the bolt but I do not know why I didn't put on the safety catch. The wound is perpendicular but not through and through according to doctor who made the examination.

Q. When asked by your counsel how this incident occurred you first said that the magazine was "off" the bolt was open and after that again the magazine was "on".

A. No, sir I said the magazine was "on". I never said it was "off".

Q. You realize the portion of your answer.

A. Yes, sir the magazine was on.

R.P. 93(3) Complied with.

Defence closed.

fourth witness for prosecution in rebuttal

L/18012 Pte Pollard A.N. Provost Corps. sworn states:

Q. When counsel for defence asked the accused how this incident occurred and the accused started to demonstrate what did the accused say.

A. I understood the accused to say

had time to close bolt why didn't he go into kneeling first first. I suggest to you that it was the only way the accused could explain having shot himself. Draw your attention to evidence of the witness during its demonstration called in rebuttal who was facing the accused who stated that the accused first said that the magazine was off. I submit that there is sufficient evidence to find the accused guilty on the first charge.

here to-day human beings are
often guilty of social
lukewarmness, but the important
thing in the army is to try
and make something out
of this man - wherever he comes
from the men of his army
and I ask for an recommendation
that this soldier be returned
to the line at the earliest
possible opportunity. Yes
this last expression of his
willingness is a sure that he
wants to learn quick this
court

Ethel
Rogers
Pres

E 3. Plea in mitigation

It is hard to picture a hard
sick man as this man was
in civil life to find himself
in the predicament he is in to day.
when one finds one of them as
a soldier convicted of such
a disgraceful crime as this it
is very hard to picture a
man possessing that fine
qualities as such men portray
is not the first time he has by virtue
of his own negligence or
premeditated plan to commit
such a thing as a murder on his
own body. I dare not to
labour this mans civil case
to say that this man finds
himself in this predicament
by virtue of a course of
conduct he has pursued during
his army career, probably
due to lack of control rather
than by choice. He would
be ashamed to return to Canada
without having to his comrades
and his country that he is
equal to carrying out his
expressions of loyalty and
patriotism to the cause. and
if such must be the case it
certainly will be most
unfortunate. I therefore can
only ask that the court exercise
mercy as this led may descend
upon all as said and done. and
to the psychiatrist has said

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.55369 Pte Thorpe, J., Royal Regiment of Canada, attached 21 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS Major M.T. Kobrinsky, No.21 Cdn Gen Hospital RCAMC, sworn, states:

I am Major M.T. Kobrinsky, Medical Officer at 21 Cdn General Hospital. B.55369 Pte Thorpe, J., was admitted to 21 Cdn Gen Hospital on 2 Oct 44. Review of his medical documents reveal that he had received a gunshot wound in his left foot on 22 Jul 44. The wound was a penetrating wound of the left foot which caused a fracture of the second metatarsal. On examination to-day there is evidence of an old injury in the region of the second left metatarsul. There is still present a longitudinal two and a half inch superficial tender scar otherwise healing has been complete. In all likelihood there will not be any necessity for lowering his 'L' grade. He should be fit for full duty in approximately two weeks' time. The wound was of such a nature that it could have been caused by a weapon in the man's own hands.

The accused declines to cross-examine this witness.

M.T. Kobrinsky Maj
Witness.

SECOND WITNESS G.7050 L/Cpl Wheaton, G., Cdn Provost Corps, attached 21 Cdn General Hospital, sworn, states:

On the 4 Aug 44 I interviewed the accused, whom I recognize, in company with L/Cpl Britney, Cdn Provost Corps, at No. 7 Cdn General Hospital. We identified ourselves to the accused as members of the Cdn Provost Corps and informed him we were investigating the circumstances surrounding his wound. He was cautioned in the following manner, that he did not have to make a statement unless he wished to do so but if he did, it would be taken down in writing and may be given in evidence. He understood the caution. He made a statement and the statement was reduced to writing. After it was reduced to writing, it was read over to him and he read it himself and then signed it. This is the statement I refer to.

Q. Are there any alterations, erasions or interlineations since it was signed?

A. No, sir, it is in the same form. That is the accused's signature. He was not under arrest at the time. The statement was voluntary. There were no promises of reward, threats or inducements made.

The accused declines to cross examine this witness.

G. Wheaton
Witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'

THIRD WITNESS Major J.A. Walters, No.10 Cdn Gen Hospital RCAMC.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and a certified true copy is attached hereto as Exhibit 'B'.

Officer taking Summary

I do not require the attendance of Major J.A. Walters for the purpose of cross-examination.

Accused

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"No, there is nothing I have to say at this time".

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
13 Oct 44.

Officer detailed to take Summary of Evidence.

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Re. Thorpe, J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-55369 Pte Thorpe, J. R Regt C (12 Bn 2 CBRG)

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(2)	Not Guilty	Not Guilty	
2nd	AA Sec 40 (Alt)	Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 62 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 6 months.

(Sgd) N/A — Judge-Advocate, if any.
8 Jan 45 — Date awarded.
(Sgd) "G.L. Taschereau" Major — President. (RP 45, 50.)
FGCM
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) "ELM Burns" Maj-Gen
Date 11 Jan 45 — Commanding
Cdn Sec GHQ 1 Ech 21 A Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-55369 Pte Thorpe, J.	13 Jan 45	"A.CHood" Lt-col OC 12 Bn 2 CBR Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified True Copy

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FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA21) 40/P.AFB/1698 (40/01) 4/38B

Convened by Order of "ELM Burns, Maj-Gen Comd Cdn Sec GHQ 1 Ech 21 A Gp dated 5 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55369	Pte	Joseph	THORPE	(a) R Regt C (b) 12 Bn 2 CBRG

certified true copy
J.J. Mcnaughton Major
D.J.A.
Cdn Sec 2 Ech GHQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date) 5 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and ~~Offrs and Asst~~ if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (a) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused has (have) been supplied with copies of the Charge Sheet and has had sufficient time to study same.~~ ~~The Prosecutor informs the Court that accused has (have) been supplied with copies of the Charge Sheet and has had sufficient time to study same.~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to --- as interpreter? Ans --- "ELT"

The Interpreter is sworn.(1) Do you object to --- as shorthand writer? Ans --- "ELT"
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Asst Advs and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.L. Taschereau	R de Chaud att No 20 Sp Emp Coy
Member	Capt	G.T. Moore	11 CBR Bn
Member	Capt	E.B. Van Dine	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp
Judge-Advocate			
Prosecutor	Major	R.F. Willson	1st Bn Linc & Welld att Cdn Sec GHQ 1 Ech 21 A Gp
Defending Offr	Capt	WGD Hungerford	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-55369 Pte Thorpe, Joseph before arraignment make(s) (no) (a) plea

Royal Regiment of Canada att 12 Bn 2 CBRG (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No sir .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the both charges charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the Both charges charge(s), and allowed on the N/A charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Yes Sir Under Oath Do you intend to call witnesses on your behalf ? Ans. No sir . Are they witnesses as to character only ? Ans. No sir .

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1) [illegible]

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. Yes Sir as to character

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex N/A and Ex "B" respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes sir .....(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried seperately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Oversea RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"G.L. Taschereau" Major
Pres - FGCM.

CHARGE SHEET

The accused Reg No B-55369 Pte Joseph THORPE, of the Royal Regiment of Canada, attached 12 Bn 2 CBRG a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 15(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 22 Jul 44 while with his regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 22 Jul 44 while with his Regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

"A.C. Hood"
(A.C. Hood) Lt-col
OC - 12 Bn 2 CBRG.

In the Field
6 December 1944

To be tried by Field General Court Martial

"E.L.M. Burns" Maj-Gen
CIC
Cdn Sec GHQ 1 Ech 21 Army Gp

In the Field
5 January 1945

"G.T" Pres FGCM

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55369	Pte		Joseph	THORPE	R Regt C 12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on 5 Jan 45 endorsed by me, ("ELMB", "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; "ELMB"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. "ELMB"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. "ELMB"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Major	G.L. Taschereau		R de Chaud att No 20 Spec Emp Coy	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)		(Unit.)
Capt	D.M. Thompson		CH of O att No 20 Spec Emp Coy	
Capt	E.B. Van Dine		RCASC att Cdn Sec GHQ 1 Ech 21 A Gp	

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
Capt	G.T. Moore		11 CER Bn	

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)		(Unit.)
	———			

On Active Service in the Fd

in BELGIUM (Country.)

Dat 5 Jan 45

"ELM Burns" (Signed personally. RP 105 fn 2.)

Maj-Gen (Rank.)

(ELM Burns)
Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3)
40/P & S/1697 (6148)

Approved:
"B.W. Howard" Maj
DJA

"G.L. Taschereau" Major
Pres FGCM

MEDICAL CERTIFICATE

I certify that I have this morning examined Pte Thorp#, J.,
R Regt C and find him fit to undergo trial by Court-Martial.

"J.P. Middlebro" Major
Medical Officer

Date 8 Jan 45

"G.L. Taschereau" Major
Pres FGCM

B-55369 Pte Joseph Thorpe
R Regt of C att 10 Bn 2 CBRG

D-3
First Witness for the Prosecution

Major J.P. Middlebro, RCAMC, att 2 Cdn Gen Hosp having been duly sworn states:

I examined the accused. I found through and through wound through the left foot. There is a wound on the sole under the centre of the transverse arch, and on the dorsum about 1½" long lying between the 2nd and 3rd metatarsal. This has been partly surgical in nature. The axis of the wound is down and forward through the foot. The 2nd metatarsal has been injured. There is no disability but the foot may be painful when in use for a time. It could have been caused by a weapon in the accused's own hand.

Cross-examined:

With a period of retraining he could return to the line in a period of 6 weeks.

Re-examination:

His foot should be exercised for 6 weeks.

RP 83(B) complied with.

Second Witness for the Prosecution

U-2050 Sgt Gatehouse, W.H. SIS, C Pro C having been duly sworn states:

I know the accused. This afternoon I saw him. I handed him the statement. I read it over to him. He said the statement was his. He said he had been cautioned before making the statement and he said the persons to whom he made the statement had identified themselves. He said this was the original statement, that it was voluntary and he had signed the caution and statement. He adopted it as his own statement.

The Defence has no objection.

Statement read to the Court marked as Exhibit "A" is attached herewith.

No Cross-examination.

RP 83(B) complied with.

Motion by the Defence

The Defence moves for dismissal on both charges. The Prosecution has failed to establish a prima facie case which would indicate intent and for blameworthiness. The first evidence by the MO told of the present condition of the accused's left foot. He admitted that the accused could go back to duty at this time. The second witness produced a statement made by the accused on 4 Aug 44. I submit the accused has given a reasonable explanation as to what occurred. Under these circumstances he did the normal thing. I submit that both charges have no evidence to convict upon. My motion is for dismissal on both charges.

Reply by Prosecution:

The motion now is not as to guilt but as to sufficient evidence so as to put him on his defence. The circumstances are not normal. He was shot in the foot. He should explain. There is sufficient evidence tp put him on defence in both charges. Many of the witnesses are not available now but it is necessary to go on with the case. The motion should be disallowed and the accused put on his defence.

First Witness for the Defence

B-55369 Pte Joseph Thorpe, R Regt of C, att 10 Bn 2 CBRG, having been duly sworn states:

I was sitting on the left hand side of the trench with the rifle across my knee. I pulled the bolt back. I heard the mortar bombs coming over. I slammed the bolt forward and went to roll into the trench. The rifle went off. It must have caught on something as I rolled over. The trench was 5' deep. I flopped into it as quickly as I could. I am right handed. My right hand was not near the trigger. We were the reserve coy at this time. Had been in action since 12 Jul 44. The accident happened on 22 Jul. During the 10 days we were pursing the enemy. I am a rfmn. We were holding at Etterville for 7 days. I never asked to be relieved from the line. My Pl offr or Sgt never complained of me. Pte Seaton was with me. I told him I felt a burning in my foot. I did 21 days detention in England for malingering. I went back to the regt and came over with them. I want to go back to get revenge for my two brothers who have been killed. One with the RHLI and the other with the RCE.

Cross-examination:

I had my rifle since Sep 42. It was a normal rifle. There are two trigger pressures.
There were sticks and things around thetrench. I did not se the rifle afterwards. I do not know if there were sticks around the rifle. We were under shell fire and mortar all the time. I was used to it. I could tell if the shell was "for me". Mortars were dropping close to us al all times. We could not hold normal meal parades. Heavy shelling was steady. There was 88.100. There had not been many casualties. None in the Pl. or Coy that day. We were shelled all day without casualties. There was no small arms fire. We generally jump in our trench as fast as we can. Pte Seaton was in the trench with me. He is now wounded and back in the UK. I am not normally nervous. I'm just like the rest under shelling. I had started to clean it when the mortar came over. It was about 1400 hrs . I was just pulling the bolt out when I heard it coming over. I left the mag on. I don't normally clean it with the mag on. I had no time to see if safety catch was on. The shells were dropping around 50' away. In front and in back. About every 15 or 20 mins. I don't know if this one was in front or behind. It was close. I didn't see it land.

RP 83(B) Complied with.

Further remarks by the Defending Officer.

I want to say that vthe accused has expressed the desire to return to his regt. In addition to this desire he feels he has personal revenge as two brothers have been killed.
He wants to contribute to the traditions of the regt and prove he is a good soldier.
It is six months since it happened. He has undergone close arrest for two months.
He deserves serious considerations on the part of senior authorities. One or two Echelons should have brought him to trial sooner. There must have been an oversight.

"G.L. Taschereau" Major
Pres FGCM.

Closing Address by the Prosecution:

The facts are fresh. Not necessary to review. The case turns on credibility of the accused. It is not normal to be shot through the left foot. If he is telling the truth it may happen. He is not nervous. Shell all day; close to him; no casualties. He had 10 days of action in a defensive roll where they had been shelled. I suggest there is background of facts that might have led to this. I cannot go further into character evidence. As it is the statement and circumstances under which it took place are before you. There is some part of the story untold. The question of intent must be left to the Court. If the story has not been told he certainly was negligent. If the Court think he was negligent then there is grounds for conviction, under the second charge.

Remarks by the Defence:

The accused has given a reasonable explanation of the facts. He has told you the best of his recollections of what occurred. It happened in Jul 44. I submit it would be impossible to convict on first charge. I am prepared to accept the court's judgement on the second even though my friend has said a standard must be maintained.

E-1

The accused gives evidence as to character:

Born 10 May 1917; signgle; was a soldier in Lake Shore Gold Mine; an older and younger brother killed on this front in this War; Assign $20.00 to my mother.

Exhibit "A"

No 8 Provost Coy — 4 Cdn Armd Div

No.1 SIS — 1 Cdn Army — "G.L. Taschereau" Maj Pres FGCM

Field — 4 Aug 44 — "E.P. Lee" Major Pres

B-55369 Pte. THORPE J., 7 Sect 15 Fl "C" Coy, 2 Cdn Inf Div
Royal Regt. of Can.

SUSPECTED SELF/INFLICTED WOUND

1. On the 4 Aug 44, the a/m soldier was interviewed by L/Cpl Britney and the writer at 7 Cdn. Gen. Hospital where he was being treated for gunshot wound in the left foot.

2. After being cautioned the following statement outlining the circumstances of this incident was obtained from him.

BEGINS: "I am Joseph THORPE age 27 years. I enlisted 13 August 1940 and arrived in France 7 July 1944 with my regiment. We first went into action near the town of TILLYVILLE. We were here for six days when we were relieved by the ESSEX. We went back for a day and a half as a reserve regiment. At LOUVIGNY we engaged the enemy and took some prisoners in an orchard. We had a nights rest then we went to a place where I had my accident. We had dug slit trenches the night before this happened.

I was sitting on the left hand side of my trench with the rifle across my knees, when I heard some mortar bombs coming over. I ducked the rifle and rolled to drop into my trench. I heard the shot and felt a burning in my foot. Pte. SEATON came to my assistance and gave me a hand to take my boot off. L/Cpl SUTTON called a stretcher bearer who gave me first aid. They carried me to a jeep and I was taken to a F.D.S.

First — Before this accident happened I was offered a better job by my Coy Commander driving his jeep for him.

I don't know why my rifle went off unless it caught on something. It was in good condition. I did not shoot myself intentionally and as soon as I can walk I want to get back up there with my unit.

Witness: L/Cpl BRITNEY E. — Cpl: JOSEPH THORPE
8 Cdn Pro Coy

.....L/Cpl
(C-7050 G. SEATON)
8 Cdn. Provost Coy.

This statement was taken by C-7050 L/Cpl Wheaton, G., No 8 Provost Coy, witnesses by L/Cpl Britney, No 2 Provost Coy at No 7 Cdn Gen Hosp, 4 Aug 44.

C-7050 L/Cpl Wheaton, G.
No 8 Provost Coy
4 Cdn Armd Div

This is Exhibit "A" referred to in the Summary of Evidence in the case of B-55369 Pte Thorpe, J., taken before me this 13th day of October 1944.

"JWG Thompson" Lt-col
Officer taking Summary.

P.T.O.

This is Exhibit "A" referred to in the Summary of Evidence in the case of B-55369 Pte Thorpe, J., taken before me this 7th day of December 1944.

"J.R. Barre" Lt
Officer taking Summary.

I, B55369 Pte Joseph Thorpe desire to have an officer assigned to represent me at my trial by Field General Court-Martial.

I desire the services of Capt W.G.D. Hungerford if he is available.

"Pte J. Thorpe"
(Signature of accused)

Date 7 Dec 44.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-55369 Pte Thorpe, J., Royal Regiment of Canada, on strength 12 Bn 2 CBRG, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 15(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40)

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Capt R.C. Anderson, Med Officer, 8 Cdn Gen Hospital, sworn states:

I am Capt R.C. Anderson, Medical Offr at 8 Cdn Gen Hospital. I examined the accused today and as a result of my examination I find the healed scar, about two and a half inches long, in the dorsum of the left foot between the second and third metatarsul bones. According to the documents, this injury occurred on 22 Jul 44, and there was a fracture of the second metatarsul bone. At present examination the fracture seems to be completely healed. I believe this man is fit for duty without change in category.

The accused declines to cross-examine this witness.

"R.C. Anderson" Capt
Witness. RCAMC

Second Witness G-7050 L/Cpl Wheaton, G., Cdn Provost Corps, 8 Cdn Pro Coy.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement taken by him from the accused and signed as such, has been read to the accused and is attached hereto, as Exhibit "A".

"J.R. Barre" Lt
Officer taking summary.

I do not require the attendance of G-7050 L/Cpl Wheaton, G., for the purpose of cross-examination.

"Pte J Thorpe"
Accused

Third Witness Major J.A. Walters, 8 Cdn Gen Hospital, RCAMC.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and a certified true copy is attached hereto as Exhibit "B".

"J.R. Barre" Lt
Officer taking Summary

I do not require the attendence of Major J.A. Walters for the purpose of cross-examination.

"Pte J. Thorpe"
Accused.

The accused is cautioned as follows:

Do you wish to make a statement of give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to say anything.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

"J.R. Barre" Lt
Officer detailed to take the
summary of evidence.

In the Field
7 Dec 44.

Ex "B"
"E.P. Lee" Major
Pres.

HOSPITAL OR SICK LIST RECORD

Regt. No...B-55369 Surname...THORPE, Joseph, L.

Rank...Pte Unit...R.R. of Canada Age...27

Hospital....No.7 Canadian General Hospital

31 July 44 - Neuropsychiatric Consultation at No.7 Cdn Gen Hosp

Age 27 - Enlist. Aug 40 - UK Sept. 43 - BLA 2 July 44
Action - (2-22 July)

Problem:- Wound L foot with his own rifle. Claims it was accidental while cleaning it. Denies any intent to self inflict wound.

Battle Reactions:- Took close shelling, mortar bombing and carnage, had accident during quiet time while acting as reserve coy. Denies any nervous breaking. Says he was not bothered at all. Willing and anxious to return with his same regt for more action.

Mental State:- (a) At time of injury:- sane, normal, no neurosis, no psychosis.

(b) At Present:- knows nature and quality of acts, fit to plead, stand trial and serve sentance.

Personality	High School, gold miner, minor crimes only. Denies neurotic traits. Had chancre 1942 and treated V.D.S. and cured. Civil and Mil adequacy, no let down, endured all training. Glad to get in action. Excellent morale and wants to return.
Affect	
Intelligence	
Character	
Morale	
Civil and Mil Record	

Exam.:- No neurosis, no psychosis, no psychopathy.

Diagnosis:- Psychological N.A.D. - NYSI, fit for full combat.

"J.A. Walters" Major, RCAMC
(sgd) J.A. Walters, Maj. RCAMC
M.P.

This is a certified true copy of Exhibit "B" referred to in Summary of Evidence in the case of B-55369 Pte Thorpe, J.L., taken before me this 13th day of October 1944.

"JWG Thompson" Lt-col
Officer taking Summary.

Officer taking Summary.

This is Exhibit "B" referred to in the Summary of Evidence in the case of B-55369 Pte Thorpe, J., taken before me this 7th day of December 1944.

"J.R. Barre" Lt
Officer taking summary

Sheet L Destroyed 7 Dec 42

No B55369 Name Thorpe J | Sqn, Battery, or Company | Corps CIC | Date of enlistment 13Aug 40 | Badges | Service or Proficiency Pay | Sheet No 1

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Signature OC Company, etc "J Dowsley" Lt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo	20.10.41	Pte		AA 15(1) AWL 19 days 11 hrs.	L/Cpl McLeod	14 days CB	10 11 41	Lt-col Stewart	Forf 20 days pay.
Debert	12.4.43	"		AA 15(1) AWL 2 days	Cpl Bach	14 days CB 6 days forf pay	17 Mar43	Capt Kerbert	Forf 2 days pay
"				SOS as deserter 13 May 43	DO 79 d/17 May 43				
"	18 4 43	"		AWL from 0700 hrs 18.4.43 to 2220 hrs 9.6.43 (43 days)	Documentary	28 days Det	22.6.43	Lt-col G.M. Alexander	
	22 Nov 43			CERTIFIED TRUE COPY OF ORIGINAL	"J.DOWSLEY" Lt				
Field	16 Apr 44	Pte		AA 15(1) AWL from 1830 hrs to 2230 hrs 16 Ap 44 (4 hrs)	Cpl Hardman G CSM Gordon H	5 days CB	17 Apr 44	Major RG Young	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	30 Apr 44	Pte		AA 15(1) AWL from 2300 hrs 30 Apr 44 to 2230 hrs 9 May 44 (8 days 23½ hrs)	Sgt Ekdahl CSM Gordon	21 days forf pay 14 days CB	11May44	Lt-col Young	Forf 9 days pay.
Field	2Jun44	Pte		AA 15(1)In that he WOAS at 0800 hrs 2 Jan 44 appeared before the unit MO wit the intention of evading his duties, counterfeited deafness.	Documentary	21 days FP	3 Jun 44	Lt ColAM Young	Forf 21 days pay FM&I 149 (1)(b)

CERTIFIED TO BE TRUE EXTRACT FROM REGIMENTAL BOOKS AND DOCUMENTS IN MY CUSTODY.

"G.Stewart-Patterson"
(G.Stewart-Patterson) Lieut
Officer IC Records "X"
Cdn Sec GHQ 2 Echn 21 A Gp.

PMHJG-J

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 55369 PTE THORPE, J. RR&RCS (2 CDN R CONG)

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 18 (2)	Not guilty	Not guilty	
2nd	AA sec 40 alternative	Not guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N.A. beginning on (date) N.A. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 62 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of 6 months.

(Sgd) N.A. Judge-Advocate, if any. 8th Jan 45 Date awarded. (Sgd) W. Jasperson Major President. (RP 45, 50.) FGCM

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) E.L.M. Burns Lieut-Gen

Date Commanding Officer i/c Corps Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B55369 Pte Thorpe, J	13 Jan 45	O.C. 12 Bn, 2 C.B.R. Group Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160.

52-66

(Page 1 in lieu of AFA81 40/P.2C.S./1688 (4610))

4/38B

FIELD GENERAL COURT-MARTIAL

PROMULGATED 6 APR 1945 JAN BRANCH G.H.Q.

Convened by Order of Lt-Gen E.L.M. Burns Offg Gen Comdg 1 Can Corps GHQ dated 3 Jan 45

(If the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B.55369	Pte	Joseph	Thorpe	12 Bn RCR 2 Can Inf Bde 2 Can Inf Div

PROCEEDINGS REVIEWED 10 Apr 45 [illegible] Reporter Lieut

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 21 APR 45 JAG BRANCH GHQ 2 CAN INF DIV

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 8th Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26/107 -

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.A. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.T. Jasperson	R de Chaud att No 20 Coy 3 Bde EMP
Member	Capt	G.T. Moore	11 C.B.R. HQ
Member	Capt	E.R. Van Dine	RCASC, att C&U Sec CH&R 1 Can 21 A Gp
Judge-Advocate			
Prosecutor	Major	R.F. Wilson	1st Bn HWC & Mx att Claims C HQ 1 Can 21A Gp
Defending Offr	Capt	W.S.D. Honeyford	RCASC att CH&R 12 Bn 2 Can 21A Gp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B 55369 Pte Joseph THORPE before arraignment make(s) (no) plea

Royal Regiment of Canada att 12 Bn RCR R.C.B.K.G. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

18/4 p.120

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. N o.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the both charges charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the both charges charge(s), and allowed on the N. A. charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 80(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes, Sir. under oath. Do you intend to call witnesses on your behalf? Ans. No Sir. Are they witnesses as to character only? Ans. No sir.
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes Sir as to character.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, Reg.No. B.55369, Pte. Joseph THORPE, of the Royal Regiment of Canada, attached 12 Bn. 2 CBRG, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 22 Jul 44 while with his Regiment in the line by discharging his rifle wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Ar my Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 22 Jul 44 while with his Regiment in the line so negligently handled his rifle as to shoot himself in the left foot thereby rendering himself unfit for service.

In the Field
6 December, 1944

(A.O. Hood) Lt-Col
OC - 12 Bn 2 C.B.R.C.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
5 January, 1945.

OIC
Cdn Sec GHQ 1 Ech - 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55369	Pte		Joseph	THORPE	R Regt C 12 [redacted] CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 5 Jan 45 endorsed by me, ~~or by an offr of my staff for that purpose~~, To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~ ;
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached herein.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.L. Taschereau	R de Chaud, att No 20 Spec Emp Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D.M. Thompson	CH of C, att No 20 Spec Emp Coy
Capt	E.B. Van Dine	RCASC, att Cdn Sec GHQ 1 Ech 21 A Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	C.T. Moore	11 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 5 Jan 45

E.L.M. Burns (Signed personally. RP 105 fn 2.)
(E.L.M. Burns)

Maj-Gen (Rank.)

Commanding Cdn Sec GHQ 1 Ech - 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/P&S/1007 (6142)

(See overleaf for oaths and notes for use on trial.)

Approved DJA

MEDICAL CERTIFICATE

I certify that I have this morning examined Pte Thorpe J.

and find him fit to undergo trial by Court Martial.

Date 8 Jan 45

(Medical Officer.

1. G 55102 Pte Lapointe [illegible]
Rde [illegible] attd 1 CBHQ

A. J. Pearson Major
Asst J.A.G. M.D.

1. B 55369 Pte Joseph Thomas Lapointe
R Regt of C attd 1st Bn 2nd CBHQs

D-3
First Witness for the Prosecution

Major J. P. Middleton, RCAMC, attd 2 Can Gen Hosp
having been duly sworn states:

I examined the accused. I found a through + through wound through the left foot. There is a wound on the sole under the centre of the transverse arch; And on the dorsum about 1½" long lying between the 2nd + 3rd metatarsal. This has been partly surgical in nature. The axis of the wound is down + forward through the foot. The 2nd metatarsal has been injured. There is a no disability but the foot may be painful when in use for a time. It could have been caused by a weapon in the accused's own hand.

Cross examined:

With a period of retraining he could return to the line in a period of 6 weeks.

Re-examination:

His foot should be exercised for 6 weeks.

RP 83 (B) complied with.

Second Witness for the Prosecution

U 2050 Sgt Gatehouse, W.H. S.I.S. CPoC
having been duly sworn states:

I know the accused. This afternoon I saw him. I handed him the statement. I read it

over to him. He said the statement was his. He said he had been cautioned before making the statement and he said the persons to whom he made the statement had identified themselves. He said this was the original statement, that it was voluntary and he had signed the caution and statement. He adopted it as his own statement.

The Defence has no objection.

Statement read to the Court marked as Exhibit "A" is attached herewith.

No Cross-examination.

R.P 83(13) complied with.

Motion by the Defence.

The Defence moves for dismissal on both charges. The Prosecution has failed to establish a prima facie case which would indicate intent and/or blameworthiness. The 1st evidence by the MO told of the present condition of the accused's left foot. He admitted that the accused could go back to duty at this time. The 2nd Witness produced a statement made by the accused on 4 Aug 44. I submit the accused has given a reasonable explanation as to what occured. Under these circumstances he did the normal thing. I submit that both charges have no evidence to convict upon. My motion is for dismissal on both charges.

J. J. H. 11/9/08. 3. (5)

Reply by the Prosecution:

The motion now is not as to guilt but as to sufficient evidence so as to put him on his defence. The circumstances are not normal. He was shot in the foot. He should explain. There is sufficient evidence to put him on defence in both charges. Many of the witnesses are not available now but it is necessary to go on with the case. The motion should be disallowed and the accused put on his defence.

First Witness for the Defence

B 55369 Pte Joseph Thorpe R. Regt of C attd 10 Bn 2 CBRC having been duly sworn states:

I was sitting on the left hand side of the trench with the rifle across my knees. I pulled the bolt back. I heard the mortar bomb coming over. I slammed the bolt forward and went to roll into the trench. The rifle went off. It must have caught on something as I rolled over. The trench was 5' deep. I flopped into it as gently as I could. I am right handed. My left hand was not near the trigger. We were the reserve coy. at this time. Had been in action since 12 July 44. The accident happened on 22 July. During the 10 days we were pursuing the enemy. I am a runner. We were holding a bridge for 7 days. I never asked to be relieved from the line. Lt Fuller of a sqt never complained of me. Pte Seaton was with me. I told him I felt a burning in my foot. I did 21 days detention in England for malingering. I went back to the regt and came

over with him. I want to go back to get revenge for my 2 brothers who have been killed. One with the 15th H and the other with the RCE.

Cross-examination:

I had my rifle since Sept 42. It was a normal rifle. There are a trigger pressures. There were sticks and things around the trench. I did not see the rifle afterwards. I do not know if there were sticks around the rifle. We were under shellfire and mortar all the time. I was used to it I could tell if the shell was "for me". Mortars were dropping close to us at all times. We could not hold normal meal parades. Heavy shelling was steady. There was 88, too. There had not been many casualties. None in the pl. or coy that day. We were shelled all day without casualties. There was no small arms fire. We generally jump in the trench with as we can. Pte Heaton was in the trench with me. He is now wounded and is back to U.K. I am not normally nervous. I'm just like the rest under shelling. I had started to clean it when the mortars came over. It was about 1400 hrs. I was just pulling the bolt out when I heard it coming over. I left the mag on. I don't normally clean it with the mag on. I had no time to see if safety catch was on. The shells were dropping around 50' away. In front and in back. About every 150 or 20 minutes. I don't know if this one was in front or behind. I didn't see it land. It was close.

RP 83(B) complied with.

Y.S.
C.S.

Further remarks by the Defending Officer.

I want to say that the accused has appeared the desire to return to his regt. In addition to this desire he feels he has personal revenge as 2 brothers have been killed. He wants to contribute to the traditions of the regt and prove he is a good soldier. It is 6 months since it happened. He has undergone close arrest for 2 months. He deserves serious considerations on the part of senior authorities. One or Two Echelons should have brought him to trial sooner. There must have been an oversight.

G.J. Jacksonne Maj.
F.B.C.M.

Closing Address by the Prosecution:

The facts are fairly Not necessary to review.
Then case turns on credibility of the accused.
It is not normal to be shot thru the left
ft. If he is telling the truth it may happen.
He is not nervous. Shelling all day; close to
him; no casualties. He had 10 days' [illegible]
action in - defensive all where they had
been shelled I suggest there is background
of facts that might have led to this. I
cannot go further into character evidence. As to
is the statement and circumstances under
which it took place are before you. There
is some part of the story untold. The question
of intent must be left to the court. If the story
has not been told he certainly was negligent.
If the court think he was negligent then there
is grounds for conviction under the 2nd charge.

Remarks by the Defence:

The accused has given a reasonable
explanation of the facts. He has told you the best
of his recollection of what occurred. It happened
in July 44. I submit it would be impossible
to convict on 1st charge. I am prepared to
accept the court's judgment on the 2nd even though
my friend has said a standard must be maintained.

E-1 The accused gives evidence as to character:

Born 10 May 1917; single; was a driller in Lake Shore Gold
Mine; an older and younger brother killed on this front
in this war; assign $20.00 to my mother.

No 8 Provost Coy
Field

4 Can. Armd Div
4 Aug 1944

B55364 Pte. Thorpe J.
7 Sect. 15 Platoon "C" Coy.
Royal Regt of Canada
2nd Can. Inf. Division

Self Inflicted Wound.

The above mentioned soldier was interviewed by A/Gl Britney F and the writer at No 7 Can. Gen. Hospital on 4 Aug 44 where he was being treated for a gun shot wound in the left foot.

After being cautioned, the following voluntary statement outlining the circumstances of this incident, was obtained from him.

Statement of B55364 Pte Thorpe J.

I am. Joseph Thorpe age 27 years. I enlisted 13 August 40 and arrived in France 7 July 44 with my regt.

We first went into action near the town of Cleryville. We were here for six days, when we were relieved by the Essex. We went back for a day and a half as reserve regiment.

At Roudigny we engaged the enemy and took some prisoners in an orchard. We had a nights rest then we went to the place where I had my accident.

We had dug slit trenches the night before this happened. I was sitting on the left hand side of my trench with the rifle across my knees, when I heard some mortar bombs coming over I closed the rifle and rolled to drop into my trench. I heard the shot and

felt a burning in my foot. Pte Heaton came to my assistance and gave me a hand to take my boot off. L/Cpl Sutton called a stretcher bearer who gave me first aid. They carried me to a jeep and I was taken to a field dressing station. Before this accident happened I had just been offered a better job by my Coy Commander driving his jeep for him.

I dont know why the rifle went off unless I caught on some thing. It was in good condition. I did not shoot myself intentionally. As soon as I can walk I want to get back up there with my unit.

Signed
Joseph Thorpe

Witness
L/Cpl Britney
No 2 Prov. Coy.

Witness
T-1-65.

This statement was taken by
S.7050 L/Cpl. Wheaton S. No 8 Provost Coy
Witnessed by L/Cpl Britney No2 Provost Coy
at No 7 Cdn. Gen Hospital 4 Aug 44.

S 7050 L/Cpl Wheaton S.
No 8 Provost Coy
4 Cdn. Armd Div

This is Exhibit 'A' referred to in the Summary of Evidence in the case of B.55369 Pte Thorpe, J., taken before me this 13th day of October, 1944.

Officer taking Summary.

This is Exhibit 'A' referred to in the Summary of Evidence in the case of B.55369 Pte Thorpe, J., taken before me this 7th day of December, 1944.

Officer taking Summary.

SHEET L DESTROYED 7 Dec 42.

No. B55369 Name THORPE J. Sqn, Battery or Company — Corps c/c Date of enlistment 13 Aug 40 OC Badges — Service or Proficiency Pay — 3/17 MKIV 6 (AFB 122) 40/PAM/328 (3413)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc "J Dowsley"Lt. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shilo	20 10 41	Pte		AA 15 (1) AWL 19 days 11 hrs.	L/Cpl McLeod	14 days C.B.	10 11 41	Lt Col Stewart	Forf. 20 days pay.
Debert	12 4 43	"		AA 15 (1) AWL 2 days	Cpl Bach	14 days CB 6 days forf pay	17 Mar 43	Capt Herbert	Forf 2 days pay.
Debert				SOS as deserter 13 May 43	DO 79 d/17 May 43				
Debert	18 4 43	"		AWL from 0700 hrs 18 4 43 to 2220 hrs 9 6 43 (43 days)	Documentary "J DOWSLEY" LT.	28 days det	22 6 43	Lt Col G.M.Alexander	
	22 Nov 43			CERTIFIED TRYE COPY OF ORIGINAL					
Field	16Apr44	Pte		AA 15 (1) AWL from 1830 hrs to 2230 hrs 16 Ap 44 (4 hrs.)	Cpl Hardman G CSM Gordon R	5 days C B	17Apr44	Major RG Young	
Field	30Apr44	"		AA 15(1) AWL from 2300 hrs 30 Apr 44 to 2230 hrs 9 May 44 (8 days 23 ½ hrs)	Sgt Ekdahl CSM Gordon	21 days forf pay 14 days CB	11May44	Lt Col RG Young	Forf. 9 day pay

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order to appear with trial	By whom awarded	Remarks
Field	2Jun44	Pte	-	AA 18(1) In that he WOAS at 0800 hrs 2 Jun 44 appeared before the unit MO with the intention of evading his duties, counterfeited deafness	Documentary	21 days FP	3 Jun 44	Lt Col AM Young	Forf. 21 days pay FR&L 149 (1)(b)

CERTIFIED TO BE A TRUE EXTRACT FROM THE REGIMENTAL BOOKS AND DOCUMENTS IN MY CUSTODY.

(C. Stewart-Patterson) Lieut,
Officer IC Records "X"
Cdn Sec GHQ 2 Ech 21 A Gp.

PMNJC-J

(10)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.55369 Pte Thorpe, J., Royal Regiment of Canada, on strength 12 Bn 2 CBRC, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS — Capt R.C. Anderson, Med Officer, 8 Cdn Gen Hospital, sworn, sta tes:

I am Capt R.C. Anderson, Medical Offr at 8 Cdn Gen Hospital. I examined the accused to-day and as a result of my examination I find the healed scar, about two and a half inches long, in the dorsum of the left foot between the second and third metatarsul bones. According to the documents, this injury occurred on 22 Jul 44 and there was a fracture of the second metatarsul bone. At present examination the fracture seems to be completely healed. I believe this man is fit for duty without change in category.

The accused declines to cross-examine this witness.

R C Anderson Capt
Witness. RCAMC

SECOND WITNESS — G.7050 L/Cpl Wheaton, G., Cdn Provost Corps, 8 Cdn Pro Coy.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement taken by him from the accused and signed as such, has been read to the accused and [redacted] is attached hereto as Exhibit 'A'.

J R Barre Lt
Officer taking Summary.

I do not require the attendance of G.7050 L/Cpl Wheaton, G., for the purpose of cross-examination.

Pte J Thorpe
Accused.

THIRD WITNESS — Major J.A. Walters, 8 Cdn Gen Hospital RCAMC.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and a certified true copy is attached hereto as Exhibit 'B'.

J R Barre Lt.
Officer taking Summary.

I do not require the attendance of Major J.A. Walters for the purpose of cross-examination.

Pte J Thorpe
Accused.

(11)

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to say anything.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

J R Barr A.

In the Field,
7 Dec 44.

Officer detailed to take the Summary of Evidence.

HOSPITAL OR SICK LIST RECORD

Regt. No...B-55369 Surname...THORPE, Joseph, L.

Rank...Pte Unit...R.R. of Canada Age...27

Hospital....No.7 Canadian General Hospital

31 July 44 - Neuropsychiatric Consultation at No.7 Cdn Gen Hosp

Age 27 - Enlist. Aug 40 - UK Sept. 43 - BLA 2 July 44
Action - (2-22 July)

Problem:- Wound L foot with his own rifle. Claims it was accidental while cleaning it. Denies any intent to self inflict wound.

Battle Reactions:- Took close shelling, mortar bombing and carnage, had accident during quiet time while acting as reserve coy. Denies any nervous breaking. Says he was not bothered at all. Willing and anxious to return with his same regt for more action.

Mental State:- (a) At time of injury:- sane, normal, no neurosis, no psychosis.

(b) At Present:- knows nature and quality of acts, fit to plead, stand trial and serve sentence.

Personality Affect Intelligence Character Morale Civil and Mil Record	High School, gold miner, minor crimes only. Denies neurotic traits. Had chancre 1942 and treated V.D.S. and cured. Civil and Mil adequacy, no let down, endured all training. Glad to get in action. Excellent morale and wants to return.

Exam.:- No neurosis, no psychosis, no psychopathy.

Diagnosis:- Psychological N.A.D. - M1S1, fit for full combat.

J.A. Walters Maj. RCAMC
(sgd) J.A. Walters, Maj. RCAMC
M.P.

This is a certified true copy of Exhibit 'B' referred to in the Summary of Evidence in the case of B-55369 Pte Thorpe, J.L., taken before me this 13th day of October, 1944.

Officer taking Summary.

This is Exhibit 'B' referred to in the Summary of Evidence in the case of B.55369 Pte Thorpe, J., taken before me this 7th day of December, 1944.

J R Bare Lt.
Officer taking Summary.

I, B55369 Pte Joseph THORPE desire to have an officer assigned to represent me at my trial by Field General Court Martial.

I desire the services of Capt W.G.D. Hungerford if he is available.

Date 7 Dec 44

Pte J. Thorpe
(Signature of Accused)

~~[redacted]~~ British Courts - 21

Lyr. Thorpe, A. M.

RECORDED AT CMHQ IN AB 168 [illegible] 57-4)

CERTIFIED TRUE COPY
(D.M. OWEN) LIEUT
D Bowen
Major

RECEIVED 25 SEP 1945 CMHQ
Correspondence to be addressed here.

PROCEEDINGS REVIEWED 23 Oct 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Seventeenth day of May, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of Constantine Garrison, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; */and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

RHE

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[You are hereby appointed
*(1. [illegible] Officers to try the said Court.)
*(2. A Field Officer as President.)
for the following reasons, namely:]

RHE

D.J.A.

Major H.B.H. HYLTON-FOSTER, Barrister-at-law, is appointed Judge Advocate.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong alone be named. In the latter event, the names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	D.F. YATE-LEE,	Bedfs. & Herts

Members.

Rank.	Name.	Regiment.
Captain to be detailed by O.C., 30 Bn. Bedfs. & Herts.		
Lieutenant	F.V. CLAPP.	C.A.C.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "Roger H. Emmett" Lt Col,
Commanding Constantine Garrison.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
14380455 Trooper ALDERSON, J.R. Royal Armoured Corps 116954 Trooper THORPE, S.M. Canadian Armoured Corps	Section 41 Army Act When on active service committing a civil offence that is to say ROBBERY WITH AGGRAVATION CONTRARY TO SECTION 23(1)(a) OF THE LARCENY ACT 1916 in that they at Ain M'Lila on 23 April 44 being armed with pistols robbed Sigha Ahmed Ben Bendiaf of two thousand francs.	Not Guilty Not Guilty	In each case not guilty with aggravation but guilty of simple larceny. Sentence to undergo Detention ALDERSON for 6 months and THORPE for 112 days.	Confirmed "RHE"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(*Signed*) "Roger H EMMETT" Lt Col (*Signed*) "D F Yate-Lee" Major Bedfs & Herts

Commanding Constantine Garrison *Convening Officer* (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twentieth day of May 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and Judge Advocate
2. The witnesses
*(3. The Interpreter**s**.
*(4. The ~~[illegible]~~) FP

*Omit if not applicable

were duly sworn.

Signed this 20th day of May 1944.

H Hylton-Proke Major Judge Advocate

" D.F. Yate-Lee"Major, *President of the Court Martial.* Bedfs & Herts

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. FP

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be committed to prison or detention barrack and) further (direct) RHE

Signed this 21st day of May 1944.

"Roger H Emmett" Lt Col, *Confirming Officer.*

Promulgated and extracts taken in the case of 14380455 Tpr ALDERSON, J.R.

(a) (Dated) 21 May 44 (Signed)

Promulgated and extracts taken in the case of 116954 Tpr THORPE, S.M.

(Dated) 21 May 44. (Signed) "W W Thomas" Lt Bedfs & Herts Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22046) W1.38300/411 60,000 12/42 A.& E.W.,Ltd. Gp.698

Proceedings of a FIELD GENERAL COURT-MARTIAL HELD IN THE FIELD on the Twentieth day of May 1944.

Trial of: No 14380455 Tpr ALDERSON, J.R. R.A.C.
No 116954 Tpr THORPE, S.M. Canadian A. C.

Member of the Court Detailed: by O.C. 30 Bedfs Herts
Captain G.M. ROSSKELLY - Bedfs Herts

Prosecutor: Captain R. DAYNE Solicitor J.A.G's Pool att:HQ N.A.D.

Defending Officer: Lieutenant J.A. BROOKS Barrister-at-law(U.S.). C.A.C.

Interpreters: Adjutant. ROQUES
Adjutant. de LAPEYRE

The Order convening the Court is read in the presence of the accused persons.

Neither of the accused persons objects to be tried by the President and any member.

The President, Members, Judge Advocate and interpreters are duly sworn.

The accused persons severally answer to their names and numbers and are arraigned on the charge.

The Prosecutor makes an opening address.

First Witness for Prosecution: SIGHA AHMED BEN BENDIAF of AIN M' LILA, duly sworn his evidence being interpreted from Arabic to French and French to English states:

" I live with my grandmother Laib Lyanina Beut Said. One day she gave me 2 x 1000 franc notes to buy corn with. It was a month and a half ago. About 1800 hrs in the evening I was reading the Koran. I had the two notes with me. They were by my side.
After I had finished reading I remained in the room where I was. I went out to get some change. I saw two British Soldiers. They were the two accused now present.
They spoke to me in French. They suggested I should buy some items of clothing. They showed me a vest, a pair of pants, a pair of trousers, and a B.D. blouse. They did not show me any thing else. The pants were long woollen pants. I did not buy the articles, because I know the authorities French forbid us to buy any Allied property. While this was going, on, the two 1000 franc notes were in my left hand, which was closed but so that the notes could ~~not~~ be seen.
The accused , on of them, the accused ALDERSON produced a pistol. I think it was a black one. It was like the pistol now shown to me(Exhibit "A") He pointed it at my chest. The he snatched the two bank notes from my hand and ran away. While this was happening the other was not doing anything -He was watching about -was going on and then ran away too. This was all just outside the door of my house. When they ran away I gave chase. My grandmother did not see all that happened. She was cooking in the house. She came out when I called out to her that someone had stolen my money. I have had my money back. I ran after the accused only as far as the Gardamanergie. I had never seen either of them before.

XX

My grandmother did come into the room while the accused still there. She was there when the accused pointed the pistol at me and took the notes. That was just outside the house.
The soldiers did not try to sell me the pistol. During the chase I heard shots fired. How many I do not know.
My father is dead. My grandmother and I live there, the two alone.

xxx declined.

Page 3.

By the Judge Advocate.

When the soldiers spoke to me they said;-"Tu veux acheter des choses."

SECOND WITNESS For Prosecution — LAIB LYAMNA BENT SAID of AIM M'LILA duly sworn, her evidence being translated from the Arabic to the French and from the French to English, duly sworn states:-

I gave my grandson 2 1000 franc notes to get change to buy corn. I don't remember when it was.
That evening, while I was in the kitchen, I heard my grandson talking to somebody and came to see.
He was talking to two soldiers, the two accused. I heard that it was a question of some clothing and they wanted my grandson to buy. They were speaking English and showing the articles. I did not hear xxxx any French spoken. I do not know what they were trying to sell. They had some articles of clothing on either arm, but what they were precisely I do not know. That was inside the house.
My grandson did not buy the articles.
The accused ALDERSON then produced a pistol and threatened my grandson with it, pointing it at his chest. My grandson was afraid. The soldier took the opportunity, snatched the bank notes from his hand, and then ran away. The other meanwhile was standing by the door without doing anything. It was from his pocket that the soldier took the pistol, and threatened my grandson with it. They ran away together, the accused THORPE in front and ALDERSON immediately behind him.
I started shouting and gave chase. I chased them as far as the Gendameir I have had my money back. I have still got some of it left.

xx

Only the two of us live at the house. The grandson's father divorced his wife and lives elsewhere. He is not dead. I have not seen any of the clothing which they tried to sell

Page 4.

since that time.
The Grandson's father never comes to our house.

xxx *The grandson's father is between 50 and 60 years of age. I do not know how old I am.*

THIRD WITNESS for Prosecution — OTHMANZ MEDAH, Auxiliaire de Gendamenire, Aim M'Lila, his evidence being interpreted states:-

About 1800 hrs on the 23 April I was in the Gendamenire. I Heard the shouts of "Stop Thief" I went out. I saw in front of two British soldiers running in front of other people.
I asked what it was about and then I went and got my rifle and went out and gave chase. Two of the Gendarmes went out before me.
I chased the two soldiers who were running in the direction of El Guenah. Some Arabs were running after them. They were about 150 meters ahead of me. Once I got to the hospital I had them in sight all the time. I saw each of them take a pistol from his greatcoat pocket. When I saw the pistols I saw that one was an American pistol and the other a revolver.
They pointed the pistols in the directionof the crowd which was also towards us. Neither was wearing a holster.
Both took out their pistols, both threatened the crowd with them and then one, the accused THORPE, put his pistol back in his pocket. The accused ALDERSON kept his pistol out. One of my comrades pointed his rifle at them while I came towards them.
I heard one shot fired, but it was from the two soldiers.

I stopped. My comrade Lebu shouted to the French soldiers who were on the road ahead to get off the road. Lebu pointed his rifle at them. They stopped. I went up to them. They were the two accused now present. When I heard the shot fired, both had their pistols in their hands.

Exhibit "A" When I got up to them I saw their pistols. Exhibit "A" is the pistol which was in ALDERSON'S possession. The one now produced was in THORPE'S possession (It is exhibited and marked EXHIBIT "B" "B". I also took some ammunition from the pocket of ALDERSON. I did not see if the pistols were loaded. The accused ALDERSON put his pistol on the ground. It was picked up by an ARAB who handed it to one of the gendarmes. I took some rounds from the pocket of ALDERSON. How many I don't know. At the Gendarmiere I found some woollen articles produced they are exhibited and marked C) I also found 4 or 5 EXHIBIT C pieces of soap, like the soap now produced (Exhibited and EXHIBIT D marked "D")

xx
I heard one shot fired during the chase. I never heard any bullet.

xxx declined.
The prosecutor tenders

Fourth Witness for prosecution LOUIS MARCOUX Gendarme AIN M ' LILA from cross examination who duly sworn and cross examined states:-
During the chase I heard the bullet. It whistled past my right ear. Medah was then in front of me.

Fifth Witness for Prosecution No 7690121 Sgt Ness, C.W. 65 Section S.I.B. C.M.P. duly sworn states:-
I saw the two accused on the 24 April at the Garrison Guardroom. I told them who I was and the nature of my inquiries and I cautioned them. Each elected to make a statement.
The accused ALDERSON made one first. I wrote it down and after I wrote it down he read it once and signed it. It Exhibit "E" is the statement now produced (It is read, exhibited and marked "E")
Thereafter the accused THORPE made a statement the same prodedure being followed. It is the statement now Exhibit "F" produced (It is read, exhibited and marked "F")
I saw the two accused again on the 27th April. I saw THORPE first . I cautioned him and said to him:
"From the evidence I have in my possession it appears that you both threatened xxx Arab by pointing a pistol at him."
He said, "Neither of us threatened the Arab with a pistol."
"I kept mine in my pocket."
I saw ALDERSON and cautioned him and said: "From the evidence obtained it appears that the Arab was threated by you with a pistol." He replied:"I did not threaten the Arab." "My revolver was empty at the time."
xx
When I saw them on the first occasion I did not notice any marks of violence on them.
xxx declined.

The Prosecutor tenders Sgt Garraway for cross-examination which is declined and
No 4344434 L/Cpl Clark, G.W. 227 L of C. Provost Coy, who
Sixth Witness of the Prosecution duly sworn and cross examined states:-
" When I went to collect them, the gendarmes turned over their property to me. It id not include any long, white pants, pair of brousers or battle dress blouse. The two accused complained of having been assaulted by the gendarmes and the accused THORPE had a bruise on his cheek.
xxx declined.

The case of the prosecution is closed.

DEFENCE

The accused persons respectively are duly informed of their rights in making their defence and intimate that they respectively wish to give evidence on oath and do not intend to call any other witness in their defence.

First Witness for Defence:

The accused Alderson, duly sworn states:-

I had seen two Arabs who approached me before, but that was not the first witness for the prosecution.

The first witness was not the Arab from whom I took 2000 frances. I have not seen him until he gave evidence.

I produced a pistol when I was talking to him to make him produce some money. It was unloaded and I did not threaten him with it. I was merely pretending to be about to sell it.

The old women was in the room at the time.

At the Gendarmes I never saw anything but the cap comforters and the soap.

During the chase I heard a shot fired in addition to the one I fired. It was a pistol shot and was fired by one of the gendarmes.

I fired a shot about 45o into the air.

At the Gendarmes they closed the door and one drew his pistol and pointed it at us and two others beat us up. One wanted me to box with him. We offered no resistance at all.

I did not volunteer to surrender the money. One said:- "Where is the 4000 frances you took from the Arabs," and I gave him 2000 frances and indicated by signs that was all I had taken from him.

I do not speak French.

XX

My loss took place about two weeks before. I did not report it to anyone. I thought it would be almost impossible by normal methods to get it back.

I do not normally leave camp with a pistol.

It was our intention to take two pistols out because the accused Thorpe wished to fire a couple of rounds to clean his revolver.

I carried my pistol because I meant to extort money from the Arab by trickery. That was my intention when I left camp. I have a holster but the automatic (Exhibit "A") wont fit into it properly.

One of the cap comforters belongs to the accused Thrope. The soap was in my great coat pocket.

I loaded the magazine of the pistol while we were running.

The old lady was still there sitting on the floor. When the Arab went back into the house to get more money he put 2 1000 franc notes in my hand. The pistol I put back in my pocket, after he had gone in for more money.

We walked a few paces and then started to run. We walked normally out of the house. I did not walk 300 yards: We were walking and running.

I expected the Arab would raise the alarm.

I fired the one shot to scare the Arabs some of whom had sticks. I had no idea that there were any gendarmes with them then. I first saw gendarmes when I turned round later.

The Arab, with whom I dealt, looked to be about 40 or 50 years of age. The transaction took about 5 minutes down to his going for the extra money. I offered to help him the pistol in order to get him to produce a large sum from his pocket.

XXX declined

By the Judge Advocate

I recognized the Arab as the one who had stolen my wallet from my overcoat. I took 2000 francs to make up for the 1000 francs taken from me, the balance being to cover the value of the wallet and some photographs that were in it.

By the President

I did not pursue the Arab at the time he took my wallet because there were only two of us there and we were in a minority and might have been roughly handled.

I found out where the Arab lived by seeing him from the back of the truck while we were on wireless schemes. He appeared to live at the house where I went to pretend to sell him the pistol.

At 1300 hours the Court is adjourned.

At 1405 hours the Court reassembles pursant to adjournment: present the same members as before.

The Accused Thorne, duly sworn, states:-

Second Witness for Prosecution:

I never intended profiting by any share of the money taken from the Arab.

I stayed with Alderson because it is "kind of natural" to stay with a friend if he is going to some place where he might be in trouble.

I kept my revolver in my pocket at the time.

The Arab we saw at the house was not the first witness for the prosecution.

When we were chased by the Arabs, we stopped running because we had on our great coats on. We did not offer any resistance to the French gendarmes.

At the Gendamerie I was hit a couple of times and Alderson was hit several times.

XX.

The first time that I knew that Alderson had had money stolen, was in the truck on the way to Air M'lila.

I have never been issued with a holster and have not got one.

On the afternoon in question I carried my revolver in my overcoat pocket. By the time we were going to Air M'lila I knew that Alderson had a pistol.

On the way there Alderson said that if he saw the Arab who had taken his money, he was going to try to get the money back by pretending to sell something to him.

The house is alongside the road.

Alderson told me that he recognized the Arab as the one who had taken his money. He said:- " I think that's "him". He just walked over to him and offered to sell him the pistol. He spoke in English and made use of signs. It was mostly by signs that was just at the door of his house. The only other person there was the old lady. I do not remember the Arab saying anything to the old lady.

When Alderson showed the pistol to the Arab, he was not holding it by the butt. He was just showing it in his palm and was not pointing it at the Arab. There was some haggling over the price and the conversation took some minutes.

I gathered Alderson's intention was to get his money back off the Arab.

We walked away from the house normally, for a few feet. Then we started to run. We ran to get out of there.

I am sure that I did not produce my revolver as we were running away.

XXX

The accused Alderson did not hold the pistol in any way which could suggest to the Arab that he was being held up.

The Case for the Defence is closed

The Prosecutor declines to reply.
The Defending Officer declines to address the Court.
The Judge Advocate sums up:-

The burden of proof is wholly upon the prosecution. Any offence of which you can find Alderson guilty here involves a larceny, that is a dishonest taking with intent permanently to deprive the owner without the owner's consent and without a claim of right made in good faith.

As to a claim of right made in good faith I remind the Court of the evidence of Alderson as to the previous theft of money by an Arab other than the first witness for the prosecution.

If you are satisfied that Alderson took two notes dishonestly in the sense indicated two choices are (i) larceny by a trick (ii) larceny from the person or (iii) robbery with aggravation. The first would be right if you think that the notes were handed to him by the Arab on the basis of a sale, a sale which on Alderson's part was merely pretended, a trick to get possession of the money. The second would be right if you think that he snatched the notes from the Arab's hand without further violence or putting in fear at the time. You need not trouble about robbery, although it is open to you to find robbery, because on the evidence there was no violence or putting in fear unless it was by the use of the pistol as described by the witnesses for the prosecution and if you are satisfied that there was such use of the pistol the third would be right namely robbery with aggravation.

As to Thorpe, one who aids and abets the commission of a crime is in law equally guilty of the crime with the principal offender. Mere presence at the time when a crime is committed does not constitute aiding and abetting even if no effort is made to prevent its commission or to cause the offender to be apprehended. Some active participation is necessary before an aider and abetor can be said to be guilty. It is not necessary to prove that he actually aided in the commission of the offence. If Thorpe, fully knowing what was going on, watched for Alderson in order to prevent surprise or remained at a convient distance in order to favour his escape or was in such a situation as to be able readily to come to his assistance the knowledge of which was calcuated to give additional confidence to Alderson in the commission of the offence, if any, committed by him, Thorpe was in law present aiding and abetting.

Remember that you cannot aid or abet a crime of dishonesty unless you act with a dishonest mind yourself or know at the time that the person you are aiding is acting with a dishonest mind.

After Finding

The Prosecutor informs the Court that he has no evidence of the military character of the accused persons.

The Defending Officer states that the accused persons respectively have been in close arrest since the 23 April 1944.

The Defending Officer, duly sworn, states:-

I know Trooper Thrope very well. He has been my batman in Italy. I have known him since October 1943.

He always has been a good soldier. He was a member of an A.A. crew on the transport coming out when we were torpedoed and there acted very bravely and very cooly.

I have always trusted him with money and valuables.

His ambition was, in imitation of his father in the last war, to go through this war without a single blot on his sheet.

I did not think it possible for him to be in this mess. I know him to be honest, for upright and a good soldier and shall always at any time be glad to have him back under my command.

The accused Alderson says:-

I have never been on a charge since I have been in the Army.

The Defending Officer addresses the Court in mitigation:-

These men, both of them, are common ordinary soldiers. "Aiding and abetting" means nothing to them.

They both are 20, enlisting both at 18. Most of their year overseas has been spent in Italy and North Africa.

Alderson is single. His father is a police officer in England.

Thorpe is married.

Both have been good soldiers.

They have been frank in giving evidence.

"E"

Garrison Guardroom
Constantine

"D.L. Johnson Maj"

Statement of:- No. 14380455 Trooper Alderson J.R. attached H.Q. R.A.C.T.D. The Royal Armoured Corps.

Who states:- I have been cautioned by Sgt Ness of the Special Investigation Branch, that I am not obliged to say anything unless I wish to do so , but whatever I say will be taken down in writing and may be given in evidence.

"J.R. Alderson"

At about 1530 hours on Sunday 23rd April 1944 I left Camp in company with trooper Thorpe of the R.A.C.T.D. [illegible] We had gone about 500 yards in the direction of Constantine when we decided to go into the surrounding hills for the purpose of having some target practice. I had in my possession a Colt .45 revolver. It was loaded with 7 rounds. I also carried 3 spare rounds in my pocket. After firing two shots I saw a truck which was on the road and going in the direction of Aim M'Lila. Accompanied by Thorpe I went back to the road-way and stopped the vehicle and obtained a lift to Aim M'Lila, I should say at this point that about a fortnight ago when I was on a visit to Aim M'Lila I had my pocket picked and lost 1000 francs which was in 100 franc notes. I suspected a certain Arab who I could recognise by sight but whose name I do not know. I had a slight idea where this Arab lived in Aim M'Lila. On reaching Aim MLila I walked up the road which leads to Telergma. When I had gone about 300 yards along this road I saw the Arab I was looking for standing near a house. I wanted to get my money back by some means or other so I produced my revolver and offered it to him for sale. After a great deal of arguing he offered to buy the revolver for 2500 francs. He handed me 2000 francs and went into the house for the rest of the money. As I had no intention of selling the revolver and only wanted to get my

own back I walked away while the Arab was in the house taking the revolver and money with me. Thorpe was with me all the time. I got on to the main road leading back to El Gurrah and had walked about 300 yards when I heard the sound of Arab voices behind us. I looked around and saw a number of Arabs running towards us shouting "Stop Johnny" In order to scare the Arabs I loaded the revolver with 3 or 4 rounds and fired one shot at an angle of 45 degrees in the air in the direction of the Arabs. The Arabs stopped immediately and Thorpe and I continued on our way towards El Guerragh . A Few seconds later I heard a shot fired from the direction of Aim M'Lila and on looking round again I saw a French Gendarme. He was carrying a rifle which he pointed towards us. By his gestures I gathered that he was ordering me to drop my revolver. This I did and I was then taken to the Gendarmerie. I wish to add that I bought the Colt revolver from an unknown British soldier at Bone about 3 months ago, for 1000 francs.

"J.R. Alderson"

The above statement has been read over to me and it is true and correct.

"J.R. Alderson"

Statement taken, read over and signature witnessed by Sergeant Ness, in the presence of Sergeant Garraway, both of the Special Investigation Branch, Corps of Military Police, at Constantine on the 24th April, 1944.

"F"

Garrison Guardroom
Constantine,

"D.L. Johnson Maj"

Statement of:- No A116954 Trooper Thorpe S.M. attached H.Q. R.A.C.T.D. The Royal Armoured Corps

Who states:- I have been cautioned by Sergeant Ness of the Special Investigation Branch, that I am not obliged to say anything unless I wish to do so, but whatever I say will be taken down in writing and may be given in evidence.

"S.M. Thorpe"

At about 1530 hours on Sunday 23rd April 1944, I left Camp with the intention of going to the Fighter Training Command, U.S. Forces, stationed at Berteaux. As I was leaving the camp I met Trooper Alderson whom I Know, I walked with him along the road which leads to RACTD schools. I was carrying a .38 revolver as I intended to fire a few shots with it for the purpose of clearing some rust which was in the chambers. When I had gone some distance beyond the R.A.C.T.D. schools I fired one or two shots at a tin can. I also fired one shot with the revolver carried by Alderson. About this time I saw an American Truck which was going towards El Guerrah and Aim M'Lila. We returned to the road and stopped the vehicle and obtained a lift to Aim M'Lila. During the ~~following~~ journey to Aim M'Lila Alderson told mecthat sometime in the past he had had his wallet containing some money stolen from him by an Arab in Aim M'Lila and he figured that he knew the thief by sight. He thought that if he saw the Arab he would be able to get some of the money back . I hung on with him when we got to Aim M'Lila and after a short walk we saw an Arab standing outside a house. Alderson said to the Arab "Business Johnny" and the Arab took us into his house. Alserson then produced his revolver on the pretext of selling it and asked for 2500 francs. The Arab handed Alderson two 1000 francs notes and then left the room in order to obtain

---

the other 500 francs. As soon as the Arab left the room Alderson and I walked out of the house taking the revolver and money with us. We crossed the fields leading to the main road which goes to El Guerrah. When two or three hundred yards along the road I heard a number of Arabs shouting and hollering. I looked around and saw a crowd of Arabs running after us. Alderson then fired one shot in the air with his revolver, a firearm was immediately fired in reply by a Gendarme who accompanied the Arabs. This was the first time I had seen the French Police. In view of this Alderson and I stopped and waited until the Gendarme came up to us. We were then taken to the Gendarmerie where one of the Gendarmes struck me a blow across the face. Another one who was very stout struck Alderson several blows. Later the Military Police arrived and conducted us to the Garrison Guard-room, Constantine.

"S.M. Thorpe"

The above statement has been read over to me and it is true and correct.

"S.M. Thorpe"

Statement taken, read over and signature witnessed by SergeantNess, in the presence of Sergeant Garraway, both of the special Investigation Branch, Corps of Military Police, at Constantine, on the 24th April 1944.

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Gnr. Sharpe, N. D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 18643 Gnr William Harold THORPE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	GUILTY	GUILTY	
2nd AA Sec 8(1)	NOT GUILTY	GUILTY	
3rd AA Sec 22	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of four, 4 five (45) days.

(Sgd) ..... 12 NOV/45 (Sgd) [illegible] Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) SAS

(1. AA 57A. Delete if not used.)

Date 13 Nov 45 (Sgd) [illegible] Brig

Commanding ..... Cmnd ..... Confirming Officer.

A Group CMF

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 18643 Gnr. William Harold Thorpe D.O. #142 - 4/16 Nov. 45	15 Nov 45	E. Jacques Lieut.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5V-84

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & B/1698 (6144) 4/38B

Convened by Order of ..... Comd ..... dated .....

27 Nov 45 JAG BRANCH CMF

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 18643	Gnr		William Harold	THORPE	6 Cdn Repat Dep

PROCEEDINGS REVIEWED

22 NOV 45 DJ Brody Maj

REVIEWING OFFICER, JAG BRANCH CMF

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 12 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused:~~ Do you object to ..... ~~as interpreter?~~ Ans .....

The Interpreter is sworn.(1) Do you object to 2 [illegible] Sgt BOODREAU as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	H.E. BELYEA	8 REPAT
Member	LIEUT	L.G. PINKERTON	8 REPAT
~~Judge-Advocate~~			
Prosecutor	LIEUT	R.E. HARRIS	6 REPAT
Defending Offr	LIEUT	R. LORTIE	6 REPAT

Questions by President: Is the Prosecutor a lawyer? Ans N/A Is the Defending Offr a lawyer? Ans N/A (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(C) para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO-SIR .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case against~~ the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Own evidence. Do you intend to call witnesses on your behalf ?
Ans. Yes SIR. Are they witnesses as to character only ? Ans NO-SIR
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The ~~accused having been found Guilty on one or more of the charges, the~~ proceedings are concluded by using Record Form E below. Balance.

CONTINUED

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO-SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Have DAD, SIR. NOTE ATT
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisn, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Oversees RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.18643, Gnr William Harold THORPE, on the strength of "A" Wing 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, placed on active service, is charged with:

FIRST CHARGE
Section 40
Army Act

WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at Manchester at about 1545 hours, 19 Oct 45, was improperly dressed i.e. was wearing his Battle Dress tunic open to the full extent and no head-dress.

SECOND CHARGE
Sec 8 (1)
Army Act

WHILE ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS OFFICE,

in that he,

at Manchester at about 1545 hours, 19 Oct 45, struck several times with his fists, on the jaw, L/Cpl P.O. Hassel (L.105069) of 6 Det Cdn Pro Coy, when being checked for improperly dressed.

THIRD CHARGE
Section 22
Army Act

WHILE ON ACTIVE SERVICE, WHEN IN CONFINEMENT, ATTEMPTING TO ESCAPE,

in that he,

at Manchester on 19 Oct 45, ran away from Arwick Green Detention Cells Guard Room and attempted to escape.

(W. N. Hovey) Lt-Col,
T/Comd 6 Cdn Repat Depot.

In the Field,
5th day of November,
1945.

To be tried by Field General Court Martial.

8 Nov 45

(E R Suttie) Brig
Comd
A Gp CRU

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 18643	Gnr		William Harold	THORPE	6 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Nov 45 endorsed by me, (or by an offr of my staff for whom I am responsible) To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt Col	D.L. Redman, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	E.E. Belyea		8 Cdn Repat Dep
Lt	L.O. Pinkerton		8 Cdn Repat Dep

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 8 Nov 45

(Signed personally. RP 105 fn 2.) (R.R. Suttie) Brig (Rank.)

Commanding Cond A Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAM 6 (In lieu of AFA3) 40/P & S/1697 (465))

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-18640 Pvt. Sharpe W. D.
of 516 C.S. A.W.G. C.R.D. is in a Good state of health,
and is fit to undergo Trial by Court martial.

Medical Officer

Station 6 Base Repat Depot.

Date 19 Nov 45.

M. F. B. 246
28M—2-43 (5538)
H.Q. 1772-39-480

TRIAL OF

B-18643 GNR THORPE WH 6 CDN REPAT DEPOT

ON THE SECOND CHARGE

PROSECUTION

FIRST WITNESS

I-105069 L/CPL HASSEL PO, Can Provost Corps, att to No 6 Det at Manchester, sworn, states:-

Q. Will you give your evidence to the Court in this case?
A. On 19 Oct 45, at approximately 1545 hours, I was on duty at Manchester. Accompanied by L/Cpl Wilson, I approached two Canadian soldiers; we checked them for their passes and their dress and finding their pass in order, I took down their particulars and warned one of them, whom I know now to be Gnr Thorpe, whom I now recognize in this Court to-day as the accused, that a charge would be forwarded to his CO, an improperly dress charge. His tunic was wide open to the full extent and he was wearing no head-dress. He then threw off his tunic and started to fight with me; he struck me twice in the jaw and his hand was closed; he also kicked me in the knee and he also hit me in the body but that didn't mean much.

Q. What were you doing while this was happening?
A. I was trying to defend myself in a decent manner. I then placed the accused under close arrest and escorted him to the Warwick Green Detention Barracks at Manchester; we got there and while there, the accused walked out of the guard-room door; I immediately gave chase; I ran approximately three blocks before I caught up with him; I then placed him under close arrest again and escorted him again to the detention barracks where I turned him over to the NCO i/c of Detention.

Q. What was his condition as to drinking that day?
A. I would say he was under the influence but he knew quite well what he was doing.

CROSS-EXAMINED

Q. Will you repeat where the accused hit you?
A. He hit me in the jaw, kicked me in the knee and he also hit me in the body but it didn't mean anything.

Q. In the Summary of Evidence you said that he hit you twice in the jaw and once on the knee, is that right?
A. Yes, Sir, but he also hit me in the body.

Q. How many people were involved in that fight?
A. Only four, Sir, Wilson and myself, Thorpe and his pal Barrass.

Q. Were you all fighting?
A. Yes, Sir, we were all fighting.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 86 (2).

SECOND WITNESS

F-57071 L/Cpl WILSON GD, Cdn Provost Corps, att to No 6 Det at Manchester, sworn, states:-

Q. Will you give your evidence to the Court as regards this case?
A. While on patrol duty on 19 Oct 45 with L/Cpl Hassel in Manchester in the afternoon at about 1545 hours, we checked two Canadian soldiers whom I now know to be Pte Ramrass and Gnr Thorpe. Pte Thorpe, whom I recognize in this Court as being one of them, the accused had his tunic completely open and had no head-dress. After taking his particulars down, we warned him that a charge for being improperly dressed would be forwarded to his CO. He tore the pass from L/Cpl Hassel and started to hit him with his fist. Cpl Hassel then had Thorpe placed under close arrest and escorted him to the Arwick/Detention Barracks. (Cross)
While having his particulars taken down, Thorpe, the accused, broke detention by leaving the guard-room and running out of the guard-room and down the street; Cpl Hassel gave chase and re-arrested him some minutes later. He was then handed over to the NCO i/c of Detention.

Q. Will you tell us more about the fight?
A. Sir, when he told him that he was charged for being improperly dressed he pulled the pass out of the Corporal's hand and immediately started hitting him; he just started to hit his around his body and face; I was talking to Ramrass at the time but I was right besides the two.

Q. Did Ramrass hit you?
A. Yes, when he saw Thorpe starting to fight.

CROSS-EXAMINED

Q. Did you see the accused hit Hassel?
A. Yes, Sir.

Q. Where did he hit him?
A. He was hitting him in his face and chest.

Q. Did you see him hit him in the face?
A. Yes.

Q. According to the Summary of Evidence upon being asked this question, "Did you see me hit L/Cpl Hassel?" by the accused, you answered, "Yes, you hit him on the body." There is no mention here made about you having seen the accused hit L/Cpl Hassel in the face, did you see the accused hit L/Cpl Hassel in the face?
A. Well, when a person takes a swing at your face, he puts up his hand and that I recall hit his face; he swung at his face but the blows may have lit on the body.

Q. Were there any remarks passed between yourself and the two soldiers before the fighting started?
A. No, Sir, yes we asked them not to fight; they started talking to fight.

Q. Did they ask you for a break?
A. No, Sir, they said they had been given breaks when they were stopped by the Provost before and they didn't say why but they never asked for a break.

Q. What was the condition of the accused?
A. When we arrested him, he had been drinking but he perfectly knew what he was doing.

Q. How can you tell he had been drinking?
A. By his breath, Sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (3).

THE PROSECUTION IS CLOSED

- DEFENCE -

FIRST WITNESS

The accused, sworn, states:-

Q. Will you tell the Court, Thorpe, what you did on 19 Oct 45?
A. At approximately 1130 hours on the morning of 19 Oct 45, we were five of us and we started drinking in the Listons Bar in Manchester. We drank pretty heavily until approximately three o'clock that afternoon; shortly before three o'clock we were warned by the bar-tender that we wouldn't be given any more beer to drink as he thought we had sufficient.

Q. Did you stay there till three o'clock?
A. Yes, Sir.

Q. Had you only been drinking beer?
A. No, Sir, beer and whiskey. I am hazy about what happened next, that is about the rest of it. I was pretty drunk; I remember arriving in the street, Sir; I remember leaving the pub and our destination was the Ritz Dance Hall. I remember riding in a truck after we went up the street. I don't remember being stopped by the Provost; I knew I was improperly dressed because the night before I remember losing my hat in the same bar.

Q. Do you remember hitting the Provost Cpl?
A. No, Sir. I came to life shortly ~~after~~ before they took all my valuables; there was a crowd of English MPs and a few Provost and they seemed to be walking me towards this building and they took me inside and I was put into a cell.

Q. Do you remember running away?
A. No, Sir.

Q. Who was with you Thorpe in the pub?
A. Cpls Bardicough, Matthew, Cudding and Ramrass and myself.

Q. Was this your embarkation leave?
A. Yes we were under the impression that it would be our last leave; I belong to CD Bld; it has not gone yet; it is going in about ten days.

Q. Do you remember asking the Provost to give you a break?
A. No, Sir.

Q. Do you remember taking off your tunic?
A. No, Sir.

Q. Do you remember hitting the Provost?
A. No, Sir; I fight very much; if I had fought my fists would be hurting and it was not hurting this time; I am usually good-natured when I've been drinking; I have been with the 2nd A/Tk Regt overseas from Jul 44 until VE-Day; it was after that date that I reported to the 2 Med Regt; my cat is "A", Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(3).

ENCORE WITNESS

B-44000 GNR RAMRASS HI, sworn, states:

Q. Will you tell the Court what took place on the morning of 19 Oct 45?
A. On the morning of 19 Oct 45, Gnr Thorpe and myself and two other chaps we know proceeded to the Listons Bar in Manchester at about 1030 AM; we were drinking there until just about closing time; we were refused more to drink by the bar-tender; Gnr Thorpe and myself Liston Bar at approximately 1040 hours and we were going to the Ritz Dance Hall when we were stopped by two Lance-Corporals of the Gdn Provost and they checked our dress and we were told that the charge would be because of being improperly dressed, that it would beforwarded to our OC. Gnr Thorpe and myself asked the Provost to give us a break and they said, "Fuck you guys." or something to that effect. We started fighting; I started fighting; I noticed Thorpe struggling with the other Provost but didn't at any time see him striking the Provost.
Q. What was you condition as far as drinking that day?
A. We were pretty well out, Sir.

Q. You didn't see Gnr Thorpe hit the Provost?
A. No, Sir, I was fighting too but I saw him struggling.

Q. Would youdescribe the struggling?
A. It seemed to me that they were holding each other.

Q. Was there any exchange of fistat
A. Not that I saw, Sir.

Q. What happened afterwards?
A. We were taken to the guard-house in Manchester, where we were detained.

CROSS-EXAMINED

Q. How long did the struggle last?
A. A few minutes, I guess.

Q. Do you think that Thorpe was drunk?
A. Yes, I do.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (3).

THIRD WITNESS

B-28899 Gnr Matthews R, sworn, states:-

Q. Will you tell the Court what took on the morning of 19 Oct 45?
A. On the morning of 19 Oct 45, we were in Manchester on leave; we went to a pub at 1130 hours and drank pretty heavily till 3 o'clock; Thorpe was with us; we drank whiskey and beer; we were all drinking pretty heavily, celebrating having met one of our chums Burdicough; Thorpe was the words I've seen and I have known him for some time. At closing time, I left the pub and went away with a lady friend; I didn't see any trouble between the Provost and Thorpe.

NO CROSS - EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RR 83 (5)

STATEMENT ON THE FINDINGS BY THE DEF OFFR ATTACHED TO THIS FOLIO

STATEMENT BY THE PROSECUTOR ON THE FINDINGS

I took the summary of evidence and in my opinion I am quite certain that Thorpe was charged with the wrong charge and that he should have been charged with drunkenness.

PLEA IN MITIGATION ATTACHED TO THESE PROCEEDINGS.

CLOSING ADDRESS

It has been proved in court that on the morning of 19 October 1945, the accused together with some friends had been drinking heavily, to draw the line between being under the influence of liquor and being drunk is very hard to establish and no opinion can be accepted in court unless it is given by an expert. No experts were produced by the prosecution.

On the second charge of striking a superior officer, it is our opinion that this was not proven beyond the shadow of a doubt, the prosecution has produced two witnesses and their testimony does not exactly coincide. L/Cpl Hassel claims that he was kicked on the knee, and hit twice on the jaw. L/Cpl Wilson testified that he saw the accused hit L/Cpl Hassel on the body. We produced a witness swearing that he did not see the accused hit L/Cpl Hassel at any time.

On the third charge, attempting to escape, the accused simply does not remember attempting to escape and although the M.M.L. directs that drunkenness is no excuse for any other breach of regulations, it is also stated that a broad view should be taken especially in a case like the third charge. We suggest that the court consider these factors very seriously before giving a verdict.

E-26
MD-6

PLEA IN MITIGATION

The accused has been found guilty on ..... charges, I wish to recommend the accused to the clemency of the court for different reasons. Gnr Thorpe has been in the Army over four years, of which three years were spent overseas. He landed in France 5 July 1944 and fought on until VE day with an Anti-Tank Battery. Sometimes in October he was posted to Canada Draft 516 and was on his way home. This was to be his last leave in England, nobody in his right mind would purposely stir up trouble on the eve of his embarkation for Canada especially when the field conduct sheet is clear of any serious charge for a period of four years. The accused has a job to go back to as soon as he returns and I plea with the court to be lenient when considering the award.

E-3
RML

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B 18643 Gunner William Harold Thorpe, Royal Canadian Artillery, on the strength "A" Wing, No 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath:

FIRST WITNESS

For the Prosecution

L 105069 L/Cpl Hassel P O, Cdn Provost Corps having been duly sworn states:

I am L 105069 L/Cpl Hassel P O, C Pro C. On the 19 Oct 45 I was on duty accompanied by L/Cpl Wilson G D. At 1545 hrs on Oxford Rd, Manchester I approached a soldier and checked his pass which I found was in order. I then warned him there would be an improperly dressed charge forwarded to his OC. He then tore the pass out of my hand and pulled off his tunic and started to fight. I then placed him under close arrest and escorted him to Arwick Green detention Barracks at Manchester. While I was taking his property he ran out of the Guard Room and I immediately gave chase and I apprehended him approx three blocks from the detention Bks. I placed him under close arrest again and escorted him back and turned him over to the NCO in charge to be detained.

Questions by Officer taking summary.

Q- Do you recognize the accused as the soldier whom you have just given evidence against?

A- Yes.

Q- Do you know his name?

A- Gnr Thorpe.

The accused cross examines the witness:

Q- If I was supposed to have hit you, where did I hit you?

A- I was hit twice on the jaw and kicked in the knee.

Q- What condition was I in when you apprehended me?

A- You were not drunk in my opinion, but was under the influence of liquor.

Q- Were there any remarks passed between myself and the provost during the apprehension?

A- No

SECOND WITNESS

For the Prosecution

F 57871 L/CPL Wilsom G D, having been duly sworn states:

I am F 57871 L/Cpl Wilson G D, of the C Pro C No 6 detachment. While on duty at Manchester accompanied by L/Cpl Hassel on the afternoon of the 19 Oct 45 at approx 1545 hrs we checked two Canadian Soldiers who we now know to be Gnr Thorpe and Pte Ramrass. They were improperly dressed, that is were wearing no head dress. L/Cpl Hassel took Gnr Thorpe's particulars and informed him that a charge of being improperly dressed would be forwarded to his OC. As he handed back his pass, Gnr Thorpe grabbed it from his hand, thus tearing it up and immediately started hitting L/Cpl Hassel with his fists. L/Cpl Hassel then had him placed under close arrest and escorted to Arming Green guard room. While having his particulars taken down Gnr Thorpe escaped custody by leaving the Guard Room and running down the street. L/Cpl Hassel persued and rearrested him some twenty minutes later and handed him over to NCO in charge of cells.

Question by Officer taking summary.

Q.- Do you recognize the soldier against whom you have just given evidence

A.- Yes sir.

The accused cross examines the witness:

Q- What condition was I in when apprehended.

A- You had been drinking, but was sober enough to realize what you were doing.

Q- You say I started to fight with L/Cpl Hassel as soon as I took the pass from him, did I had my tunic on or off?

A- You started taking your tunic off while L/Cpl Hassel was taking your particulars.

Q- Did you see me hit L/Cpl Hassel?

A- Yes, you hit him on the body.

Q- Were there any remarks made by us to the Provost or the provost against us during our apprehension?

A- Yes, they were very sarcastic.

Q- Did I strike you at any time?

A- No.

FIRST WITNESS:

For the Defence

B 44000 Gnr Ramrass P I, having been duly sworn states:

I am B 44000 Gnr Ramrass P I. On the 19 Oct 45 in the company of Gnr Thorpe at approx 1130 hrs we began drinking in Listons Bar in Manchester. We drank heavily until about 1445 hrs, when we were refused more drinks by the bar tender as he told us we had had enough. We left Listons Bar at approx 1500 hrs and were on our way to the Ritz dance hall in Manchester. About a block from the dance hall we were stopped and checked for our dress by L/Cpls of the Cdn Provost Corps. They asked us for our passes and pay book which we readily gave them. They told us they were going to charge us for being improperly dressed and detain us. Previous to going on leave Gnr Thorpe was warned by his serial Comdr that any Provost charges would result in cancellation of his return to Canada. Bearing this in mind he asked the provost to give him a break. There reply was "Fuck you guys", too many of you get breaks around here. Then there was a mix up, I watched Gnr Thorpe struggling with the Provost but did not see him at any time strike the provost. We were then escorted to the C M P detention cells in Manchester. While having our particulars taken Gnr Thorpe walked out of the Guard Room and a few seconds later noticed by the L/Cpl of the C Pro C who immediately gave chase and apprehended him.

The accused was cautioned as follows:

Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

I certify that the foregoing summary of evidence was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e) and (f) have been complied with.

R E Harris Lt
(R E Harris)Lt
Offr detailed to take summary

IN THE FIELD
3 Nov 45

EXAMINED

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-18643	Gnr	Thorpe W H	Royal Cdn Arty

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence without leave AA 15 — 4 times.
For Conduct to the prejudice of good order and mil discipline — 5 times.
For Breaking out of Bks A A 10 — 2 times.
For Disobeying a lawful command given by a superior offr AA 9(2) — 1 times.

Date of first entry in Field Conduct Sheet 11 May 42

Date of last entry in Field Conduct Sheet 28 Oct 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 21 days in military custody, *i.e.*, Nil days in open arrest, 21 days in close arrest; of which 6 days were spent in hospital.

5. The present age of the accused is 22

6. The date of his ~~attestation / calling up for military service~~ 4 Oct 41

7. The service which the accused is allowed to reckon is 4 years 1 month

†State the military decorations (if any) held by accused.

8. The accused is in possession of† 1939-45 Star Defence Medal France & Germany Star CVSM &Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	N/A
In the war substantive rank of	N/A
In the acting rank of	N/A

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*29072) Wt.30721/3707 32,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of Nov 45

W. A. Heard Major.

Officer having custody of Regt'l Books

I request the services of an English speaking Officer, to be detailed by the Commanding Officer, to defend me at my forthcoming trial by FUCM

W H Thorpe

(W H Thorpe) B 18643

Aldershot, England
5 Nov 45

LIST OF WITNESSES

In the case of B 18643 Pte William Harold THORPE

For Prosecution L 105069 L/Cpl Hassel F O, C Pro C

F 57871 L/Cpl Wilson G D, C Pro C

For defence B 44000 Gnr Ramrass L I,

This is to acknowledge that I have received free of charge the following papers in connection with my forthcoming trial by FGCM.

1 copy of Charge Sheet
1 copy of Summary of Evidence
1 copy of list of witnesses

W. H. Thorpe

(W H Thorpe) B 18643

SG-51

Yr. Thow, H.F.

RECORDED AT CMHQ IN AB 160 55-57

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3)
407 P & S/1908 (2864)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-77129 Pte Haldane Farquarson THOW - CIC - 4 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th	N		
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for NOT beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: -

To undergo Detention for One Hundred (100) days and to be put under stoppages of pay until he has repaid the sum of £3-1-3 Costs of return

(Sgd) 3 + April 45 (Sgd) [illegible] President. (RP 45, 50.)

Judge Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 26 Apr 45 (Sgd) [illegible] Brig

Commanding Comd 13 Cdn Inf Trg Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.77219 Pte Thow, H.F.	D.O. 103 d/3 May 45	(J.R. THORBAY) Major, T/O.C., 4 Dep Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

PROCEEDINGS REVIEWED
J. R. Thorbay, Capt
11 May 45
REVIEWING OFFICER, JAG BRANCH CMHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-77129	Pte		Haldane Farquarson	THOW	CIC - 4 CITR

PROCEEDINGS OF TRIAL.

Held at (place) in (country) England on (date(s)) 24 April 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 108, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court ~~that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do ~~you object to~~ as interpreter? Ans ~~The Interpreter is sworn~~.(1) Do you object to C 96167 Lt W Sandwell as shorthand writer? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA~~, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. M. Miller EDRC	H.Q.C.R.C.
Member	Capt	L. A. Labistie	H.C.I.T.C.
Member	Lieut	C. W. Emms	1 C.I.T.R.
~~Judge Advocate~~			
Prosecutor	Lieut	W. K. Godwin	4 C.J.D.R.
Defending Offr	Lieut	E. G. Grello	4 C.J.D.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2nd p 3.)

A8. The accused before arraignment make(s) (no) (~~no~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) ~~arraigned (separately)~~ on all charges in the charge sheet.(1) The accused does (do) ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* [redacted] *2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, by Counsel.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP* [redacted] *One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D-77129 Private Haldane Farquarson THOW, of The Canadian Infantry Corps, on the strength of 4 Canadian Training Regiment, a soldier of The Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE, in that he,

in the Field, did absent himself without leave from 0800 hours on the 1st day of March 1945 until surrendering himself to the Civil Police at Bradford at 1510 hours on the 9th day of April 1945. Cost of return to unit £3-1-3.
(Total absence 39 days 7 hours 10 minutes)

R.C. Clark) Col
Commander
4 CDN INF TRG REGT

IN THE FIELD
19 Apr 45.

To be tried by Field General Court Martial

(W.S. Blackader) Lt.-Col
13 Cdn. Inf. Trg. Bde

IN THE FIELD
23 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-77129	Pte	Haldane Farquarson	THOW	CIC - 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 APR 45 endorsed by me, for by an offr of my staff for trial, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	F M MILLER, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	3 CITR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 23 Apr 45

K G Blackader (Signed personally. RP 105 fn 2.)

(K G Blackader)

Brigadier (Rank.)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: [illegible] (Rank) [illegible]
[illegible] (Name) [illegible] of [illegible] and in my opinion he is
fit to undergo trial by Court Martial.

Station

Date 24 April 45

SD [illegible] (Medical Offr)
4 C.I.T.R.

D-77129 Pte Low W. F.

Gentlemen

The accused has been serving his country for a long time. Since Feb. 1940

He has had considerable domestic trouble and I ask that his case be dealt with as leniently as possible and recommend that he be sent home as soon as possible

E. H. Grills Lt

SUMMARY OF EVIDENCE

In the case of No D-77129 Private Haldane Farquarson THOW, of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut F.A. Barberis, of The Cdn Inf Corps, on strength of 4 C.I.T.R., having been duly sworn states as follows:

" I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the accused, and which are attached hereto as exhibits:

(a) A certified true extract from 4 CITR Daily Orders Part II, No 73, para 12-B, d/26 Mar 45. This is to show the start of A.W.L. PRODUCED AND MARKED EXHIBIT "A".

(b) Army Form O.1617, Certificate of Surrender to the Civil Police of a deserter or Absentee without leave, signed by Officer i/c Police Station, Bradford d/9 Apr 45. This is to show the finish of A.W.L. PRODUCED AND MARKED EXHIBIT "B".

(c) CMHQ Form 1000:55, Expense Voucher d/12 Apr 45 and signed by Capt Whittington, of No 6 Area Provost Coy, Cdn Provost Corps. This is to show the cost of return London - Bradford. PRODUCED AND MARKED EXHIBIT "C".

The accused declines to cross-examine this witness.

F.A. Barberis ..... Lieut
(F.A. Barberis)

The accused was then cautioned as follows: " Do you wish to make any statement or to give evidence on oath? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defense.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) & (F) have been duly complied with.

J.H. Mathieu ..... Lieut
(J.H. Mathieu)
Officer detailed to take the Summary of Evidence.

IN THE FIELD
19 Apr 45.

EXHIBIT "A"

LAST ORDER
NO 72
27 Mar 45

4 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART II
issued by
COLONEL J. CAVAN POWER, E.D., OFFICER COMMANDING

THIS ORDER
NO 73
28 Mar 45

PAGE 5

SECTION "B" OTHER RANKS

12 ABSENT WITHOUT LEAVE

12-B A.W.L. from 0600 hrs 1 Mar 45. Still A.W.L. at 0600 hrs 23 Mar 45. (22nd day)

D-77129 Pte Thow, H.F. (C I C)

Signed K.J.C. Ridley
(K.J.C. Ridley) Capt
for Major i/c Administration
4 CDN INF TRG REGT

Certified true extract K.J.C. Ridley
(K.J.C. Ridley) Capt & Records Offr
4 C.I.T.R.

Dated 19 Mar 45. (Officer having custody of original.)

EXHIBIT "D"

I CERTIFY that the man whose personal description is given below surrendered himself to* Arthur Hall, Det Cons. at Bradford. at (hour) 3-10 P.M. on the 9th day of April, 1945. as being No. D77129. (Rank and Name) Tpr. H. F. Thow. a deserter (or absentee without leave) from 4 C.I.T.I. and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 32yrs Height 5 Feet 8 Inches
Complexion Fresh. Hair Brown.
Eyes Blue.
Marks —
In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	21/2/40. Westmount. Canada.
Probable Date of Desertion or beginning of absence, and from what place	2/3/45. Whitley.

R. Mathias Insp

Signature of Officer of Police in charge of ____ Station

Date of Signature.

D77

EXHIBIT "C"

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No. D 77129 Rank Tpr. Name Thow, H F Unit 4 C I T R

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From: London from Bradford

Date	Particulars		Amount		
12 Apr 45.	Escorts return fare from LONDON To	Bradford	1	9	6
	Prisoners single fare to LONDON From	Bradford		14	9
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			17	0
		Total £	3	1	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

CMBQ 1000-55
40/PAS/185/3639

Statement as to Character and Particulars of Service of Accused.

ARMY FORM B.296.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-77129	Pte	THOW, H.F.	4 CDN INF TRG REGT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to ANY recognised special acts of gallantry or of distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AA Sec 15(1) AWL	3 times	7 times.
For AA Sec 40	times	1 times.
For AA Sec 9(2)	times	2 times.
For	times	
For	times	
Number of instances of gallantry or distinguished conduct		

~~2. There are no entries in the conduct sheets of the accused.~~

~~3. The accused has not been previously convicted.~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence of~~ beginning on the ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~1~~ days in civil custody, and ~~1~~ days in military custody, making a total of ~~1~~ days, of which none days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service ~~is~~ is 38 yrs old

6. The date of his ~~attestation~~ specified in his record of service ~~attestation~~ is 21 Feb 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 153 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 153 days service.

9. The accused is entitled to reckon 4 yrs 153 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military reward~~ CVSM & Clasp is in possession of or entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (or corps or department) the rank of dated

(7510-07) W1.20246/662 75,000 12/40 A.& E.W.Ltd. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-77189 Rank Pte Name THOM, H.P. of 4 CITR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
FGCM	30 Sep 44	AA Sec 15(1) AWL 37 days 6 hrs	90 days detn	30 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of Apr 45

Officer having custody of regtl books

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years, .

In the rank of , years, .

In the rank of , years, .

In the rank of

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

COMPILED FROM MEM 4 ORIGINAL NOT COMPLETE

3/17 MFM 6 (AFB 122) 40/P&S/130 (7918)

No. D-77139 Name THOW, H.F. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 21 Feb 40 | CC (Badges) | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet H/A | No. and date of last drunk | Period not reckoning towards freedom from extra fine H/A | Sheet No. 1 | Signature OC Company, etc

CONDUCT ROOM ADJ 1945

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date award of awaiting trial	By whom awarded	Remarks
									for AWL
Field	12-10-40	Pte		AA Sec 15(1) AWL 3 hrs 15 mins	Doc	5 days pay	15 Oct 40	DO 99/40	
"	30-11-41	"		AA Sec 15(1) AWL 18 hrs 15 mins	"	168 hrs detention	2 Dec 41	DO 201/41	forf 1 days pay
"	31-1-42	"		AA Sec 15(1) AWL 1 day 14 hrs	"	2 days pay 4 CB	2 Feb 42	DO 14/42	" 2 " "
"	23-11-42	"		AA Sec 9(2)	"	14 days detn	23 Nov 42	DO 110/42	
"	7-4-43	"		AA Sec 40	"	14 dys CB	7 Apr 43	DO 15/43	
"	8-9-43	"	(1)	AA Sec 9(2), AA Sec 19	"	28 days pay 14 FP	2 Sep 43	DO 37/43	
"	11-10-43	"		AA Sec 15(1) AWL 1 day 21 hrs 1 min	"	7 days pay 14 CB	18 Oct 43	DO 43/43	" 2 " "
"	1-1-44	"		AA Sec 15(1) AWL 23 hrs 51 mins	"	7 days CB	3 Jan 44	DO 1/44	" 1 " "
"	1-6-44	"		AA Sec 15(1) AWL 6 days	"	7 dys pay 7 FP	6 Jun 44	DO 137/44	" 6 " "
"	18-6-44	"		AA Sec 15(1) AWL 12 days 1 hr	"	27 days detn	12 Jul 44	DO 171/44	" 13 " "
"	11-8-44	"		AA Sec 15(1) AWL 37 days 6 hrs	"	90 days detn	30 Sep 44	DO 239/44	" 38 " "
						Remission 30 days			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-1-45	Pte		AA Sec 15(1) AWL 20 days	Doc	21 days pay 21 FP	5 Feb 45	DO 33/45	AWL forf 20 days pay for

Certified true copy ..... (K.J.C. Ridley) Capt & Records officer 4 C.I.T.R.
Officer having custody of original

Dated 19. Apr 45

MISCELLANEOUS

In the case of No D-77139 Rank Pte Name THOW, H.F.
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Lieut F.A. Barberis, of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. ....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENSE

1. NIL, of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

H.L. Hyndman - HCITR.

if he is available.

In the Field
19th day of Apr 1945.

H. Thow
(H.F. Thow) PTE

LIST OF EXHIBITS

EXHIBIT "A" - Certified true extract from 4 CITR Daily Orders Part II, No 73 para 12-B d/28 Mar 45.
EXHIBIT "B" - Certificate of Arrest by Civil Police d/9 Apr 45.
EXHIBIT "C" - CMHQ Form 1000:55, Expense Voucher, showing cost of return to unit.

IN THE FIELD
19 Apr 45.

YYY-138

Jfr. Thos. H.F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-77129 Tpr Haldane Farquarson THOW, 1 CACRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days and to be put under stoppages of pay until he has made good £0-13-11 the value of the

(Sgd) ..... Judge-Advocate, if any. 30 Sep/44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 2 Oct 44 (Sgd) J Rutherford Brig Commanding ~~Lt Gen~~ CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 77129 TPR THOW, HF	30 OCT 44	M Sutherland Lt 4/44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 OCT 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 VVI-138

FIELD GENERAL COURT-MARTIAL

CF A96 (In lieu of AFA3) (O. P. & R. 1698 - 28654)

Convened by Order of Brig T J Rutherford Comd "E" Gp, CRU dated 28 SEP 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Units.
D-77129	Tpr		Haldane Farquarson	THOW,	1 CACRU

PROCEEDINGS REVIEWED J Campbell major 11 Oct 44 AG OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in ~~the~~ (a) Private, ~~Officers~~ Mess, CRU on (date) 30 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for paths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The ~~Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~) Do you object to 58126 Sgt SINCLAIR A.H. as shorthand writer? Ans NO

~~The~~ shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L.	REDMAN	HQ, CAC.
Member	CAPT	H.J.	THORNTON	3 CACRU
Member	LT.	G.J.	MAHONEY	1 CACRU
~~Judge-Advocate~~				
Prosecutor	LT	J.J.	KEAR	1 CACRU
Defending Offr	LT	M.F.	COUGHLIN	1 CACRU.

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dft p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO, SIR.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

* Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment?(1) Ans. NOT AT ALL.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. D-77129, Tpr. Haldane Farquarson THOW, a soldier of the Canadian Army Overseas, on the strength of No. 1 C.A.C.R.U., is charged with,

1st Charge
Section 15(1)
Army Act

"WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE"

in that he,

in the Field, at 0830 hours the 15th day of August 1944 did absent himself without leave from No. 1 C.A.C.R.U. until being apprehended by the Corps of Military Police at 53 Cobden Road, Worthing at about 1315 hours the 21st day of September 1944, thereby incurring cost of apprehension in the amount of Thirteen Shillings and Eleven Pence (£0/13/11).

Total Time Absent:- 37 days, 4 hours, 45 minutes.

(A.T. PATERSON) Colonel,
Commanding Officer,
No. 1 Cdn Armd Corps
Reinforcement Unit.

In the Field,
25th September 1944

To be tried by Field General Court Martial.

(T.J. RUTHERFORD) Brig
Comd
"E" Gp, CRU

In the Field,
28 SEP 44.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
40/PAM/1607 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
D-77129	Tpr		Haldane Farquarson THOW,	1 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 SEP 44 endorsed by me, (~~or by an offr of my staff for me~~). "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable by delay the trial for reference to a superior (qualified) offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.-col	D L Redman, VD		H[illegible] CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 3 CACRU		3 CACRU
Lt	to be detailed by OC 1 CACRU		1 CACRU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105(C)(2).)

Date 28 SEP 44

(T J RUTHERFORD) Brig (Rank.)
Commanding "E" GP, CRU.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
R.R.(Can.) Para. 557

I certify that I have this morning examined No. D.72129.

Name Wm. T. Haw. H.E. of No. 1 C.A.C.R.U. and in my opinion he is fit/~~unfit~~ to undergo trial by Court-Martial.

Station FIELD

Date ~~1 Oct. 1917~~ 30 Sept 1917

Medical Officer. A.M.C. Canada

Plea in mitigation of Punishment

Re D 77129 Pte Thow H.F.

Pte Thow is now 38 years of age, is married and is the father of 4 children. He left school at the very early age of 9 years and began working on his uncle's farm. Later he took up the civil occupation of boilermaker.

Pte Thow enlisted on 15th Feb 1940 and arrived overseas on 1st July 1940 with the Royal Montreal Regiment. On the disbanding of this regiment he was returned to No 1 CAC(RU) where he has been employed at general duties.

Troubles concerning his wife and 4 children at home have been a great cause of worry to this soldier. He has not heard from his wife since Sept 1941 and has received word from other members of the family that conditions are not as they should be at home. Pte Thow has made every effort to have the matter investigated through military channels but these efforts have met with repeated failure. This has had a definitely bad effect on his peace of mind and has resulted in his feeling that the army has not sufficiently cooperated in looking after the welfare of his family during his absence from home.

Pte Thow's army record, considering his nearly five years of service, is a comparatively good one and especially so when it is considered that during this time he has been suffering the mental anguish mentioned above.

I therefore plead on his behalf that as light a punishment as possible be given.

Defending Officer

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-77129 Tpr Haldane Farquarson THOW, a soldier of the Canadian Army Overseas, on the strength of No 1 Canadian Armoured Corps Reinforcement Unit.

THE COMMANDING OFFICER DIRECTS THAT ALL EVIDENCE BE TAKEN ON OATH

1st Witness for the Prosecution — A/Capt P.F. Keirstead, an officer of the Cdn Army O/S, on the strength of No 1 C.A.C.R.U., having been duly sworn, states:-

"I am A/Capt P.F. Keirstead, and am employed as Adjutant of No 1 C.A.C.R.U. As such I am the keeper of all Regt'l Books and documents. I produce Certified True Copy of a Court of Inquiry held in the field on the 13th day of Sept, 1944, showing that D-77129 Tpr Thow H.F. illegally absented himself from 0830 hrs 15th Aug 1944. The accused whom I recognize is the person referred to therein. I further produce Certificate in accordance with Army Act Section 163 (jj) showing that D-77129, Tpr Thow H.F. of No 1 CACRU was arrested at 53 Cobden Rd, Worthing at about 1315 hrs 21 Sep 44. The accused whom I recognize is the person referred to therein. I further produce CMHQ Form 1000:55, Expense Voucher showing expenses incurred in apprehending and returning D-77129 Tpr Thow, H.F. to London is 13 shillings and 11 Pence. The accused whom I recognize is the person referred to therein."

The accused declines to cross-examine this witness.

L Keirstead

(P.F. KEIRSTEAD) Capt
Adjutant,
No 1 C.A.C.R.U.

Documents referred to above, have been produced, read over to the accused, marked respectively Exhibits "A", "B", and "C" and attached hereto.

J J Kerr Lt

(J.J. KERR) Lieut
Officer detailed to take
Summary of Evidence

EXA

(SUMMARY OF EVIDENCE (CONTINUED))

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

After the above caution, the accused elected to give evidence as follows:-

First Witness for the Defence

D-77129, Tpr. Thow, H.F., on the strength of No. 1 C.A.C.R.U., having been duly sworn, states;

"I tried to get my family troubles looked into by the Army since 1941, and I've taken the matter to all authorities I could, and no one seemed to take an interest in my case since I came to England. I had it taken to 2 Padres, the Salvation Army Captain, and the Colonel of the Holding Unit when we were a Machine Gun Battalion, and also the Paymaster at Canadian Training School, Borden."

H F Thow

D-77129, Tpr. THOW, H.F.
No. 1 C.A.C.R.U.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d), (e), (f) and (g) have been complied with.

J J Kerr Lt

(J.J. KERR) Lieut.,
Officer detailed to take
Summary of Evidence.

In the Field,
25th September 1944.

EXA

This is Exhibit "A"referred to in the Summary of Evidence in the case of D-77129 Tpr Thow, H.F.

J.J. Kerr

(J.J. Kerr) Lieut,
Officer detailed to take
Summary of Evidence.

RECORD of the Declaration of a Court of Inquiry assembled at In the field on the 13th day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 77129 Tpr. Thow H.F., of No. 1 C.A.C.R.U.

DECLARATION

The Court declare that No. D 77129 Tpr. Thow H. F.
No. 1 C.A.C.R.U.
illegally absented himself without leave from 0830 hours 15 August 44
at 0830 hours 1 on the 15th Aug 44 day of August 1944,
that he is still so absent, and that on the 13th Sept 1944, he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	Voc	VALUE Price (Cdn)	ARTICLES	Unex Wear 75% Reduced Price
				07
Badges, Cap,	1	$ 09		4 64
Blouses, Serge, B.D.	1	6 19		9 36
Trousers, Serge, B.D.	2	12 46		3 60
Boots, ankle, prs	1	4 80		21
Braces, trouser	1	28		22
Brushes, shaving,	1	29		06
Brushes, tooth	1	008		75
Caps, tank, battalion	1	1 00		03
Combs, hair	1	04		90
Drawers, woollen	1	1 20		18
Dressings, field	1	24		13
Holdall	1	17		13
Housewives	1	17		32
Razors, safety	1	42		90
Vests, woollen	1	1 20		23
Braces, right, W.E. 37	1	30		1 75
Haversacks, W.E. 37	1	2 33		
		$31 26		$ 23 48

Signed at In the field
this 13th day of September 44

Capt. T. A. Horan, No. 1 C.A.C.R.U. — President
Lieut. H. V. Ross, No. 1 C.A.C.R.U. — Member
Lieut. Ebbett W.K. No. 1 C.A.C.R.U. — Member

Signature of Commanding Officer (Sgd) A.T. Patterson, Col.,

Certified true copy (P.F. Kelstead) Capt & Adjt. Signature of officer having custody of original record

M.F.B. 378
A.F.B. 113
25M—5-41 (750)
H.Q. 1772-49-237

This is Exhibit "B" referred to in the Summary of Evidence in the case of D-77129 Tpr Thow, H.F.

J.J. Kerr

(J.J. Kerr) Lieut,
Officer detailed to take
Summary of Evidence.

Certificate A, accordance with Army Act, Section 163(ii).

I certify that No. W/1249 ... Rank. PTE ... Name. HOW. H.F. ... Unit. ROYAL NORFOLK REGT.
No. 1 C.C.S. ... was arrested at. 21 GARDEN ROAD. WORTHING ...
at about. 12.45 hrs. 2/12/42 ... and that at the time of his arrest he was wearing
military uniform.

Signature of Provost Marshal, A.P.M., or other Officer into whose custody the above named person was taken into arrest.

..... MAJOR
A.P.M. 101 H.Q. PROVOST COY

This is Exhibit "C" referred to in the Summary of Evidence in the case of D-77129 Tpr Thow, H.P.

(J.J. Kerr) Lieut,
Officer detailed to take
Summary of Evidence.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 11119 Rank Tpr. Name Thow, H.F. Unit 10 CAPC

The following expenses were incurred in apprehending and returning the M.N. Soldier to ~~his Unit From~~ London from Worthing

Date	Particulars	Amount		
23 Sept 44	Escorts return fare from LONDON To Worthing		9	2
	Prisoners single fare to LONDON From Worthing		4	8
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		13	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W Birch

Capt.

Officer Issuing Railway Warrant and Expense Voucher
No. 6 Area Provost Company, Canadian Provost Corps, London

R. E. BIRCH,
ADMIN. OFFICER—D.P.M.'s BR.
C.M.H.Q.

C.M.H.Q. 1000/50
40/P & S/483(3287)

No. D77129 Name THOW, H.F. Sqn, Battery, or Company Corps C.A.C.

Date of last entry in Company Conduct Sheet 4-4-43 No. and date of last drunk 1-9-43 Period not reckoning towards freedom from extra fine

Date of enlistment 21-2-40 CC Badges N11 Service or Proficiency Pay N11 Sheet No 2 Signature OC Company, etc

3/17 MFM 6 (AFB 122) 40/1/45/126 (5615)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Character			
Field	1-6-44	Tpr		AA 15(1), AWL 1600 1-6-44 to 2030 6-6-44. (5 days, 4 hrs, 30 mins)	Cpl. Aspeslet L/C Larsen	7 days FP 7 days Pay	7-6-44	Maj CES Walls	Forf: 6 dys P 7 dys Pay 149(2).
Field	18-6-44	Tpr		AA 15(1) AWL 1800 18-6-44 to 1900 4-7-44 (16 days, 1 hrs)	Sgt. McCarthy SSM MacKay L/C Craig	27 days Detn	12-7-44	Col. A.T. PATERSON	27 days Pay FR&I 149(2), 17 dys Pay FR&I 149(1)(a), 8 dys pay FR&I 149(1)(c)(1).

CERTIFIED TRUE COPY OF DOCUMENT NOW IN MY POSSESSION.

(P.F. KEARSTEAD) Capt & Adjt.
No. 1 C.A.C.R.U.

(PTO)

No. D77129 Name Thow, H.F. | Sqn, Battery, or Company | Corps CAC | Date of enlistment 21-2-40 | GC Badges nil | Service or Proficiency Pay nil | 3/17 MFM's (AFB 122) (NPAM/130/45/18)

Date of last entry in Company Conduct Sheet 9-3-40 | No. and date of last drunk nil | Period not reckoning towards freeto/to from extra fine nil | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under dispensing with trial	By whom awarded	Remarks
Valcartier	6-7-40	Pte	--	Sec. 40 A.A. Conduct to the prejudice, etc	Sgt Douglas	28 days Detn	8-7-40	Lt.Col. Forbes	Forf.28 days pay FR&I 149
Borden	10-10-40	Pte	--	Sec 15(1) A.A. AWL from 1200 hrs 10-10-40 to 1515 hrs 10-10-40	Cdn Prov.Corps	Forf 5 days pay	12-10-40	Lt.Col.F.I Carpenter	Forf 5 days pay AA46(2)d
Field	30-11-41	Pte	--	Sec 15(1) A.A. AWL from 2200hrs 30-11-41 to 1615 hrs 1-12-41 (Absent 18 hrs 15 mins)	Sgt Stacey	168 hours detention	2-12-41	Major D. Fletcher	Aut forf of 1 days pay FR&I 149(1)a
Borden	1-2-42	Pte	--	AWL 14 hrs A.A.Sec 15(1)	L/C Brooks Cpl Bigley	4 days C.B.	2-2-42	Major S. Robertson	forf 1 days FR&I
Borden	27-4-42	pte	--	AWL Overstaying pass 15 hrs 30 mins A.A. Sec 15(1)	L/CLowrie Cpl Gerylo J	7 days C.B.	28-4-42	Major S. Robertson	Forf 1 days
Field	22-11-42	Pte	--	Disobeying Lawful Command Given by Superior Officer A.A. SEC 9(2)	CSM Summers Lieut W.A. Murray	B.R. 14 days Detention	23-11-42	Col.C.W. Devey	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-3-43	Tpr		WOAS Neglecting to obey standing Oders, failed to have P.L. Pass stamped at Destination AA. Sec 11	Doc.	7 days C.B.	12-3-43	Major E.C. Peckham	
Field	4-4-43	Tpr		WOAS Neglecting to obey standing oders did not report to Guard Room on return to Barracks	Doc.	14 days C.B.	7-4-43	Lt.Col. F Barber	
Field	30-6-43	Tpr		A.A. Sec 15(1) AWL from duty 1330 30-6-43 - 1720/30-6-43. Absent 3 hrs 20 mins.	Sgt Bigley G.A.	7 days C.B.	1-7-43	Major E.C. Peckham	
Field	1-9-43	Tpr		(I) Disobeying a lawful Command given by superior Officer (II) Drunkeness	Sgt Fraine Pte Malley	14 days F.P. 28 days pay under FR&I 149(2)	2-9-43	Lt.Col Ritchie	forf 28 days pay FR&I 149 (2)
Field	15-10-43	Tpr		AWL from 2359 hrs 15-10-43 until 2100 hrs 17-10-43 (1day 21 hrs 1 min)	Pte Castelletti R	14 days C.B. Forf 7 days pay FR&I 149(2)	18-10-43	Lt.Col. Ritchie	Forf 2 days pay FR&I 149(1)
Field	31-12-43	Tpr		AWL 2359 hrs 31-12-43 until 2350 1-1-44 (Absent 23 hrs51 min A.A. Sec 15 (1)	L/C Ritchie A.	7 days C.B. & Forf 1 days pay	3-1-44	Lt.Col. J.W. Ritchie	

M.F.B. 355
40/P & S/678

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-77129	Tpr.	THOW, H.F.	No. 1 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months			Since enlistment		
For	AA Sec 15(1)	4	times	AA Sec 15(1)	9	times
For	AA Sec 40	Nil	times	AA Sec 40	1	times
For			times	AA Sec 9(2)	2	times
For			times	AA Sec 11	2	times
				AA Sec 19 (Drunkenness)	1	times

Number of instances of gallantry or distinguished conduct Nil

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his attestation paper is 37 yrs,7 mos,22 days.

6. The date of his attestation specified in his attestation paper 21 Feb 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs,7 mos,5 days.

8. The accused is entitled to reckon 4 yrs,7 mos,5 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to C.V.S.M. & Clasp.

Ex B

[redacted]

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[redacted]

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NA	N/A	N/A	N/A	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of September 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

LIST OF WITNESSES

1st Witness:- Captain P.F. KEIRSTEAD, Adjutant, an Officer of the Cdn Army Overseas, on the strength of No 1 C.A.C.R.U.

LIST OF EXHIBITS

EXHIBIT "A"	Certified True Copy of Record of Declaration of Court of Inquiry.
EXHIBIT "B"	Certificate in Accordance with Army Act Section 163 (JJ).
EXHIBIT "C"	CMHQ Form 1000:55, Expense voucher showing expenses incurred in apprehending and returning of accused, to be 13 Shillings and 11 Pence.

SOLDIER'S FRIEND

I, D-77129 Tpr THOW, H.F., on the strength of No 1 C.A.C.R.U. desire the services of an officer to defend me at my trial by Field General Court Martial.

H F Thow

(D-77129 TPR THOW, H.F.)
No 1 C.A.C.R.U.

141-0

Gnr THRASHER L.W

O. H. M. S.

M. F. B. 270

P-6677, Gnr. Thrasher, L.W.
2 C.A.R.U.

141-C

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this THIRTIETH day of SEPTEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY, ENGLAND, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable. [redacted]

PROCEEDINGS REVIEWED.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	F.J. GILMOUR, RCA,	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
MAJOR	W.R.R. BRADLEY, RCA,	1 C.A.R.U.
CAPTAIN	F.B. ROLFH, RCA,	1 C.A.R.U.
LIEUT	Waiting Member from	2 C.A.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. Gilmour Brigadier,
Commanding "C" Group, Cdn. Reinf. Units.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
P-6677 GNR. THRASHER, L.W. (R.C.A.) 2 C.A.R.U.	FIRST CHARGE A.A. Sec. 15(1)	Guilty	Guilty To undergo detention for 75 days. 1/10/42 J/S	Confirmed J/S
	See Charge Sheet Attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J Stewart Brigadier, (Signed) J Kilmour Maj
Commanding "C" Group Cdn Reinf Units RCA
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 1st day of October 1942.

J Kilmour Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this 7th day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 2nd day of October 1942.

J Stewart
Confirming Officer. J. C. STEWART, Brigadier, Commanding "C" Group, Can. Reinforcement Units.

Promulgated and extracts taken in the case of P 6677 Gnr Thrasher, L.W.

(*a*) (Dated) 2 Oct 42 (Signed) Geo A Johnston
C.O. 2 CARU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O/L. 47797/1937 50 M. 5/41 K.J.L./5265(2) Gp. 698/3

CHARGE SHEET.

The accused, No P 6677 Gunner Thrasher, Leslie William, D Battery, P Wing, on strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army Overseas, is charged with

Absence without Leave

FIRST CHARGE
ARMY ACT
SEC. 15(1)

in that he

While on Active Service with No 1 Ordnance Reinforcement Unit at Bordon Hants on 7 September, 1942, did absent himself without leave from 0745 hours 7 September, 1942, until reporting himself to the Guard Room at No 2 Canadian Artillery Reinforcement Unit, Superior Camp, Ludshott, Hants, at 1700 hours, 28 September, 1942.

Absent 21 days 9 hours 15 minutes.

Dated this 29th
day of September,
1942, at Ludshott, Hants.

(G.W.F. Johnston) Colonel, RCA.
Commanding Officer,
No 2 Cdn Arty Reinf Unit.
Cdn Army (Overseas)

To be tried by Field General Court Martial

Brigadier,
Commanding "C" Group, Cdn. Reinf. Units.
(Convening Officer)

Bordon, Hants.,
30 Sep 42.

2CAHU Form #92

MEDICAL CERTIFICATE

I certify that I have this day examined No. M177 Gnr. Thrasher L W and find him free from infectious or contageous diseases, and fit to undergo ~~detention~~. trial by court-martial

Dated at Quebec Barracks.

1. X. 42.

B 765.

J. Barton Nelson Capt
(Medical Officer)
No. 2 Cdn. Arty. Holding Unit
Canadian Army (Overseas)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT In the Field ON THE 1 DAY OF Oct 42

TRIAL OF:- No. P6677 Gunner Leslie W Thrasher Unit 2 C A R U
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Capt. C.W. Tapley (Unit) 2 C.A.R.U.
Defending Officer:- (Name) Lt J.A. McGuigan (Unit) 2 C.A.R.U.
At hrs the trial commences.
The order convening the court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir
The President, members and judge-advocate (if any) are duly sworn.
The following constitute the Court:

President Major T.J. Gilmour (Unit) R.C.A
Members Maj R.W.R. Bradley (Unit) 1 C.A.R.U.
Capt. F.B. Rolph (Unit) 1 C.A.R.U.

The officers under instruction are duly sworn.
~~Q2 Do you object to ..... acting as shorthand writer? A2:-~~
~~The shorthand writer is duly sworn.~~
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.
The summary of evidence is read, signed by the President, and attached to the proceedings.
Court is closed to consider its finding. Court is re-opened.
Name Capt C.W. Tapley (Unit) 2 C.A.R.U. sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in those documents which have been prepared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.
Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - None Sir.
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

The defending officer reads a statement in mitigation of punishment which is handed in & attached to the proceedings.

The Court is closed to consider sentence

T J Gilmour
Major
Pres.

Address of Defending Officer
in mitigation of Sentence

Case of No P 6677 Gunner Thrasher

The accused came overseas with the first Medium Regiment in February 1940. His duties with Regiment was that of driver. He was transferred to No 2 C.A.R.U. where he continued to be a driver.

Previous to his going absent without leave he was sent on a course which he disliked very much. He made several attempts to take up subject which he preferred but was unable to do so.

On September 6th he met Gnr Bently and he and Bently engaged in conversation with a farmer during the course of the conversation, the farmer mentioned the trouble he was having to harvest his crop due to the lack of help. the accused being discouraged and "browned off" offered to help the farmer harvest his crop. He returned to his unit and the next day set out to help the farmer with his harvest The accused has always tried to perform his duties to the best of his abilities but at times gets tired and discouraged and on impulse goes absent without leave The accused returned voluntarily to his unit after he had finished helping with the harvest.

J A McGuigan Lieut.

"G"

SUMMARY OF EVIDENCE in the case of No F 6677 Gunner THRASHER, Leslie William, D Battery, F Wing, on strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution.

No B 78829 Cpl Hale, E.A., B Company, No 1 Canadian Ordnance Reinforcement Unit, a soldier in the Canadian Army Overseas.

Having regard to the exigencies of the Service, attendance of the above witness in my opinion is not readily procured and the following signed statement is produced:

A signed statement certifying to the absence without leave of the accused, Gnr. Thrasher, L.W., at 0745 hours on 7th September, 1942. This statement is attached marked exhibit "A".

Signed C W Tapley
(C.W.Tapley) Capt., RCA.
Officer detailed to take Summary of Evidence.

SECOND WITNESS for the Prosecution.

No A 55082 C.S.M. McAdam, S., B Company, No 1 Canadian Ordnance Reinforcement Unit, a soldier in the Canadian Army Overseas.

Having regard to the exigencies of the Service, attendance of the above witness in my opinion is not readily procured and the following signed statement is produced:

A signed statement certifying to the absence without leave of the accused, Gnr Thrasher, L.W., on the morning of 7th September, 1942. This statement is attached marked exhibit "B".

Signed C W Tapley
(C.W. Tapley) Capt., RCA.
Officer detailed to take Summary of Evidence.

THIRD WITNESS for the Prosecution.

No D 10887 Bdr Noonan, A.J., a member of the Regimental Police, Administration, on strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army Overseas, having been duly sworn, states:

I was the N.C.O. in charge of the Guard Room on 28th September, 1942, when the accused, whom I recognise, reported to me sober and properly dressed at 1700 hours, 28th September 1942. I placed him under close arrest and notified Records and the Battery Office.

The accused declines to cross-examine this witness.

Signed A J Noonan
(A.J. Noonan) No D 10887 Bdr.

The accused having been duly cautioned in accordance with Rule of Procedure 4(e) reserves his defence.

Certified that Rule of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 29th day of September, 1942.

Signed C W Tapley
(C.W. Tapley) Capt., RCA.
No 2 Cdn Arty Reinf Unit.
Officer detailed to take Summary of Evidence.

"C"

EXHIBIT "A".

Statement by No B 76829 Cpl Hale, E.A., No 1 Canadian Ordnance Reinforcement Unit.

On the morning of 7 Sept. 42 the N.C.O. in charge of the new classes I called the roll at 0745 hrs and found Gnr Thrasher L.W. (P6677) to be absent. I reported his absence to "B" Company Orderly Room. He has not appeared on parade to this date and has been marked absent.

E.A. Hale.

The accused declines to question the witness

D Wilson Pte

EXHIBIT "B"

Statement by NoA55082 C.S.M. McAdam, S., No 1 Canadian Ordnance Reinforcement Unit.

Having been duly sworn

On the morning of 7th Sept 42 Cpl Hale E.A. reported P6677 Gnr. Thrasher L.W. absent. He has not appeared on my parade up to the present time

S. McAdam

The accused declines to question the witness

No. 6677 Name Thrasher L.W. Sqn., Battery, or Company 3/23 Med Bty RCA Corps Date of enlistment 4/9/39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. S. Walker | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Thursley	30-6-40	Gnr.		Sec.15(1) AA WOAS A&L from 2359 hrs 29-6-40 until 1230 hrs 30-6-40 (absent 12hrs 31mins)	Bdr Fraser Sjt Addis Bdr Madden	120 hrs Det.	1-7-40	Major Thackray	Total forfeiture of pay 5 days Mod 149 BdC
E.Horsley	13-1-41	Gnr		Sec 40 AA WOAS Conduct to the prejudice Through neglect allowing his battle Dress blouse to become damaged	B/QMS Hurford	Admonished To make good 50% of the cost of damage amounting to £0-11-3	13-1-41	Lt-Col Johnson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
E.Horsley	16-1-41	L/Bdr	(1)	Sec 19 AA WOAS Drunkenness	Sjt Brown	Admonished	20-1-41	Lt-Col Johnson	
			(2)	Sec 15(3) AA WOAS Found beyond the limits without a pass or written leave from his C.O.	L/Sjt Marley Sjt Brown	Reverts to permanent grade of gunner	20-1-41	Lt-Col Johnson	
			(3)	Sec. 24 AA WOAS Losing by neglect his clothing and necessaries to the value of £5-13-3		To make good loss of kit.	20-1-41	Lt-Col Johnson	
					Documentary	15 days F.P.	2-10-41	Lt-Col Johnson	15 Days Pay F&I
E. Horsley	4-10-41	Gnr.	(1)	Sec 15 (1) WOAS A.W.L. absent 11hrs 50 mins	L/Cpl Short L/Cpl Holtum	Fined £5.00			1 " " "
			(2)	Sec 19 WOAS "Drunkenness"					15 days pay Total
			(3)	Sec 10 Violaltly resisting arrest.					
Ludshott	18-5-42	Gnr.		WOAS AWL AA Sec 15 (1) in that he at Superior Camp Ludshott absented himself without leave from 2300hrs 18-5-42 until reporting at 0845hrs 19-5-42 Absent 9 hrs 45 mins	L/Bdr Watt L/Bdr Hunt	7 days C.B.	20-5-42	Major W.R. Wonham	1 days pay

No. 6677 Name Thrasher L.W. Sqn., Battery, or Company Corps R.C.A. Date of enlistment 4-9-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1750) H.Q. 1772-42-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. C.K. Sudder Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Superior Camp	15-6-42	Gnr		WOAS AWL from 0600 hrs 15-6-42 until 0700hrs 26-6-42 Absent 11 days 1 hour AA Sec 15(1)	Bdr McKenzie Bdr Watt	28 days detention	22-6-42	Major W.R. Wonham	Forfeits 12 days pay ER&I

(Certified True Copy 29 Sep 42.)

E W Sapsford Capt

(P.T.O.)

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
P.6677	GUNNER	THRASHER L.W.	No. 2 C.A.R.U.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec 15 (1)	Three times	five times
For A.A. Sec 19	One times	two times
For A.A. Sec 10	One times	one times
For A.A. Sec 24	no times	one times
A.A. Sec 40	no	one

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and three days in military custody, making a total of three days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 22 years, 3 months.

6. The date of his commission specified in his record of service is attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is 3 years and 26 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is military military in possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

"E" 76

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this — 1 day of ~~September 194~~ October 42 [illegible] Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

STATEMENT BY THE ACCUSED

I desire to have Lieut. J.A. McGuigan, R.C.A., No 1 Canadian Artillery Reinforcement Unit, defend me.

Signed L W Thrasher

(L.W. Thrasher) No P 6677 Gnr.

KKK-152
PTE THURSTON L.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 31768 Private Lloyd Worth Thurston

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec. 15 (1)	guilty	guilty	
2nd A.A. Sec. 10 (4)	guilty	guilty	
3rd			
4th			
5th			
6th			
7th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning ~~on (date)~~ ..... (1) N/A

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Sixty days detention

(Sgd) ..... Judge-Advocate, if any.

18th April 44 Date awarded.

(Sgd) J. Shawcross Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) E.W.H.

(1. AA 57A. Delete if not used.)

Date 21 Apr 44 (Sgd) E.W. Hardenby Brig.

Commanding COMMANDER 1 CDN BASE RET GROUP (Confirming Authy)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

M-31768 PTE. THURSTON, LLOYD, WORTH, 24 Apr 44. R.W. Smith Capt

Officer Commanding 2 Bn 1 Can Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 22 MAY 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 KKK-152

FIELD GENERAL COURT-MARTIAL

CFA86 (1D 21m) of AFAB1 40-P.R.S. (1608) (2064)

Convened by Order of Brigadier E.W. Hardenby, M.C. A.D.C. Comd 1 Can Base Rft Gp dated 16th April 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R (or A/) Apptmt.	Full Christian Names.	Surname.	Unit.
M 31768	Private	Lloyd Worth	Thurston	2 Bn 1 C B R D

PROCEEDINGS REVIEWED 24 May 44 W.C. Strachan Lieut. REVIEWING OFFICER, JAG BRANCH

RECEIVED 26 APR 1944 CANADA

G II

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 18th April 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed. N

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) N The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and N each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. **The Court is opened.** The accused is ~~(are)~~ brought before the Court. At 0905 hours trial commences. N

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) N The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(6), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans. N

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans.~~ N

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No I.(2)

(1. RP 110. 2. If no objection, waiting member recites. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	† J Shawcross	R.C.A.	2 Bn 1 C B R D
Member	Captain	R Paquette	R.C.A.	1 Bn 1 C B R D
Member	Lieutenant	G Picard	R.C.A.	1 Bn 1 C B R D
Judge-Advocate				
Prosecutor	~~Captain~~ Lieutenant	† T. Egner	R.C.A.	2 Bn 1 C B R D
Defending Offr	Lieutenant	† Petley	R.C.A.	2 Bn 1 C B R D

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused M 31768 Private Lloyd Worth Thurston before arraignment make(s) (no) (~~a~~) plea N

(1. If a special plea is made for separate trial on one or more charges (RP 4.2(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ N not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (A) [illegible] *to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No thank ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete whole or part not used. If accused acquitted of all charges, use second alternative in para D8.*) 2. *Arguments on submission, answer and reply are recorded see MML p 72 paras 12-14 and p 81 para 42.* 3. *Delete part not used. If accused acquitted solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes sir. Character evidence.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 8.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes sir. In mitigation of punishment. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 46 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 66, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

44

The accused elects to be tried by Field General Court Martial

CHARGE SHEET

The accused, M31768 Pte Lloyd Worth THURSTON, Loyal Edmonton Regiment, at present on strength 2 Canadian Base Reinforcement Battalion, 1CBRD., a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2 Canadian Base Reinforcement Battalion at 2206 hours, 1 April 1944 until arrested in Naples at 1130 hours, 4 April 1944. (Time absent - 2 days, 13 hours, 36 minutes).

SECOND CHARGE
Sec 10(4)
Army Act

WHEN ON ACTIVE SERVICE, BREAKING OUT OF BARRACKS

in that he

In the Field, in Italy, on 1 April 1944, broke out of barracks, when a defaulter.

(R. W. Lent) Lt.-col.,
Comd., 2 Cdn Base Rft Bn., 1CBRD.

In the Field
14 April 44.

To be Tried by Field General Court Martial

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group

In the Field
16 April 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No : Lie. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes Sir. Character witnesses.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir. Yes Explanation of circumstances (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4C

The accused elects to be tried by Field General Court Martial

CHARGE SHEET

The accused, M31768 Pte Lloyd Worth THURSTON, Loyal Edmonton Regiment, at present on strength 2 Canadian Base Reinforcement Battalion, 1CBRD., a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2 Canadian Base Reinforcement Battalion at 2206 hours, 1 April 1944 until arrested in Naples at 1130 hours, 4 April 1944. (Time absent - 2 days, 13 hours, 25 minutes).

SECOND CHARGE
Sec 10(4)
Army Act

WHEN ON ACTIVE SERVICE, BREAKING OUT OF BARRACKS

in that he

In the Field, in Italy, on 1 April 1944, broke out of barracks, when a defaulter.

(R. W. Lent) Lt.-col.,
Comd., 2 Cdn Base Rft Bn., 1CBRD.

In the Field
14 April 44.

To be Tried by Field General Court Martial

(H.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group

In the Field
16 April 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAS/1497 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-52176B	Private	Lloyd Worth	THURSTON	2 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 16 Apr 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~1. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~2. I also appoint as Judge-Advocate the next the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F. SHARPOSS		CIC 2 Bn 1 CBRD

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	R. LACHETE		CIC 1 Bn 1 CBRD
Lieut	C. PICARD		CIC 1 Bn 1 CBRD

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut	to be detailed by 2 Bn 1 CBRD		

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 16 April 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 1 Cdn Base Rft Group Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that: M-31768 Pte THURSTON, L. W.

No. 2 Bn. 1 C.B.R.D., is fit to undergo trail by Court-Martial.

18 April 42.

Capt.
(Medical Officer)
No. 2Bn.1 C.B.R.D.

Field General Court Martial 18 April 1944

H

M31768 Pte Thurston L.W.
2 Bn 1 C.B.R.D.

E1

M31108 L/Cpl Robson. (R Edm. Regt)
having been sworn, states:

I was with the Edmonton Regt in the field in Italy from 4th of Sept 1943 until 11th Dec 1943. I was L/Cpl in A sqdn Co/and. Pte Thurston L.W. was in my section. I recognise him in this court.

Pte Thurston L.W. was a very good man in action with a lot of nerve. One time by his nerves he saved his section as far as I know he carried out all the duties that we gave him.

R.P. 83 B Complied with

E3

Plea of mitigation.

Sir Pte Thurston L.W. is 22 years of age. He enlisted in the Edmonton Fusiliers on 9 Oct 1940 and served with that unit until

December 1942 when he was sent to Eastern Canada for training as a reinforcement for 1 Cdn Div. He arrived in England in February 1943 and in July 1943 landed in Sicily as a reinforcement for the 1st Edmonton Regt. He joined his unit in the field at Leonforte and served with it until 15 Nov. 43 when he was evacuated with yellow jaundice. He returned to the unit in the field again on 7th Dec 43 but only remained until 19 Dec 43 when he was sent out as a result of a second attack of jaundice. We have heard from 4/Cpl Robson that while Pte Thurston was in his section in action he was a very good soldier.

He only received one entry on his conduct sheet during the time he was with the 1st Edmonton Regt in the field. After his unit landed in Italy there was a lot of hard marching to be done. Some of the troops had difficulty in keeping up with the main column among these was Pte Thurston G.W. and another member of the Regt. They fell back. It became dark they took a wrong turn on the road and lost the unit. However they kept going and covered about 45 miles trying to find their regt. They finally ended up at R1SC Sup point where they were told to wait until a 1st Edmonton Regt truck called for rations. They did this and when they arrived back at the unit were charged for being A.W.O.L. and sentenced to 21 days F.P. He had been absent 2 days and 23 hrs during which time he had been moving

toward the front looking for his unit.

Pte Thurston G.W. came back to no 1 C.B.R.D. this last time on Feb 44. He reported to the M.O. about a month ago with a sore leg that was bothering him. He was given five days light duty. Two days after he came off light duty he went on a route march with his coy. His leg started to bother him again so he, with another soldier dropped out of the line of march. They were both put on a charge and appeared on Coy Commanders. Pte Thurston G.W. was given 7 days C.B. but the other soldier's case was dismissed. What I am trying to bring out Sir, is that a man usually has a reason for going A.W.L. Pte Thurston G.W. felt that in view of the other soldier's case being dismissed he had not been justly punished. He was fed up and so went A.W.L. I feel that there was some provocation in this instance.

I would also like to mention that Pte Thurston G.W. is another soldier with trouble on his mind. He owns a farm at Warburg Alberta. It was on a quarter section of land. Since joining the army there has only been his father and step mother looking after the farm. His father is 65 years old. Help is very hard to get and scarce. Pte Thurston joined the army the farm has not done so well. There are debts to be paid but no money forthcoming with which to pay them. He has assigned half of his pay to his father but apparently it is not sufficient. You will note that on his conduct

sheet there are several instances of A.W.L. while in Canada. It was at these times that Pte Thurston L.W. went home to help on the farm

Another thing that is worrying Pte Thurston L.W. is that he loves in fear of returning into action. He says that just before he left the unit the last time. He was beginning to become nervous. He is afraid that if he went into action again his nerves would fail him so badly that he would bring dishonour upon himself. I have spoken to the M.O. on this matter and he has agreed to give Pte Thurston L.W. an examination when this charge has been cleared up.

I would ask the court to bear in mind the problems of the accused when considering the sentence. I would also like to mention that the accused elected trial by F.G.C.M. because he felt he would be more justly sentenced than if dealt with summarily and in this connection I would respectfully mention that para 563(2) of K.R.(CAN) states that the punishment should not on these grounds be increased and that in ordinary circumstances the court should not award a heavier sentence than that which the C.O. has power to award.

R.P. 83 B Complied with

A.

Certificate under Regulation 103 (1) (g) Army Act.

I certify that No. M.31768 Rank PRIVATE Name THURSTON L.

of the LOYAL EDMONTON REGT. was arrested at NAPLES

on the 4. APRIL 44. at about 1130 hrs.

Signature of Provost Marshal, APM, or other officer into whose custody the above named was taken on arrest.

G.S. Hill Captain,
O.C. 111 Provost Company.

EXHIBIT "B"

List of Witnesses in the case of M-31768 Pte Thurston, L. W.

(1)	L-93645 Sgt	Scherle, P.	2 Bn., 1 Cdn Base Rft Depot
(2)	M-17016 Sgt	Couch, T. W.	2 Bn., 1 Cdn Base Rft Depot
(3)		Capt C. B. Irwin	2 Bn., 1 Cdn Base Rft Depot
(4)	D-91520 Sgt	Le Clerc, A.	2 Bn., 1 Cdn Base Rft Depot
(5)		Capt R. L. Griffin,	2 Bn., 1 Cdn Base Rft Depot

List of Exhibits in the case of M-31768 Pte Thurston, L. W.

(1) Certificate of apprehension certifying that M-31768 Pte Thurston, L., of the Loyal Edmonton Regt was arrested in Naples on the 4th April 44 at about 1130 hours.

I wish/~~do not wish~~ to have an officer assigned by the convening officer to assist me in my defence at my trial by court-martial.

L W Thurston
.....
(M-13768 Pte Thurston, L. W.)

I certify that I have been given, gratis, a copy of the charge sheet, a copy of the summary of evidence, a copy of the list of witnesses and the copy of the list of Exhibits, all pertaining to my trial by court-martial.

L W Thurston
.....
(M-13768 Pte Thurston, L. W.)

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M31768 Pte THURSTON, L., of the Loyal Edmonton Regiment, 2 Canadian Base Reinforcement Battalion, 1 CBRD, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Evidence in taken on oath.

FIRST WITNESS FOR THE PROSECUTION

L93645 Sgt Scherle, P., 2 Cdn Base Rft Bn., 1CBRD, having been duly sworn, states:

"I am L93645 Sgt Scherle, P., Coy Orderly Sgt of 6 Coy 2 Bn., 1 CBRD. At 2200 hrs, 1 April 44, Pte Thurston's Pl. NCO (Sgt Bennett) reported him absent from his quarters. I checked his quarters at 2205 hrs and the accused was absent. I am acquainted with Pte Thurston and did not see him in his quarters or on parade from 2205 hrs 1 April 44. I next saw him in the R. P. Detention Room 0900 hrs 5 April 44. I personally check the quarters each night between 2200 hrs and 2215 hrs and did this each night from 1 April to 4 April 44, inclusive and Pte Thurston was not present any night."

...P. Scherle...

The accused declined to cross examine this witness.

SECOND WITNESS FOR THE PROSECUTION

M17016 Sgt Couch, T. W., 2 Cdn Base Rft Bn., 1 CBRD, having been duly sworn, states:

"I am M17016 Sgt Couch, T. W. I was acting C.S.M. of 6 Coy, 2 Bn., 1 CBRD when M31768 Pte Thurston, L. was on Coy Orders at approx 1630 hrs, 1 April 44 and was awarded 7 days C.B. by Capt C.B. Irwin, O.C., 6 Coy, and was ordered to report on defaulters parade at 0615 hrs, 2 April 44. At approx 2200 hrs, 1 April, it was reported to me that Pte Thurston was absent from his quarters. Sgt Scherle made his usual nightly bed check at approx 2205 hrs and on his return to the Coy Office at approx 2220 hrs, to make out his Tattoo Report, informed me that Pte Thurston was absent."

T.W. Couch Sgt.....

The accused declined to cross examine this witness.

(to page 2)

THIRD WITNESS FOR THE PROSECUTION

Capt C. B. Irwin, O.C. 6 Coy 2 Bn., 1 CBRD, having been duly sworn, states:

"I am Capt C. B. Irwin, O.C. 6 Coy 2 Bn., 1CBRD. At Coy Orders, 1 April 44, I awarded M31768 Pte Thurston, L. 7 days C.B."

C B Irwin Capt
.....

The accused declined to cross examine this witness.

FOURTH WITNESS FOR THE PROSECUTION

D91520 Sgt Le Clerc, A. Provost Sgt 2 Bn., 1 CBRD, having been duly sworn, states:

"I am D91520 Sgt Le Clerc, A. Provost Sgt, 2 Bn., 1 CBRD. 1 April 44, approx 1700 hrs, I was informed by Acting C.S.M. Couch that Pte Thurston, L. was awarded 7 days C.B. and that he would report at defaulters parade at 0615 hrs, 2 April 44. When I was informed I entered Pte Thurston's name in defaulters book. On 2 April 44 at 0615 hrs, Pte Thurston failed to report to me. When Pte Thurston did not report on defaulters parade I notified his Coy and then they notified me that he was A.W.L. I did not see him again until he was placed in my custody at 2030 hrs, 4 April 44 from 111 Provost Coy, C.M.P."

Sgt Leclerc A.
.....

The accused declined to cross examine this witness.

FIFTH WITNESS FOR THE PROSECUTION

Capt R. L. Griffin, 2 Bn., 1 CBRD, having been duly sworn, states:

"I am Capt R. L. Griffin, Adjutant 2 Cdn Base R.t Bn., 1CBRD. I produce Certificate of Apprehension, certifying the M31768 Pte Thurston, L. was arrested at Naples, at 1130 hrs, 4 April 44."

R L Griffin Capt
.....

The accused declined to cross examine this witness.

The Certificate of Apprehension referred to by this witness, produced, read over to the accused, marked Exhibit "A", signed by me and attached hereto.

J MacKay
.....Lieut
(J. G. MacKay) Officer detailed to take Summary.

(to page 3)

The accused was cautinned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given as evidence."

The accused declined to make any statement or give evidence on oath and elects to reserve his defence.

Certified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence and hearing of the accused this 13th day of April 1944.

.....Lieut
(J. G. MacKay) Officer
detailed to take Summary.

In the Field
13 April 44.

(C-O-P-Y)

No. M-31768 Name THURSTON, L. W. Sqn., Battery, or Company D Corps C.I.C. Date of enlistment 9:10:40 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /8128 (2965)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Edmonton	17:11:40	Pte		A.W.L. 0630 hrs 17:11:40 to 2130 hrs 18:11:40 (1 day 15 hrs)	Pte Ferguson	3 days C.B.	19:11:40	Capt Rosewarn	2 days pay FR&I
Edmonton	25:12:40	Pte		A.W.L. 0700 hrs 25:12:40 to mins) 1950 hrs 6:1: 40 (12 days 12 hrs 50	L/Cpl Grant Cpl Clark	10 days C.B.	7:1:40	Lt-Col Strachan	pay Forf 13 days
Edmonton	10:1:41	Pte		(1) Breaking barracks whilst a defaulter (2) A.W.L. 2130 hrs 10:1:41 to 1930 hrs 13:1:41 (2 days 22 hrs)	L/Cpl Grant Sgt Smart	168 hrs Det'n	14:1:41	L-Col Strachan	Forf 3 days pay
Edmonton	2:2:41	Pte		A.W.L. 2130 hrs 2:2:41 to 2010 hrs 11:2:41 (8 days 22 hrs 40 mins)	A/L/Cpl Delemant A/L/Cpl Grant Cpl Roberts	14 days Det'n	12:2:41	Lt-Col Strachan	Forf 9 days pay
Edmonton	26:3:41	Pte		An act to the prejudice, etc, in that he was absent from P.T. parade.	C.S.M. Johnson	3 days C.B.	26:3:41	Capt Rosewarn	
Edmonton	28:4:41	Pte		An act to the prejudice, etc. - Late for P.T. Parade	C.S.M. Jonson	4 days C.B.	28:4:41	Capt Rosewarn	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Westr. B.C.	14:6:41	Pte		A.W.L. 2200 hrs 14:6:41 to 1325 hrs 3:7:41 (18 days 15 hrs 25 mins)	L/Cpl Williams Pte Dombrosky Cpl Van Duinen	14 days Det'n	8:7:41	Lt-Col Strachan	Forf 19 days pay
Nanaimo	18:10:41	Pte		(1) Breaking out of barracks at 2345 hrs 18:10:41 (2) A.W.L. from 2345 hrs 18:10:41 to 0600 hrs 18:10:41 (6 hrs 15 mins) (3) Failing to check in at Guard Room on return to barracks	Pte Collins	7 days C.B.	20:10:41	Major Rosewarn	Forf 1 days pay under FR&I
Nanaimo BC	29:11:41	Pte		Out of Bounds - (Fraser Street)	Sgt Romenel (MP) L/Cpl Healing (MP)	7 days C.B.	1:12:41	J.B. Caldo Lieut	
Nanaimo BC	26:1:42	Pte		Neglecting to obey Camp Order 584 Conduct to the prejudice of etc., Neglecting to comply with an order Sec 40.A.A.	A/Cpl Williams	5 days C.B.	27:1:42	Major Rosewarn	J.L.
Prince Rup.	19:6:42	Pte		Spec Leave & ? Trans Warrant A148968 and A148969 issued					
Calgary Alta	29:12:42	Pte		Issued Spec Transportation Warrant #A304110 (Embarkation Leave) DO #2 4 Jan 43					
Field	13 Sept 43	Pte		Sec 15 (1) AWL from 1900 hrs 6:9:43 to 1800 hrs 9:9:43. (2 days 23 hrs)	Lt Cottingham Cpl Tough	21 days F.P. 21 days pay	18:9:43	Lt-Col Jefferson	3 days also forf of pay.

(C-O-P-Y)

M.F.M. 6
(A.F. B.122)
40/P & /8136 (3965)

No. Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24:2:44	Pte		A.A. Sec. 15(1) A.W.L. from 0800 hrs 24:2:44 to 0925 hrs 24:2:44 (1 hr, 25 mins)	C.S.M. Couch A/Cpl Robson	Admonished	25:2:44	Capt Wallace	J. G. Cormie
Field	2:3:44	Pte		(1) A.A. Sec. 15(1) A.W.L. from 0800 hrs 2:3:44 to 1345 hrs 9:3:44 (7 days 5 hrs 45 mins) (2) A.A. Sec 9(2) refusing to obey a lawful command; refused to carry out a fatigue	Documentary C.S.M. Couch	21 days forf pay	18:3:44	Major P. H. Stehelin	8 days auto. forf pay for time absent
Field	31:3:44			A.A. Sec 40; conduct to the prejudice, fell out of a route march without permission	Lieut L. G. Day-Smith	7 days C.B.	1:4:44	Capt Irwin	J.G. Cormie Lieut.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy from the regimental books in my custody.

R. L. Griffin
..... Capt.
(R. L. Griffin) Adjt.,
2 Bn., 1 Cdn Base Rft Depot.

Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M31768	PTE.	THURSTON, L.W.	(L.EDMN R.) 2 BN. 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and ~~squadron, battery~~ or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. SEC. 15(1) A.W.L	4 times	9 times.
For A.A. SEC 10(4) BREAKING BARRACKS	0 times	2 times.
For A.A. SEC 40	1 0 times	3 4 times.
For A.A. SEC 9(2)	1 times	1 times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 12 15 days in military custody, making a total of 12 15 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 22 YRS 8 MONTHS.

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 9 OCT '40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused ~~is in possession of, or entitled to, no military decoration or military award (or~~ is in possession of *or* entitled to *(state any military decoration or reward)* CANADIAN VOLUNTEER SERVICE MEDAL AND CLASP

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental ~~rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~, dated~~ ~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

(P2084-7) Wt.81105/1877 30,000 10/42 A.& E.W.Ltd Gp.698
(P2087) Wt.16656/1187 12,000 5/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M 21766 **Rank** PTE **Name** THURSTON, L.W. **of** (KRRC) 2 BN ICRD **Regiment** (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or styles of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15TH day of APRIL 1941

Lt Col
Commanding
2nd Bn ICRD

13. The accused has served as a non-commissioned officer continuously without reduction to the present date.

In the rank of , years, Date of Promotion.

In the rank of , years

In the rank of , years,

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected amended accordingly.)

5 N-29

Pt. Thurston, L.C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C4916 Pte Stephen Roy THURSTON - 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

10 months Detention per a period of nine (9) months Sentence to be put under the process of Law until he has made good 20-53 the expenses of his ~~15 NOV/45~~ ~~Committed~~ returned to unit

(Sgd) ..... Judge-Advocate, if any. Date awarded. (Sgd) ..... President. (RP 49, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~.(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brigadier, Commanding "C" Group, Cdn. Reinforcement Units. Confirming Officer.

Date 16 Nov 45 Commanding .....

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C 4916 Pte Thurston S.R.	23 Nov 45.	J.R. Matthews Lt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5-34-29

CPA86 (In lieu of AFA81) 40/P de D/1888 (6144)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig E.C. PLOW, CBE DSO Comd "C" Gp CRU dated 12 Nov 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4916	Pte		Stephen Roy	THURSTON	1 CGRU

PROCEEDINGS REVIEWED 3 Dec 45 Maj Robinson Capt. RMC

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 15 NOV 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to MAJOR S.S. RIMMER RA as shorthand writer? Ans NO SIR

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.S. REDMAN MC	RE CRU
Member	CAPT.	J.M.H. BOOTH	1 CGRU
Member	LIEUT	S.R. CHUBB	1 CGRU
~~Judge-Advocate~~			
Prosecutor	LIEUT	R. SKINNER	1 CGRU
Defending Offr	LIEUT	Z. MILLER	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~.....~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AE mark and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. BY BEING NOT-AIS (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, C4916 Pte Stephen Roy THURSTON, C.I.C., on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 0001 hrs 1 May 45 until apprehended by the Canadian Provost Corps in Reigate, Surrey, at 1830 hrs 12 Oct 45, thereby incurring expenses in returning him to his unit in the amount of £9-5-3.

Absent: ~~165~~ 164 days, 18 hrs, 29 mins.

Comd No. 1 Canadian General Reinforcement Unit, Canadian Army Overseas

Field

~~8~~ 12 Oct 45

To be tried by Field General Court Martial

Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants
12 Nov 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4916	Pte		Stephen Roy	THURSTON	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, (or by an offr acting on my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable for delay the trial for reference to a superior qualified auth)

(Delete part in brackets when not required for compliance with RP 108(a).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint~~ (a) three Offrs to form the Court, (b) a Pdt Offr as President, for the reasons set forth on the ~~attached hereto~~.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the~~ at the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC	1 CGRU
Lieut	to be detailed by OC	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 12 Nov 45

Commanding "C" Group, Cdn Rft Units

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. C4916 Hurston S.R.
of #1 C & RU is in a fair state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station FIELD

Date 15 Nov 45

M. F. B. 246
2M—6-41 (792)
H.Q. 1772-39 480

Plea of Mitigation

Accused:- Pte Thurston S.R., C4916

Charge:- AWL

E-3

MM

J Mulholland

In reference to the charge against Pte. Thurston, a plea of mitigation is advanced in consideration of his long service, previous record, and the circumstances which led him to go A.W.L.

On 4 Sep. 1939, the accused joined the Hastings Prince Edward Regiment, arriving

overseas with them in Dec. of the same year.

In July 1940 he went over to France with his Regiment. However their stay was a short one and they were forced to return in five days.

Just before his unit left for Sicily, the accused was sent to #5 CIRU as

a rotation N.C.O. He was employed there, and at # H C.I.R.U. for several years, and was not allowed to re-join his Regiment in Italy, till till Sep. 1944.

He remained in Italy till Apr. 1945, when he was hospitalized to have his appendix removed. On discharge, he was returned to England to be re-boarded.

Before the accused came overseas in 1939, he owned 1/3 of his father's fishing camp and tourist business. Both his parent's died in the same year, as no will had been made, and, the eldest brother took upon himself the task of adminstering the estate.

Just before being returned to England, P/L. Thurston received a

letter from his eldest brother. Upon reading it he discovered to his amazement, that the latter claimed that the accused was now the proud possessor of absolutely nil as regards his father's estate. The eldest brother had somehow managed to get complete control,

thus leaving the other four members of the family with nothing.

However the biggest shock was yet to come. He arrived at his home in England to find two rather disconcerting things. Firstly in his absence his wife had been running around with another man. Also

his wife's mother had talked the former into deciding not to go to Canada, despite the fact that she had already applied for same.

The accused went A.W.L. in an attempt to regain ~~to regain~~ his wife's affection and to prevail upon her to go to Canada. They have

one child, and another is excpected in the end of January.

He was finally successful. Pete Thurston stayed away as long as he did, in an attempt to be sure that his wife left for Canada. She had until the end of October, at which time she would be six months

pregnant. He was afraid that if he left, her mother might again change her mind.

The accused would like to return to Canada as soon as possible in an attempt to regain that part of his father's business that is rightfully his. At present one of his brother's and sister in Canada are

taking legal proceedings against the usurper.

It is with these things in mind that a plea for leniency is respectfully put forward on behalf of Pte. Thurston.

It would, indeed, be a great pity, if through volunteering at the very outset of the war to defend his country the accused has thus put himself in the

lamentable position of
loosing all his curtian
possessions.

SUMMARY OF EVIDENCE

in the case of

C4916 Pte Stephen Roy THURSTON, C.I.C., on the strength of No. 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

"I produce the following documents, pursuant to Overseas Routine Order 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Extract from No. 1 Canadian General Reinforcement Unit Part II Order No. 251 dated 22 Oct 45 which declares in Section "B", para 8, sub-para (e) that C4916 Pte Thurston S. R. to/absent without leave from 0001 hrs 1 May 45.
(Marked Exhibit "A")

(2) Certificate in Accordance with P.C. 2797 of 10 Apr 42 signed by G. A. Rose, Lieut, DAPM CMHQ and dated in London, 14 Oct 45, which declares that C4916 Pte Thurston S. R. was arrested at Reigate, Surrey, at 1830 hrs 12 Oct 45.
(Marked Exhibit "B")

(3) Expense Voucher (Ref: KR&O (Can) 539) dated 13 Oct 45 and signed by the Officer Issuing Railway Warrant and Expense monies, No. 6 Area Provost Coy., Cdn Provost Corps, London, which declares that expenses were incurred in returning C4916 Pte Thurston S. R. to London from Reigate in the amount of £0-5-3.
(Marked Exhibit "C")

J.F. Hodgins Capt
(J.F. Hodgins) Capt
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

J.F. Hodgins Capt
(J.F. Hodgins) Capt
Officer detailed to take the Summary of Evidence.

Field,

8 Nov 45.

EX A

Exhibit "A"

NO. 1 CANADIAN GENERAL REINFORCEMENT UNIT
CANADIAN ARMY OVERSEAS

Last Order No. 250 20 Oct 45.

Daily Part Two Orders. issued by COL R C CLARK DSO COMMANDER

This Order No. 251 22 Oct 45.

SECTION "B" OTHER RANKS

8. ABSENT WITHOUT LEAVE

(e) AWL from 0001 hrs 1 May 45. Returned from AWL 1830 hrs 12 Oct 45.

C.4916 Pte. THURSTON, S.R.

(Signed) (J.B. Hughes) Lt

for (R.C. CLARK) COLONEL
COMMANDER
NO. 1 CDN GEN RFT UNIT

CERTIFIED TRUE EXTRACT
from original document
held in my possession.

7 Nov 45

(J.F. HODGINS) Captain
Legal Officer,
No. 1 Cdn Gen Rft Unit
Canadian Army Overseas
Officer having custody
of original document.

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr 42. Exhibit B

I certify that No. C-4916 & Rank Pte. Name Thurston, S.R.

of No. 1 C.G.R.U. was arrested at Reigate/Surrey (Place)

at 1830 (Hour) on 12-Oct.45. (Date) and that at the time of his arrest, he was wearing (Military Uniform) or (XXXXXXXXXXXXXXXX) Signature of Provost Marshal, Assistant Provost Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

(G.A. Rose) Lieut.XXXX.
D.A.P.M. C.M.H.Q.

London
14-Oct.45.

Exhibit "C"

Expense Voucher Re— Ref : KR & O (Can) 539

Reg No C-7916 Rank Pte Name Thurston, S.R. Unit 1 C.G.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Reigate

Date	Particulars	Amount		
13 Dec 45	Escorts return fare from LONDON To Reigate	—	3	6
	Prisoners single fare to LONDON From Reigate	—	1	9
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	—	5	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.D. Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

HQ 100-55
C.S./483 (6762)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C4916	Pte	THURSTON S. R.	No 1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15 (1) 8 times.

Date of first entry in Field Conduct Sheet 6 Aug 40

Date of last entry in Field Conduct Sheet 24 Jan 45

2. The previous convictions of the accused by court martial or civil court are as follows :—

*Strike out if not applicable.

3. The accused was apprehended on the present charge [illegible] and has been in military custody since [illegible].

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 34 days in military custody, *i.e.*, 0 days in open arrest, 34 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 25 yrs

6. The date of his attestation is 4 Sep 39

7. The service which the accused is allowed to reckon is

†State the military decorations (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp
1939-43 Star

9. The accused was [illegible] without authority on the [illegible]

In the substantive rank of

In the war substantive rank of

In the unit rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721-3701 35,000 9/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 13 day of November, 1945

J W Hodgins Capt
Regt'l Offr
1 C & R U

No. C4916 Name THURSTON S R | Sqn, Battery, or Company | Corps CIC | Date of enlistment 4 Sep 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Cpl		AA Sec 15 (1)		reduced to pte	6-8-40		4 d.p.forf
Field		Cpl		AA Sec 15 (1)		Severe rep.	2-6-41		2 d.p.forf
Field		Cpl		AA Sec 15 (1)		Severe rep.	3-2-43		7 d.p.forf
Field		A/Sjt		AA Sec 15 (1)		reprimand	29-12-43		2 d.p.forf
Field		Pte		AA Sec 15 (1)		severe rep	5-8-44		1.d.p.forf
Field		Pte		AA Sec 15 (1)			22-7-44		4 d.p.forf
Field	5Sep 44	Pte		AA Sec 15 (1) AWL from 5--10 Sep 44		stoppage of £3-14-10 costs	13-9-44		33 d.p. forfeit.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Dec 44	Pte		AA Sec 15 (1) AWL from 26 Dec 44 to 13 Jan 45			24-1-45		forf 45 days pay

CERTIFIED TRUE EXTRACTS FROM
ORIGINAL MFM 4 HELD IN MY POSSESSION

J.F. Hodgins Capt

(J.F. Hodgins) Capt
Legal Officer 1 C G R U
Officer having custody
of original document

CASE OF C4916 Pte Stephen Roy THURSTON

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Extract from No. 1 CGRU Part II Order No. 251 dated 22 Oct 45 concerning the absence without leave of C4916 Pte Thurston S. R.
(Marked Exhibit "A")

(b) Certificate in Accordance with PC 2797 signed by Lieut G.A. Rose, DAPM CMHQ and dated 14 Oct 45 concerning the arrest of C4916 Pte Thurston S.R.
(Marked Exhibit "B")

(c) Expense Voucher dated 13 Oct 45 and signed by the Officer Issuing Railway Warrant and Expense monies, No. 2 Area Provost Coy., Cdn Provost Corps, concerning expenses incurred in returning C4916 Pte Thurston S.R. to London from Reigate.
(Marked Exhibit "C")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

S.R. Thurston
.....
(C4916 Pte Thurston S.R.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

S.R. Thurston
.....
(C4916 Pte Thurston S.R.)

Signed in the Field,

this 1 day of Nov 45.

4Q4-46

PTE TIBBONG

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.Sec 15 1	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which 10 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

9 months Detention

(Sgd) ..... Judge-Advocate, if any. 16 May 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the Finding and Sentence of the Court

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (See AA 57A. Delete if not used.)

(Sgd) ..... A/Brig

Date 18 May 44 Commanding 11 CIB Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F35125 Pte Tibbo, N.G.	22 May 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT MIL. H.Q. 11 JUL 1944 (CPA46 (In lieu of AFA3) 40-PAS/1008 (2864))

RECEIVED 6 JUL 1944 CMHQ

FIELD GENERAL COURT-MARTIAL

Convened by Order of T E Snow Brig Comd 11 Cdn Inf Bde dated 16 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F35125	Pte	Norman Graham	Tibbo	2 C Hghrs.

PROCEEDINGS REVIEWED
K. Lucas Lieut
6 Jul 44
REVIEWING OFFICER, JAG BRANCH, CMHQ

RECEIVED 11 JUN 1944 CANADIAN SECTION ALLIED EXPEDITIONARY FORCE

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 16 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 15.10 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans ~~No~~

The Interpreter is sworn.(1) Do you object to Capt Wilkinson S.R. as shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J. H. White	R.H.R.
Member	Capt	J. E. Johnson	R.H.R.
Member	Capt	D. J. Ould	Sp Sp (Arty)
Judge-Advocate			
Prosecutor	Lieut	S. McKinnon	S.D. Hghrs
Defending Offr		Self	

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No. (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 32.)

A8. The accused F35125 Pte Tibbo Norman Graham before arraignment make(s) (no) ~~an~~ plea

No plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~(supplementary)~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

To here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(6), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 555. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes (Statement attached)
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No, Statement attached (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence (1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) Nil(D)
(*1. When several accused tried separately see RP 95(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charge Sheet

The accused No. F35125 Pte Tibbo Neil Graham "D" Coy. C.B.H. C.M.F. is charged with:

A.A. Sec 15(1) WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field absented himself without leave at 0800 hrs 11 Apr 44 and remained absent until apprehended by the Military Police at the 8th Army Rest Camp at 0620 hrs 22 Apr 44.

Absent 11 days 10 hrs 20 Mins.
10 days 22 hrs 20 Mins

Field,
10 May 44

.....
(J.B. Weir) Lt. Col.,
Officer Commanding,
Cape Breton Highlanders.

To be tried by Field General Court Martial

(T E Snow) Brig
Comd 11 Cdn Inf Bde

Field
16 May 44

FIELD GENERAL COURT-MARTIAL

CFA55 (In lieu of AFA3)
40/PAM/1697 (3868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F35125	Pte		Neil Graham	TIBBO	CBHighrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~thereof~~ committed the offence(s) set forth in the Charge Sheet attached and on (*date*) 16 May 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	T H WHITE ~~H.W. Andrew,~~	Perth R
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	S.E.Cameron,	Ir R C
Capt	D.G.Bauld,	Sp Gp (PLF)
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lieut	F.E.Stephan	CBHighrs
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country)

(Signed personally. RP 105 fn 2.)

BRIG (Rank.)

Date 16 MAY 44

Commanding (T E Snow) Convening Officer. Brig
Comd 11 Cdn Inf Bde

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CAPE BRETON HIGHLANDERS

Fields,
16 May 44

I, Certify that J.35145 Pte. T.I.BO
is fit to undergo trial by Court-Martial.

N.C.

R. W. Boyden
(Signature of MO) Major

Exhibit A

Summary of Evidence

Summary of evidence in the case of F35125 Pte Tibbo N.G. "D" Coy. C.B.H. C.M.F. charged with one offence under Section 15 (1) of the Army Act.

The Commanding Officer directs that the evidence be taken under oath.

First Witness: Capt. R.T. Bonnell, Adjutant, Cape Breton Highlanders, having been duly sworn states.

I am Capt. R.T. Bonnell, Adjutant C.B.H. I produce herewith a document proporting to be signed by Lieut. Col., W. Morrison Commandant 8th Army Rest Camp, showing the accused F35125 Pte Tibbo N.G. was apprehended at approx 0620 hrs 22 Apr 44.

Signed....R.T. Bonnell....
(R.T. Bonnell) Capt., Adjutant
Cape Breton Highlanders.

The accused declines to cross examine the witness.

Second Witness: F55694 CQMS Kerr J.P. "D" Coy. C.B.H. having been duly sworn states:

I am F55694 CQMS Kerr J.P. A/CSM of "D" Coy. C.B.H. On 11 Apr 44 at 0800 hrs F35125 Pte Tibbo N.G. was due back from leave. He did not report back at that time. To my knowledge F35125 Pte Tibbo N.G. did not appear on any parade in the Coy. until he returned to the Coy. under escort at 1630 hrs 8 May 44.

Signed...J.P. Kerr...
F55694 CQMS Kerr J.P.

The accused declines to cross examine the witness.

The accused was warned as follows:
Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused: I have nothing to say at this time.

Signed...N.G. Tibbo...
F35125 Pte Tibbo N.G.

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 10th day of May 1944.

Signed...[illegible]...
Officer Taking Summary.

CAPE BRETON HIGHLANDERS 16 May 44

FGCM
F35125. Pte. Tibbo, N.G.

Statement of Lieut. W.M. Chisholm, P.L.F.

The accused Pte.Tibbo, N.G., was formerly in my platoon in Debert, Canada and with same Coy as I for approximately five months in England. To the best of my knowledge his attitude to his work was most satisfactory. In my opinion a good soldier.

CAPE BRETON HIGHLANDERS 16 May 44

FGCM
F35125. Pte. Tibbo, N.G.

Statement of Lieut. C.J. Price, Cape Breton Highlanders

I would like the Court to take in to consideration that Pte. Tibbo, N.G. volunteered for active service four years ago,and during that time he has had no serious crimes and served only 28 days detention, remainder of his offences are purely petty onss, two cases of drunkeness will be noted, and Pte. Tibbo, N.G. while at 8th Army Rest Centre had word from home of rather a disturbing nature that together with hardships, he proceeded to get dru nk. He was drunk the whole time he was there and failed to report back when his leave ended being drunk.

Also for the Court to remember that he volunteered to fight and would be a pity to deny him the privilege.

CERTIFICATE IN ACCORDANCE WITH A.A. SEC 163(i) (ii)

I certify that No. P.25125 Rank. Pte Name. TI330 N.G.

Unit. 62 C.A.Y.Hqrs was arrested at 8th Army Rest Camp

at about 0620 hrs on the 22nd day of APRIL 1944.

Signature of Provost Marshal, Any other officer into whose custody above-named soldier was taken or

Lieut. Colonel, Eighth Army Rest Camp

List of witnesses in the case of F35125 Pte Tibbo,N.G.

For the Prosecution:

Capt R.T.Bonnell — C.B.Highrs

F5669 CQMS Kerr,J.P. — "

For the Defence:

NIL

List of Exhibits in the case of F35125 Pte Tibbo,R.G.

Exhibit S. [illegible]

Document purporting to be a signed statement of evidence of 2688001 Cpl Gil s,R.C. and 3969409 L/Cpl Poke,T.R., C.M.Police

[illegible]

Officers under Instruction

Capt & CA Wilcox — Pd. F.
Lieut HH Downes — CB Hykes
Lieut JH Wyse Donald — CB Hykes

Brevet Major

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial

I desire the services of

if he is available Capt. G. Mac Logan

K. A. Libbs

No. F36125 Name Tibbo N.G. Sqn, Battery, or Company Infantry Corps Date of enlistment 14/6/40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 48/PAS/125 (B438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	30/6/41	Fus		Breaking Camp standing orders	Cpl Cook Cpl Smith	10 Days C.B.	1-7-41	Lt Col O.C. Mitchell	
	4/8/41	Fus		A.A. Sec 15 (1) AWL from 0400 hrs 4 Aug 41 until 2300 hrs 5 Aug 41 Absent 1 day 21 hrs					
	21/10/41	Fus	1st	Drunkeness damaging public property valued at 1.64	Sgt Tracy L/C Mitchell	72 hrs Det	6-8-41	Lt. Col Mitchell	
	28/11/41	Fus		Under influence of liquor and unfit for duty and had to be replaced.	CSM McKinnon L/C Hull	4 days pay 1.64 damages	31-10-41	L.J. George Maj.	
					L/C Redmond	7 days pay	29 Nov 41	L.J. George Maj.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	29/5/42	Fus		Losing by neglect Pistol No 734590 which was on his charge	CQMS Crosman	Admonished Stoppage 33.60	3-10-42	W.W. Reid Maj.	
	25/3/43	Fus	2nd	Drunkeness	✓	Fined 5.00	25 Mar 43	R.M. Odlum Maj	
	9/6/43	Fus		A.A. Sec 15(1) AWL from 2130 hrs 9-6-43 until 0500 hrs 10-6-43 (2) breaking out of barracks while a defaulter	✓	7 days C.B.	11-6-43	Lt. Col. Robson	
	15/6/43	Fus		A.A. Sec 40 Appeared on Brig parade with a dirty rifle, needed a haircut and had badly fitted equipment.	Doc Evid		16-6-43	Capt E.M. Leonard	
	4/7/43	Fus		A.A. Sec 40 Failed to obey a lawful order given by his superior offr.	RSM Campbell	4 days C.B.	2-7-43	Capt. E.M. Conrad	

Certified True Copy

Substitute for AFB 296
or MFB 356.

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED.

No. F35125 Rank Pte Name TIBBO, E.G. Unit C.B.Highrs

Age 23 Married or Single Single No of Dependents nil

Date of Attestation 10-6-40

Number of days in Close Arrest awaiting trial.....

Civil.....Military 20 days Hospital..... Total 20 days

Dates of appointments, promotions etc(if any).....

.....

.....

.....

Decorations C.V.S.M. & Clasp

In the Field

10 May 44
Date

L. J. Bourque Capt.
Officer i/c Regtl Books
Cape Breton Highlanders
Unit

Note: Certified true copy of AFM 6 must accompany this form.

Robert B Bibbo

HC-150

SPR TIBBS B.R.

REPLY PLEASE QUOTE

RECORDED AT CMHQ IN AB 160.

CFA96 (in lieu of AF43)
40/P & S/1066 (2804)

FIELD GENERAL COURT-MARTIAL

1944

Of Order of Brig A.B. Connelly Comd "B" Gp CRU dated 1 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H-36373	Spr	Bernard Roland	TIBBS	1 CERU

PROCEEDINGS REVIEWED

J. Connelly Capt.
14 Nov 44
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 2 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter ? Ans~~

~~The interpreter is sworn.(1)~~ Do you object to Capt A.H. Sinclair as shorthand writer ? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller E.D.	HQ CRU
Member	Capt	R.F. McElwaney	1 CERU
Member	Lieut	G.F. Dynes	1 CERU
Judge-Advocate			
Prosecutor		L.A. Opley	1 C & Ru
Defending Offr	Major	V.E. Graham	1 C & Ru

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-36373 Spr Bernard Roland TIBBS 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

As present under sentence for NIL (1) beginning on (date)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Nine (9) Months.

2 Nov 44 (Sgd) J. Connelly Brig President (RP 45, 50.)

Date awarded.

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING AND SENTENCE.

(For duties and powers see AA 54, 57, KR Can 567-577. Acquittals require no confirmation and cannot be varied. Sentence for revision by Court: AA 54(2), RP 120(G). If not promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57. Minute of confirmation or non-confirmation may be altered before ~~sign~~ here personally. AA 172 fn 1.)

I confirm the finding of the court but mitigate the sentence so it shall read "Nine months detention" and I confirm the sentence for one hundred and fifty days as so mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ (1. AA 57A. Delete if not used.)

Date 8 Nov 44 (Sgd) J. Connelly Brig Commanding "B" Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-36373 Spr. Tibbs B.R.	8 Nov 44	A.H. Sinclair Capt. 1 C.E.R.U.

ENTERED PART II ORDERS

DATE 10 Nov 44 ORDER No. 268

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

No. 1 Cdn. Engineers Holding Unit C.A.

OFFICER i/c RECORDS
No. 1 Cdn. Engineers Holding Unit. C.A.

REPLY PLEASE QUOTE

RECEIVED 14 NOV 1944 JAG BR

RECORDED AT CMHQ IN AB 160

CFA86 (In lieu of AFA3) 40-P & S. 1868 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.B. Connelly Comd "B" Gp CRU dated 1 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-36373	Spr	Bernard Roland	TIBBS	1 CERU

PROCEEDINGS REVIEWED

J. Rutherglen Capt. 14 Nov 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 2 Nov 44

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A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(C). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ~~Ans~~

~~The Interpreter is sworn.~~(1) Do you object to Lt A.H.S. Lucas as shorthand writer ? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller E.D.	HQ CRU
Member	Capt	R.A.F. Secretary	CASCRU
Member	Capt	C.R. Ryder	1 C & Ru
~~Judge-Advocate~~			
Prosecutor		L.A. Onley	1 C & Ru
Defending Offr	Major	V.E.C. Callum	1 C & Ru

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Off.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when severed accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ..., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-36373 Spr Bernard Roland TIBBS 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of plea see RP 44 fn 6.)

NIL

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Nine (9) Months.

(Sgd) ..... Judge-Advocate, if any. 3 Nov 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(O) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding of the court but mitigate the sentence as it shall read, "To undergo detention for one hundred and fifty days" and I confirm the sentence as so mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) C.B. Connelly Brig

Date 8 Nov 44

Commanding "B" Group CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-36373 Spr. Tibbs B.R.	9 Nov 44	R. Agar Capt. 7th Fd Park Coy R.C.E. 3 C.E.R.U.

ENTERED PART II ORDERS DATE 10 Nov 44 ORDER No. 263

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

No. 1 Cdn. Engineers Holding Unit. C.A. OFFICER i/c RECORDS No. 1 Cdn. Engineers Holding Unit. C.A.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans...... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 34(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H 36373 Spr TIBBS, Bernard Roland, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcment Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
A.A. 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 1 Canadian Engineer Reinforcement Unit from 1330 hrs., 25 Jul 44, until he surrendered himself to the Civil Police at GREENFORD, Middlesex, at 1730 hrs., 17 Oct 44.

(Absent 84 days 4 hours)

(G.H. WHYTE) Colonel
Commanding Officer,
1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the field
30 Oct 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units.

1 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-36373	Spr		Bernard Roland	TIBBS	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 1 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	E.M. Miller E.D.	HQ CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Captain	to be detailed by	1 CASCRU
Lieutenant	to be detailed by	1 CSRU
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lieutenant	to be detailed by	1 CSRU
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

A.B. Connelly (Signed personally. RP 105 fn 2.)

Date 1 Nov 44

Commanding (A.B. Connelly) Brig Comd "B" Gp CRU (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFABS (In lieu of AFA3) 50-P & S/1697 (1651)) *(See overleaf for oaths and notes for use on trial.)*

MEDICAL OFFICER'S CERTIFICATE

A.F.B. (C.2) Para. 557

I certify that I have this morning examined

No. H 36373 Spr. Tibbs, B.R.

of ...H.Q.C.E.R.U.... and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station ...Field...

Date ...3-11-44...

...Medical Officer.

W1

CASE OF

H.86573 Spr TIBBS D.R. 1 C.A.H.U.

PLEA IN MITIGATION

Sir, this man was born in Canada and of Scotch parents who went out to Canada and homesteaded in the Lake Of The Woods district and the accused helped with that homesteading as he grew up and acted as a Guide on the Lake as well. On coming o/s after joining up, he served with 3 CCS as a tradesman for which he was getting trades pay, but was returned to the Holding Unit, and his trades pay was stopped and from here went to CDRC for o/s service and landed in France on D plus 9 day. Before he had gone he wanted the qualification of MC 2 included on his documents. This was neglected and on getting to CDRC he had some difficulty in persuading them there that he was a MC. He finally did and served as a DR with 3 Div H.Q. On 26 Jun is MC disappeared from underneath him and he was taken to hospital. Whether it was a mortar or a rifle bullet that hit the front wheel was not known, but he was returned from hosp to this country on 26 Jul. He had a debit balance in his Paybook due to a previous court-martial and had a credit balance in his deferred pay. From previous experience he was of the opinion that the credit balance could be adjusted from his deferred pay - however nothing was done about this before he went to France and having that deferred pay and a free balance debit he was of the opinion that he could not get leave, therefore on his return back here from hosp he took his leave. His desire at the present time is to get back to France. He is a trained soldier, and wants to carry on with the job that he started as a serving soldier while on active service. This accused can be of real value to the Army. Taking into consideration the time spent in the Army both working as a tradesman and serving as a DR in an active theatre of ops, his service can still be very valuable to the Cdn Army and his desire to get back is asked to be considered. I have here a certificate of his wound and application for a wound stripe which can be left with the proceedings. This has already been acted on through orders and he will not lose out by having it on his file. His category is "A" and has not been lowered by reason of his wound.

40/P & S/1420 (501a)

Brigade 3rd Diviston 2nd Cdn Corps

Schedule No. (to be left blank) Unit H.Q. 3rd Div.

Army No. and Rank M-36373 Spr. Unit Tel

Name T.L.O.S. BR.
(Christian names must be stated)

Date recommendation passed forward

	Received	Passed
Brigade		
Division		
Corps		
Army		

Action for which commended (Date and place of action must be stated)	Recommended by	Honour or Reward	(To be left blank)
26 June 44 - CAEN - Normandy Sniper bullet wound right hip.	Commanding Officer	1 gsw wound stripe	

[redacted]

PTO

SUMMARY OF EVIDENCE

Summary of evidence in the case of H 36373 Spr. TIBBS, BERNARD ROLAND, Royal Canadian Engineers, No 1 Canadian Engineer Reinforcement Unit, a Soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of evidence is taken on oath.

FIRST WITNESS

For the prosecution.

Lieut. W.R. NEWMAN, R.C.E., of No. 1 Canadian Engineer Reinforcement Unit, having been duly sworn, states :-

(1) I, Lieut. W.R. NEWMAN, R.C.E., of No.1 Canadian Engineer Reinforcement Unit, present a certified true copy of a Record of the Declaration of a Court of Inquiry assembled at 1 C.E.R.U. on 22 Sep 44 for the purpose of investigating and recording the absence without leave from his duty and deficiency if any in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or clothing of No. H 36373 Spr. TIBBS, BERNARD ROLAND, whom I now recognize as the accused.

(Marked " EXHIBIT A ")

(2) I also present a certificate in accordance with section 163 (1) (k) of the Army Act, being Army Form O.1617, a certificate of Surrender to the Civil Police of the accused, H 36373 Spr. TIBBS, BERNARD ROLAND, whom I now recognize as the accused.

(Marked " EXHIBIT "B")

The accused declines to cross-examine this witness.

W R Newman Lt.

(W. R. NEWMAN) Lieut., R.C.E.

The accused was cautioned as follows :-

"Do you wish to make any statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

I certify that the foregoing Summary of evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

D. L. Blair

(D. L. BLAIR) Lieut., R.C.E.
Officer detailed to take the Summary of evidence.

In the Field,
21 Oct 44.

For [illegible]

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H-36373 Spr. TIBBS, Bernard Roland, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
For the prosecution

Lieut. W.R. NEWMAN, R.C.E., of No. 1 Canadian Engineer Reinforcement Unit, having been duly sworn, states:-

(1) I, Lieut. W.R. NEWMAN, R.C.E., of No. 1 Canadian Engineer Reinforcement Unit, present a certified true copy of a record of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on 22 Sep. 44 for the purpose of investigating and recording the absence without leave from his duty and deficiency if any in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or clothing of No. H-36373 Spr. TIBBS, Bernard Roland, whom I now recognize as the accused.

(Marked "EXHIBIT A")

(2) I also present a certificate in accordance with Section 163 (1)(k) of the Army Act, being Army Form O.1617, a certificate of surrender to the Civil Police of the accused, H-36373 Spr. TIBBS, Bernard Roland, whom I now recognize as the accused.

(Marked "EXHIBIT B")

The accused declines to cross-examine this witness.

(W.R. NEWMAN) Lieut., R.C.E.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

In the field
21 Oct 44.

(D.L. BLAIR) Lieut., R.C.E.
Officer detailed to take the Summary of Evidence.

I certify the above to be a true copy of the original Summary of Evidence.

D.L. Blair

(D.L. BLAIR) Lieut., R.C.E.
Officer detailed to take the Summary of Evidence.

C.Pte

EXHIBIT "A".

RECORD of the Declaration of a Court of Inquiry assembled at No. 1 C.E.R.U. on the 22nd day of September 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. H.36373 Spr. Tibbs, B.R. - No. 1 C.E.R.U.

DECLARATION

The Court declare, that H.36373 Spr. Tibbs, B.R. was illegally absent from No. 1 C.E.R.U., at 1330 hrs 25 Jul 44, and that on the 22nd day of September 1944 he is still absent.

That Kit Deficiencies cannot be established, as no kit or partial kit belonging to H.36373 Spr. Tibbs, B.R. is being held at No. 1 C.E.R.U., stores, and no kit or partial kit belonging to H.36373 Spr. Tibbs, B.R. was left with 2nd Echelon 21 Army Group.

11 Oct 44

The Court Reassembled (with the original members).

In consideration of the fact that the Army has no record of any kit belonging to. H.36373 Spr. Tibbs, B.R. having been left behind - the court find he is devicient one complete kit according to scale of issue 3.

The Court declare, that H.36373 Spr. Tibbs, B.R. was illegally absent from No 1 C.E.R.U., at 1330 hrs 25 Jul 44 and that on the 22nd day of September 1944 he was still so deficient and that he is still deficient of the following articles to the value of $57.48 (75% of vocab rate - see list on attached sheet).

do 24 d/12 Oct 44

Names of President and Members:

(J.W. Lahey) Lieut President
No. 1 C.E.R.U.

(A.K. Bayles) Lieut Member
No. 1 C.E.R.U.

(G.F. Bruce) Lieut Member
No 1 C.E.R.U.

Signature of Commanding Officer .....

(G.M. WHYTE) COLONEL
C.O., No. 1 C.E.R.U.

Certified true copy .....
Signature of Officer having custody of original record.
Adjutant, No 1 CERU

EQUIPMENT OF H.36373 Spr. TIBBS B.R. 9 Oct 44

Anklets, web, prs	1	$0.99	$0.74
Battle Dress, Blouses	1	5.25	3.94
Battle Dress, Trousers prs	1	5.46	4.04
Boots, ankle, prs.	2	10.92	8.20
Caps, field service	1	0.56	0.42
Drawers cellu prs	2	0.86	0.64
Greatcoat, drab	1	11.55	8.67
Jersey Pullover	1	1.79	1.34
Coveralls, prs	1	2.72	2.04
Shirts, angola, drab	2	4.06	3.04
Socks, worsted, prs.	4	1.48	1.12
Badges, cap, RCE	1	0.09	0.06
Braces, dress, prs	1	0.28	0.21
Brushes, hair	1	0.34	0.26
" , shoe polishing	1	0.28	0.21
" , shaving	1	0.37	0.29
" , tooth	1	0.11	0.07
Cap, comforter	1	0.34	0.26
Comb, hair	1	0.04	0.03
Discs identity	3	0.03	0.02
Dressings, field	1	0.24	0.18
Fork, table	1	0.07	0.04
Holdall	1	0.19	0.12
Housewife	1	0.30	0.22
Knife, clasp, & Lanyard	1	0.88	0.66
Knife, table	1	0.15	0.11
Razor, safety with blades	1	0.06	0.04
Spoon, desert	1	0.07	0.04
Towels, hand	2	0.64	0.48
Bags, ration	1	0.04	0.03
Belts, waist, W.E.	1	0.74	0.56
Bottles, water & carrier	1	1.34	1.01
Braces, W.E. L & R	2	0.60	0.44
Frog, bayonet	1	0.19	0.14
Haversack, W.E.	1	1.79	1.32
Helmet, steel	1	2.39	1.79
Net, camof.	1	0.15	0.11
Veil, face	1	0.43	0.32
Pack, W.E.	1	1.84	1.38
Pouches, basic	2	2.38	1.78
Sling, rifle	1	0.24	0.18
Straps, shoulder	2	0.64	0.48
Straps, web, supporting	2	0.26	0.18
Tins, mess	1	0.35	0.27
Respirator, A/G, Face Piece	1	2.33	1.75
Haversack, A/G	1	1.42	1.07
Anti dim	1	0.05	0.03
Ointment, A/G No. 5 tins	2	0.30	0.22
Eyeshields, A/G, prs	6	0.45	0.34
Capes, A/G	1	2.76	2.07
Blanket, G.S.	1	3.07	2.31
Sheets, ground	1	2.92	2.21
		$76.82	$57.48
		100%	75%

EXHIBIT "B"

Army Form O.1617
R.A.F. Form 1617

PART 2.

—This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

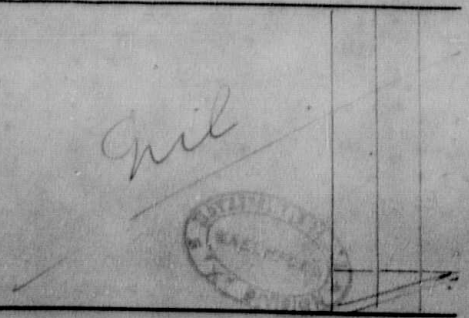
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Metropolitan Police in the case of No. H 36373 Tibbo B R

who surrendered to the Police at 5.30 pm on 17.10.44

Payable to Met Police Fund.



CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at Greenford

17.10.44 Date of Signature.

I CERTIFY that the man whose personal description is given below surrendered himself to* P.S. 14th Sawyer at Greenford. Middx at (hour) 5.30 pm. on the 17th day of Oct. 1944 as being No. H. 36373 (Rank and Name) Sapper: TIBBS. B. R. a deserter (or absentee without leave) from No 1 C.E.R.U. Leave Camp Grange. Hants and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 23. Height 5. Feet 9 Inches

Complexion Sallow Hair Fair

Eyes blue.

Marks None visible.

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	5/2/1941 at Winnipeg — Manitoba
Probable Date of Desertion or beginning of absence, and from what place	4/7/1944 (Place not known)

A. Potter. D/Sgt.

Signature of Officer of Police in charge of Greenford Station

17.10.44 Date of Signature.

1pm

SUB FOR ARMY FORM B.[illegible] (MAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	~~Regiment~~ UNIT (or as the case may be)
H-36373	Sapper.	TIBBS, B.R.	No. 1 C.E.R.U.

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entry for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For A.A. 10 (4) ... 1 time.
For A.A. 11 ... 1 time.
For A.A. 19 ... 1 time.
For A.A. 15 (1) ... 9 times.
For A.A. 40 2 times

Date of first entry in Field Conduct Sheet. 27.Dec.41.

Date of last entry in Field Conduct Sheet. 03.May.44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. ~~The accused at the present time is under stoppages for ...~~ Nil
~~remarks as to his ... day of ...~~

4. The accused has been awaiting trial on the present charges for Two days in civil custody; and for fourteen days in military custody, i.e., ~~Nil~~ nil days in open arrest, fourteen days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23 Years.

6. The date of his attestation is 5 Feb.41.
~~enlistment for military service~~

7. The service which the accused is allowed to reckon is ~~3 years. 5 months. 21 days~~ 3 3/4 Years.

8. The accused is in possession of G.V.S.M. A. Class.

9. (~~If the accused is a warrant officer or N.C.O.~~)
~~The accused has served continuously without~~
~~reduction to the present date in the rank of Prom-~~
~~inent~~
~~In the substantive rank of ...~~
~~In the non-substantive rank of ...~~
~~In the acting rank of ...~~

"State the military decorations (if any) held by accused.

INSTRUCTION.- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
F.G.C.M.	22 Mar 44 Field	A.A. 15 (1) AWL; A.A. 10 (3). AWL from 2000 hrs. 11 Mar 44 to 2140 hrs 11 Mar 44 (Absent 1 hr. 40 min.) (GUILTY ON BOTH CHARGES)	60 days Detention. Forf. 60 dys. pay FR&I 149 (1) (b) Forf. 11 dys. pay FR&I 149 (1) (c) (i)	19 days remission.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this third day of November 44

(D. STEWART MITCHELL) Major
Officer having custody of the Regimental Documents.

M.F.M. 6

SUPPLEMENTARY - 30 Oct 44.

No. H-36373 Name TIBBS, B.R. | Sqn., Battery, or Company | Corps RCE | Date of enlistment 5 Feb 41 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Dec 41	Spr.		A.A.40	DOC	16 days C.B.			Forf.14dys pay FRI 149(2)
Field	28 Dec41	Spr		A.A. 15 (1) AWL A.A. 10 (4)		28 Dys Det			Forf.1 dys py FRI149(1) (a) Forf.28dys Pay FRI149 (1) (b)
Field	7 May 42	Spr		A.A. 15 (1) AWL					Forf.1dys pay FRI 149(1) (a) Forf.3 dys pay FRI149 (1) (b)
Field	19 Nov 42	Spr		A.A. 15 (1) AWL A.A. 40		9 dys C.B.			Forf.5dys Pay FRI 149(1)(a) Forf.8dys pay FRI 149(1) (a)
Field	6 Jan43	Spr		A.A. 15(1) AWL					

(OVER) (P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order forwarding with trial	By whom awarded	Remarks
Field 23	Jun 43	Spr		A.A. 15(1) AWL	DOC				Forf.21dys pay FRI149 (1)(b) Forf.2 dys pay FRI 149(1)(a)
Field 19	Jun 43	Spr		A.A. 15(1) AWL					Forf.4 dys pay FRI 149(1)(b) Forf.1 dys pay FRI 149(1)(a)
Field 13	Nov 43	Spr		A.A. 15 (1) AWL					Forf. 3 dys pay FRI 149 (1) (b) Forf.3 dys pay FRI 149(1)(a)
Field 30	Dec 43	Spr		A.A. 15 (1) AWL					Forf.10dys pay FRI 149(1)(b) Forf.2 dys pay FRI 149 (1)(a) Forf.14 dys pay FRI 149(1((b)

MFM 6
(AFB 122)
40/F&S/126 (3458)

NdI-36373 Name TIBBS, B.R. | Sqn, Battery, or Company | (II) Corps RCE | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Date of last entry in Company Conduct Sheet: Place	Date of offence	Rank	No and date of last drunk: Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Jan 44	Spr		A.A. 15 (1) AWL	DOC	21 days Det.			Forf.3 dys pay FRI 149(1)(a)
Field	22 Mar 44	Spr		F.C.C.M. A.A. 15 (1) AWL A.A. 10 (3) AWL from 2000hrs 11 Mar 44 to 2140 hrs 11 Mar 44 (Absent 1 hr 40 min) (GUILTY ON BOTH CHARGES)	DOC	60 days Det.			Forf.21dys pay FRI 149(1)(b) Forf.60dys pay FRI 149(1)(b) Forf.11dys pay FRI 149(1)(c)
Field	23 May 44	Spr		(A.A.19) DRUNKENNESS) 1st Offence) (A.A.11)	DOC	(ADMONISHED) 7 dys C.B.			

CERTIFIED THAT THE ABOVE IS A TRUE EXTRACT TAKEN FROM THE MFM-4 IN MY CUSTODY.

(J.P. AGAR (Signed)
(J.P.AGAR) Capt.
RECORDS OFFICER, 1 C.E.R.U.

Over.

(FIO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				I certify that this is a true copy of the original document in my custody.					
				30 Oct 44.		(D. STEWART MITCHELL) Major Officer having custody of the Regimental Documents.			

LIST OF EXHIBITS

(a) Record of Declaration of Court of Inquiry regarding the absence without leave of H-36373 Spr. TIBBS, B.R.

(b) Army Form O.1617.

APPLICATION FOR DEFENDING OFFICER

I, H-36373 Spr. TIBBS, B.R. request that Major V.E.C. ODLUM be appointed by the convening officer to represent me at my forthcoming court martial, or if not available that another officer be appointed by the convening officer.

B R Tibbs

28 Oct 44.

H-36373 Spr. TIBBS, B.R.

GGG-69
SPR TIBBS B.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-36373 Spr.Bernard Roland TIBBS-1 CERU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.15(1)	Guilty	Guilty	
2nd	A.A.40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of ninety (90) days

(Sgd) ..... Judge-Advocate, if any. 22 Mar/44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court but mitigate the sentence to read "to undergo detention for a period of sixty (60) days"

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... (Brigadier)

Date 23 Mar 1944 Commanding "D" Sqn. 6 R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H-36373 Spr Tibbs BR	24 March 44	A.M. Kaadt Major

ENTERED PART II ORDERS

DATE 23/3/44 ORDER No 72 ..... OFFICER i/c RECORDS

No. 1 Cdn. Engineers Holding Unit. C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GG-6-69

FIELD GENERAL COURT-MARTIAL

(Forms (In lieu of AFAB) C.P.S.B. 1608 (2864))

Convened by Order of P.A.Shields)Brigadier Comd "D" Sp-CERU dated 21 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
H-36373	Spr	Bernard Roland	TIBBS	1 CERU

PROCEEDINGS REVIEWED
W. C. Grant Lieut
5 Apr 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q. Rec'd 3

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 22 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	DL REDMAN	HQCRU
Member	CAPT	AT GARDINER	1 CASSBU
Member	LT	R.G. CODE	1 CSAB
~~Judge-Advocate~~			
Prosecutor	Lt	JD SIDDONS	1 CERU
Defending Offr	~~Lt~~ MAJ.	EB SCOTT	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (✓) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108); or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57); or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ 1st CHARGES.

B1. The President or ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NU-SIR.....(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change~~ his (their) plea(s) of Guilty to Not Guilty on ~~—~~ charge(s). The accused is (are) ~~so informed, and he (they)~~ change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ 2nd CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NU-SIR.....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1) NUIE-ATT
(*1. RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 2nd charge(s), ~~and allowed on the charge(s), and~~ that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans To Give Evidence. Do you intend to call witnesses on your behalf? Ans Yes Sir. Are they witnesses as to character only? Ans No Sir.
(*1. RP* 155. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NUIE ATT
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 101(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.~~(1)
~~Or,~~ The President announces that the accused is found ~~Not Guilty~~ on all charges and is ~~to be released forthwith~~, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NU-SIR.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB* 355 *or AFB* 296. *2. MFB* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Be no Evidence NOTHING.....(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP* 76(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 304, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 44(5), *MML p* 930. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H-36373 Spr TIBBS, Bernard, Roland, Royal Canadian Engineers, on the strength of No. 1 Canadian Engineer Reinforcement unit, a soldier of the Canadian Army (Overseas) is charged with :-

FIRST CHARGE
A.A. 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, when ordered by his superior officer to be on M.T. Picquet between 1800 hrs 11 Mar 44 and 0800 hrs 12 Mar 44 was absent from approximately 2000 hrs 11 Mar 44 until apprehended at Waterloo Station, London, at about 2140 hrs 11 Mar 44.

(Absent approximately 1 hr 40 mins.)

SECOND CHARGE
A.A. 10 (3)

WHILE ON ACTIVE SERVICE, RESISTING ARREST

in that he

At Waterloo Station, London, at approximately 2140 hrs 11 Mar 44 when apprehended by L/Cpl SHIELS, G.R., of Cdn Provost Corps did resist violently requiring force to be used to take him in charge.

(G.H. WHYTE) COLONEL
Commanding Officer,
No.1.Cdn Engr Rft Unit,
Canadian Army (Overseas)

In the field

17 Mar 44.

TO BE TRIED BY FIELD GENERAL COURT - MARTIAL

21 Mar 44

(P.R.Shields)Brigadier
Comd "B" Gp.
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FGCM/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-36373	Spr.	Bernard Roland	TIBBS	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) ..... endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L.Redman	HQ CRU

MEMBERS.

A Captain	to be detailed by	1 CASCRU
A Lieutenant (Rank.)	to be detailed by (Named or detailed. RP 106.)	1 CERU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 21 Mar 44 Commanding "B" Gp CRU (P.R.Shields) Brigadier Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

M.M. (Army) Rule 257

I certify that I have this morning examined

No. 11/36273 Spr. Tibbs. R.E.

of No. 1. C.E.R.U. and in my opinion he

is fit to undergo Trial by Court Martial.

Station Cove

Date 22 March 1944

C. A. Bergansley. Capt
Medical Officer.

Trial of H 36373 Sgt B R Tubbs 1 C & R U
Page 1 NOTE D-3

Evidence for Prosecution

1st witness for the Prosecution
L.44 2/Cpl. E. R. Wells of Edm Pro Corps
being duly sworn states

On 11 Mar/44 I was duty at Waterloo
Hse in charge of 2/Cpl Wells. at appx 2140 hrs
I checked the accused whom I now
recognize. I ordered him for his pass
He said he did not have one but that
he was down from Wetaskiwin for the
day. I doubted this and I asked him
to come with us to the C M P office
at the Station. He refused and when
ordered again he refused and said that
if we tried to take him by force that
one of us would get hurt. I took
him by his left arm. Wells took his
right arm and we took up the
escalator but getting to the top he
pushed Wells around. I grab the lad
to runaway I grabbed him and Wells
grabbed him & he started pushing
around again and we all fell to the
floor and we had to hold him down.
He then said he would be a quiet
we let him up and he started pushing
us around trying to get away. We finally
got to C M P office from there he
was all right I noticed nothing unusual
with the accused but he was drunk
There was no profane language
The accused had no return ticket
He had a small parcel. When we fell to
the ground there was a crowd watching

Cross examined by Lt of Offence
at Waterloo we check practically

every Edn Soldier I had seen arrested before on Colchester I asked first for his pass first the accused was alone Hills was escorting another man. I asked accused where I had seen him before. we privately agreed it was on a Boys at Colchester. I am positive he said he was down from Colchester for the day I am not mixed up about that.
He did not say he would use force with us if we did not use force. we never touch a man unless we have to. we only used the amount of force we had to use. I wouldn't say he struck at some time I had his arm up on his back. If I did it was because it was necessary. I held him. after we all got up. he would have got away if not Hill grabbed him by his feet.

Re-examined by Prosecutor
we keep no roll of the soldiers we check
R.P. 83(B) Compared with

2nd witness for the Prosecution
L 5-5-219 L/Cpl. M Hills ~~Army~~ of Edn Pro says duly sworn states at about 2140 hrs 11 Nov 44 I was on duty on Colchester Stn with L/Cpl Shiels we checked the accused whom I now recognise, per his pass and pay-book. He produced P.T.III of Pay book and did not produce a pass. we asked where he was stationed - He stated that he was stationed in Colchester and that the Red Cap had him escorted for being out

over night until the next morning
he asked him to come with him to
Em Office in the Station in order to
find out more particulars. He said
that he must carry out that sentence
or would get hurt if we tried to force
him. I took hold of his left arm and
Capt Shiels his right. He came willingly
to the top of the escalator and about 15 ft
beyond. He broke from us by throwing
his arms and kicking with his feet
He fell to the ground and he asked us
to let him up and that he would
come • willingly we let him up and
he made a run. He did this 3 times
and we caught him each time. We
then got him to Em Office where
he waited arrival of # 6 Pass. Shiels
then told accused that another man was
standing there. I did not start to check him
until I saw by Capt Shiels was alright

Cross Examined by Mr Office

The other man was with the accused
Shiels asked accused first for his Pass.
Then he asked for his pay-book. The
accused said he was stationed at Colchester
Then I checked the other soldier I
asked him for his pass and he produced
one. I told him to be on his way which
he did. I then came back to Shiels and
the accused. He didn't say he would come
quietly if we did not use force.
From the top of the Escalator I had my

hand on the cuff of the accuseds battle dress
this arm was down by his side.
W/Re [illegible] by Prosecutor
The Prosecution is closed
The Def off's submitted that Pros had not
made a prima facie case saying the
witness slipped in their evidence.
The Prosecutor replied and there was
no conflict in the essential evidence
the Court is closed. The Court Reopens
The President announced that the Court
disallowed the submission

Evidence for the Defence

1st witness for the Defence:
The accused being duly sworn States
when I got out of the train I went down
the escalator and saw the 2 Lofts Shiels
and Hicks. Shiels came to me and asked
me why he had seen me before. I said
I had seen him at Colchester. He may have
misunderstood me thinking that I said
I was stationed at Colchester which
I did not say. He asked for my Pay
book. I gave him P.C.III. I did not know
I had P.C.I. He then asked me for a
Pass I told him I did not have one.
He then made me get that I was
over time I dig a W.C. I told him I
went a W.C. when he reported me as
Hicks was acting my charge for his Pass.
Capt Shiels said I had better come with
him. I asked Shiels to phone my unit.
Shiels was intended. Shiels said I
should be taken in

Trial of H 36373 Spr B R Tibbs ICE&RR

Page 5

I said I would go with them
We started up the escalator about
½ way up Hills took my arm and
pressed up my back. It hurt me
till we got to the top. I thought he would
let go I said I would run along
the road he did not want to take
a chance. I said if you don't there
will be a battle right here. He
didn't let go. I shook Hills off
I was running and I said leave me
alone and I'll come peacefully
Hills and I started off. Hills came
behind and put my arm up behind
my back again. I got sore and I
pushed him off again. Hills grabbed
me and I pushed him off. He fell
against the truck. Hills hurt me by
my ~~left~~ right leg. I could have
kicked him in the face but I thought
Hills would leave you peacefully
I found yes we started off. Hills
grabbed me again. My temper rose
I pushed and we all tripped. The boy
was tired out. They were laying on
me. I said I would go quietly
We got up. Hills this time took
me by the hand. ~~and~~ They turned me
over to the ~~Sgt~~ The Pho. came from
Henrietta Station they took to Henrietta
It matters how a man acts and I
found $1 of my pay roll and gave
it to them. I could have escaped
nine minutes in the station if I had wished.

Cross Examined by Prosecutor
My Pal was behind me when we were going up the Escalator
R P 83 (B) complied with
2nd witness for the Defence
R 74133 Sgt M H Van Rensburgh
being duly sworn states

When the accused and I came to the bottom of the Escalator. two Provosts as per his pass and took him up the Escalator. I was below about 15 steps on the Escalator. One of the Provosts had the arm of the accused behind his back with forearm horizontal. when they got to the top I saw accused push off one of the Provosts and accused started walking and the provosts grabbed him again and again put his arm behind his back the next I saw was some distance on a big crowd.

when the Provosts first spoke to accused he asked where he had seen him before accused mentioned hospitals nursing Colchester

Cross Examined by Prosecutor
The Provost had accused arm held behind his back all the way up the Escalator. R P 83 (B) complied with

The Defence is closed

The D Officer in the Finding said accused had his witness and Provosts used force. Provosts are rough and over zealous. The accused was friendly

accused was being hurt and was acting in self defence. He could have escaped but did not try to. The charge should never have been laid.

Prosecution used as printing.

The motives of the accused and his own witness are conflicting. This proves beyond a print of a British Public Man's motive are reputation. If he gets away with it others will be encouraged to do this sort of thing.

PW

E-3

PLEA FOR Mitigation of Sentence in the case of H-36373 Spr TIBBS, B.R.

Within the last two weeks prior to accused committing offence to which he pleads guilty he had been receiving letters, almost daily from a married woman with whom he had been intimate. These letters stated she was worried about her condition.

The accused received a letter about 1200 hrs on 11 Mar 44 from this women which stated that she was five days overdue for her menstration and that her husband was due home the following Tuesday. She emplored the accused to come up and see her immediately in order to discuss intimate details.

The accused had previously applied for a 36 hr week end pass which was cancelled when he was detailed for duty. He was undecided whether to show the letter to his Coy Commander and try to get taken off duty. He didn't want anybody to know his troubles and instead of applying for week end pass on compassionate grounds of which there is no doubt he would have got he let it go till too late.

This trouble prayed on his mind and eventually while on duty he broke down and told his troubles to K-74133 Spr Van Ruyskensvelde, M.H., who was at the garage at the time. When accused was relieved at 1930 hrs by Spr Symes he was feeling very distressed after brooding all afternoon. In a reckless and desperate frame of mind he decided to take a chance and asked Spr Symes to relieve him until he returned. He asked Spr Van Ruyskensvelde to accompany him and he would pay his way. This Spr knew his troubles and might help him. They left camp at approximately 2000 hrs caught a train at Farnborough Station and were picked up by C.M.P. at Waterloo Tube Station.

The Protestant Padre of this unit has undertaken to take the case in hand and is going to try to come to some agreement between the woman, her husband and the accused.

I suggest to the court that the accused is very young and that this was his first real private domestic trouble. The worry and strain were too much for him and he cannot be held responsible for his foolish action. Therefore I plead for the leniency of the court in punishing the accused.

Attached is a letter from this woman to O.C. 1 Trg Wing C.E.R.U. Although unsigned I will vouch that the handwriting is similar to other letters I have seen from this woman.

W.B. Scott

(E.B. Scott) Major
No.1 Cdn Engr Bft Unit,
Canadian Army(Overseas)

161 Sudbury Heights Ave.
Greenford.
Middx.
Friday.

To
Colonel Rutherford.

Dear Sir.

I am writing on behalf of Rocky Tibbs. whom I have heard from a friend is being court marshaled. I have not heard from him as usually, and I have a feeling it is on my account he is in trouble. You see I'm afraid we loved to well and consequently I am in trouble he only came to help me and was going straight back. Please be lenient with him as you and I know he is a good soldier. I am terribly sorry I have got him in this trouble. I would like to come very much but I am under doctors orders and must stay in bed. Hoping you will do your best for him and please forgive me writing.

Exhibit "A"

NO.1.CANADIAN ENGINEER REINFORCEMENT UNIT
CANADIAN ARMY (OVERSEAS)

CRU 5-5-1
20 Jan 44

STANDING ORDER NO.8.

M.T.PICQUET, CAR PARK AND GARAGE

1. Tour of duty will be for 24 hours, except 3 garage sentries, whose duties will be from 1800 hrs to 0830 hrs.

2. Picquet will consist of one NCO and 6 men, and 3 men as garage sentries, who will be released for normal duties from 0830 hrs.

3. One man will be on duty at the Car Park and one man on duty at the Magazine at all times and oneman on garage duties from 1800 hrs to 0830 hrs daily.

4. The NCO will hand in his report sheet to i/c of Guard Room at 1800 hrs daily for checking and will sign it if correct.The report sheets will be returned to new NCO i/c picquet at 1800 hrs.

5. The sentries will not leave their posts until relieved in the proper manner by their reliefs.

6. They will allow no unauthorized person to enter the garage or precincts of the Car Park. Drivers only will be allowed to enter and remove vehicles when the sentry has satisfied himself that the driver's work ticket and authorization to remove the vehicle is quite in order. The garage sentry will call the despatcher if there is an air raid warning.

7. If the Guard Commander or the sentries are not satisfied with the authority of the work ticket they will refer the case to the Orderly Officer and obtain in Casual Book the statement by the Orderly Officer that the case has been referred to him.

8. After examining work ticket and authority, sentries will enter on their report sheet number of the vehicle. Driver will sign report sheet. Sentries will enter time and date and sign.

9. When vehicle returns the sentry will again check work ticket and authorization and time of return and enter particulars on his report sheet and sign.

10. EMERGENCY CASES: In case of Fire, Air-Raid or Attack, when vehicles may be dispersed without authority, the Guard Commander or the sentries will use their own judgement.

11. The O.C.Adm Wing will be directly responsible to the Commanding Officer that these orders are carried out.

12. The Orderly Officer will visit the picquet at frequent intervals and on leaving sign the Casual Book in the Guard Room.

13. One man of the Magazine and M.T.Picquet will be stationed at the Magazine Compound and will have the Compound padlock key in his possession at all times. He will not permit anyone within the Compound Area except on instructions from NCO i/c Picquet. He will allow no explosives or material to be removed from the Compound except by persons bearing written authority.

14. The NCO and sentries when not on duty at the Car Park or Garage will remain in the Guard Room.

15. The sentry at the M.T.Park entrance will at all times stop all No.1.CERU vehicles, which includes motorcycles, passing his post either to or from Hawley Camp , check drivers work ticket and inspect the interior of the vehicle to assure himself that the vehicle is not being used for irregular purposes, and enter on his report sheet number of vehicle.

To sheet two of Standing Order # 8

16. Between 1700 hrs and 0730 hrs (and other times when necessary) drivers will be asked to show their paybooks (MEM I) so that signatures on paybooks can be checked with report sheet for comparison, before drivers are allowed to take vehicle park or [illegible]. Should there be any [illegible] not in possess-

Reference Standing Order #8 para 16. ADD - Despatcher will be allowed to enter the Vehicle Park when checking Unit vehicles, despatcher will have written authority when on this duty.

17. SECURITY OF PREMISES: Guards and picquets will at all times make sure that no unidentified civilian or military pers (including Officers) are admitted to Camp Area. Not until said person has satisfied the duty NCO or Guard as to his identity and business will he be permitted to enter Camp.

18. Sentries on barrack entrances or M.T.Picquet will make use of sentry boxes ONLY during inclement weather.

19. NCO i/c M.T.Picquet will read these orders and instruct sentries in their duties.

20. This Order cancells Standing Order No.8 of 23 June 43 and amendments.

1 CERU
20 Jan 44

Distribution List "A".

(G.H.WHYTE) COLONEL
Commanding Officer
No.1.Cdn Engr Rft Unit
Canadian Army (Overseas)

certified true copy

Rewnt Capt

17 Mar 43

Exhibit - "B"

No. 1 CANADIAN ENGINEER REINFORCEMENT [illegible] C.A.(Can)
NO. 1 TRAINING WING
PART 1 ORDERS
BY

Lt.Col. A.S. RUTHERFORD — OFFICER COMMANDING
CAMP PETAWAWA — PART 1 ORDER 59 — LAST PART 1 ORDER NO. 58
10 MARCH 1944 — DATED 9 MARCH 1944

1. DUTIES

1 T WING DUTY OFFICER	10 Mar 44	Lieut. H.B. Douglas
NEXT FOR DUTY	11 Mar 44	Lieut. W.J. Ripley
WARNED	12 Mar 44	Lieut. W.J. Ripley
DUTY SGT	10 Mar 44	C-2113 Sgt Wilson, D.
NEXT FOR DUTY	11 Mar 44	C-2044 Sgt Nichols, T.
WARNED	12 Mar 44	B-25759 Sgt Vass, A.

1 T WING DUTY OFFICER.
Duties of the m/n are detailed in Wing Duty Officers Book, available in 1 T Wing Orderly Room.

COY ORDERLY SGT.
All Coys will detail a Coy Orderly Sgt who will be responsible for seeing that meal Parades are carried out as laid down.

BN ORDERLY CPL.
"F" Coy will detail a Corporal for the m/n duty until further orders.

WING NIGHT ORDERLY CPL.
"B" Coy will detail a Corporal for the m/n duty until further orders.

CANTEEN CPL.
"H" Coy will detail a Corporal for the m/n duty until further orders.

NIGHT RUNNER (1 T Wing)
"A" Coy will detail 1 C/R for the m/n duty until further orders.

BARRACK ENTRANCE PICQUET
"F" Coy is detailed for the m/n duty until further orders.

M.T. PICQUET
"E" Coy will detail 1 NCO and 9 Sprs for the m/n duty until further orders. Tour of duty will be from 1800 hrs daily. They will report to 1 Trg Wing Orderly Room at 1750 hrs for inspection by Wing Duty Offr.

UNIT FIRE AND NON PERMANENT A.D. SQUAD
"H" Coy is detailed for the m/n duty for week ending 0800 hrs Tuesday 14 Mar 44. Picquet will NOT be changed until their relief has received the necessary Instr Trg..

HEATH FIRE AND INLYING PICQUET
"E" Coy is detailed for the m/n duty for week ending 13 Mar 44.

2. POSTINGS
The u/n are posted from Records to "A" Coy.

B-129944	Spr	Bealy, J.	B-44479	Spr	Burns, R.E.
B-130845	:	Clark, J.J.	L-25038	:	Clark, D.
[illegible]-89210	:	Crisolm, G.	B-27220	:	Durham, J.
M-37711	:	Elliott, H.S.	L-19888	:	Erickson, O.C.H.
[illegible]-71354	:	Gagnon, L.L.	B-53786	:	Gascoigne, W.A.
L-41438	:	Gatzke, J.	M-3446	:	Romanowitch, J.
B-44885	:	Haggerty, W.E.	H-101811	:	Halliday, W.W.
B-75644	:	Harrison, W.H.			
H-99105	:	Herzog, J.P.	K-53660	Spr	Hickson, K.
L-22986	:	Hitchens, H.F.	A-102098	:	Hood, N.H.
L-67259	:	Jesse, E.W.	M-59	:	Johnston, J.J.
F-24429	:	Jolley, F.A.	D-131809	:	Joy, F.W.
A-117792	:	Kormot, P.M.	L-108348	:	Kryciak, A.
B-40115	:	Lewis, W.W.	D-28096	:	McAtamney, J.J.
L-74569	:	McCarry, T.E.	L-19362	:	McMillan, H.D.
B-116500	:	Mills, J.	B-144874	:	Palsor, A.F.
M-50303	:	Roussin, P.P.	E-41499	:	Simoneau, H.

3. POSTINGS Cont'd.

The u/m are posted from Records to "B" Coy.
B-80231 Pte Eckonswiller, M.J.

The u/m are posted from Records to "E" Coy (Trans)
B-58672 Cpl Booth, C.C. B-49305 L/Bdr Harding, P.S.
B-105093 Pte Carter, E.C. K-38025 Tpr Cooke, A.G.
B-88845 : Green, G.J. B-35212 Pte Price, C.
B-3810 Gnr Spratt, R.P. F-66288 Sgm Miller, L.B.

The u/m is posted from Records to "E" Coy (Rotn NCC)
M-7121 L/Sgt Noble, R.J.

The u/m are posted from Records to "H" Coy.
M-105211 Spr Caunt, C.L. B-40496 Spr Minaker, N.C.

The u/m is posted from "H" Coy to Records (Hosp)
F-22390 A/L/C Southro, V.S.

4. REPOSTINGS

The u/m are repos ted from "A" Coy to "B" Coy
D-15835 Spr Leduc, E. F-44658 Spr MacDonald, R.A.
F-54384 : McLeod, C. H-25126 : Taylor, R.J.
F-91843 : Hamilton, W. H-59771 : Straub, W.
H-25288 : Logan, J.C.

The u/m are reposted from "A" Coy to "E" Coy.(Course)
F-21778 Sgt Boyd, T.H. K-31030 Spr Barber, F.J.
K-88231 Spr Patterson, R.I. C-120528 : Badgley, C.S.

The u/m are reposted from "A" Coy to "P" Coy.
D-129896 Spr Kingsbury, O.P.

The u/m are reposted from "A" Coy to "H" Coy
B-73657 Spr Menard, W. H-36415 Spr Wanebo, W.
L-19932 : Liddicoat, H.R.

The u/m is rep osted from "B" Coy to "H" Coy.
H-36607 Spr Kirk, S.

The u/m are reposted from "E" Coy to "A" Coy (Pend Att'd)
F-5173 Cpl Eisenhauer, D. P-10924 Spr Johnston, G.E.
L-87247 Spr Sloboda, W.B. L-74855 : Bevan, W.J.
B-88225 : Corbeil, G. B-110314 : Hughston, J.F.
A-99003 Sgt Sylvester, W.C.

The u/m are reposted from "E" Coy to "B" Coy
B-56617 Spr Fairclough, H. F-66131 Spr Killam, A.G.

The u/m are reposted from "E" Coy to "D" Coy.
B-130494 Spr Allen, D.T. B-92081 Spr Knapp, R.M.
B-3121 : Waterhouse, D W.

The u/m are reposted from "H" Coy to Coys shown.
B-28080 Spr Carey, V. (A Coy) A-99003 Sgt Sylvester, W.C. (A Coy)
E-20011 : Dolan, F. (E Coy) B-46778 Cpl Heywood, J.E. (E Coy)
B-20613 : Daniel, J.F. (F Coy)

The u/m is reposted from PE "A" Wing to "H" Coy.
M-85486 Spr Arndt, C.

The u/m is reposted from "A" Coy to "P" Coy (Course)
L-16315 Spr Eskett, F.R.

ADDEDA TO POSTINGS

The u/m is posted from "A" Coy to Records (Course)
L-87247 Spr Sloboda, W.B.

5. ADMIN LECTURES.

The Admin lectures by the Chief Clerk will be held in the Officers Lecture Hut at 1900 hrs 9 Mar 44 .

45 Clerk Learners within the unit did not attend on 7 March 44. All Clerk Learners, meaning unqualified clerks doing clerical work within the unit will attend.

(E. [redacted] Woolsey) Capt., RCE
Adjutant,
No. 1 T Wing,
No. 1 C.E.R.U.

EXHIBIT "Q"

I Certify that No. H.36373
Unit No. 1 C.A.M.U.
2140 Spr. Tibbs, B.E.
(hour) was treated at London (Place)
for wounds (injury) on 11 Mar 44
London
11 Mar. 44.

EXHIBIT "Q"

CERTIFICATE IN ACCORDANCE WITH P.C.3707 of 10 Apr. 42

I Certify that No. H.36373 Rank Spr. Name Tibbs, E.R.

Unit No. 1 C.E.R.U. was arrested at London (Place)

2140 (hour) on 11 Mar 44. (Date) and that at the time of his arrest he was wearing (Military Uniform) XXXXXXXXXXXXXXXXXXXXXXXX.

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
11 Mar. 44.

W.W. Walker

.....Capt.
(W.W.J. Walker) D.A.P.M.
Can. Military Headquarters

Statement of **EVIDENCE** in the case of:
H.36373 Spr. Tibbs, B.R.
No. 1 C.E.R.U.

Sir,

At London at about 2140 hrs, 11 Mar. 44, I was on duty at Waterloo Stn., in company with L/Cpl. Monckton-Hicks when I saw the a/m soldier.

I requested to see his pass and he could not produce one. He was A.W.L.

He stated that his Cpl. had him covered up and that he was stationed at Colchester.

I placed him under arrest and asked him to accompany me and he refused to do so. I then ordered him to accompany me and he again refused and when necessary force was used he resisted violently.

He was conducted to No. 6 (Area) Provost Coy., Cdn. Provost Corps Detention Office and handed over to the N.C.O. i/c of Cells, to be detained.

London
11 Mar. 44.

.....
L.44. Shields. G.R. L/Cpl

Sir,

I have read over and corroborate the ab[illegible] statement.

London
11 Mar. 44.

REMARKS

.....
(L.36210 Monckton Hicks O.R. L/Cpl

EXHIBIT "D"

Army Form B 252
(See King's Regulations)

No. 1 C.E.R.U. Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. H.36373 Rank Spr.

Name Tibbs, B.R.

Place London Date of Offence 11 Mar. 44

OFFENCE W.O.A.S. was A.W.L. from..?.. until apprehended by the Cdn. Provost Corps at Waterloo Stn., at about 2140 hrs, 11 Mar. 44.
(2) Did resist arrest.

(3) Did state a falsehood to an N.C.O. of the Cdn. Provost Corps same time, place and date.

CAPT.
R. R. HOLMES, C.D.F.
LONDON AREA

Names of Witnesses:—

L/Cpl. Shiels, Cdn. Provost Corps 6 Coy.

L/Cpl. Monckton-Hicks " " "

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30181. Wt.W31274/1961. 2,000,000. 10/42. R. & H., Ltd. G667/47.

EXHIBIT "D."

CANADIAN PROVOST CORPS.

Exhibit and Property Report No. 182.

COMPANY: A.P.M. FORMATION: C.R.U.

FILE NO.: 450/ESCAPE/10/54.

DATE: 10 Mar 44. PLACE: Farnborough, Hants.

SUBJECT: B-25155 Spr. Stewart, J.D.
1 C.E.R.U. - SUS Cdn Det Bks.
Escapee.

The property described below came into our possession on 10 Mar 44.

At: Farnborough By: S.I.S., C.M.H.Q.

ITEM NUMBER	DESCRIPTION OF PROPERTY
	(1) MBM Pt 1 in name of D-76718 Bedore, John Lewis.

(F.B. Creasy) Major,
A.P.M., C.R.U.

The property described above has been disposed of

At: On: By:

Receipt/~~destruction of the property described above is hereby acknowledged~~/certified.

WITNESS: SIGNATURE OF RECIPIENT:

C.M.H.Q./1000/124
40/P & S/1343 (10/42)

LIST OF WITNESSES

List of Witnesses in the case of H-36373 Spr TIBBS, B.R., No.1 Canadian Engineer Reinforcement Unit.

FOR THE PROSECUTION

1. Capt R.C. West R.C.E.
2. No. A-34934 CSM SARGEANT, I. RCE #1 CERU
3. No. A-19215 L/Sgt BISHOP, A.E. RCE "
4. No. B-43666 L/Cpl ARMSTRONG, R.G. RCE "
5. No. B-86137 Spr SYME, W.S. RCE "
6. No A 3193 L/Sgt MORLEY G.P. RCE "

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

(A) Standing Order #8, #1 CERU

(B) #1 TW Pt I Order, d/10 Mar 44, #59.

(C) Certificate in accordance with P.C. 2797

(D) AFB 2 52 d/ 11 Mar 44, relating to H 36373 Spr Tibbs, B.R.

SUMMARY OF EVIDENCE

Summary of evidence in the case of H-36373 Spr TIBBS, Bernard Roland, Royal Canadian Engineers, on the strength of No.1 Canadian Engineer Reinforcement Unit a soldier of the Canadian Army (Overseas)

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS
for the prosecution

Capt R.C. West, R.C.E., on the strength ~~as~~ of #1 CERU having been duly sworn states:-

I am Capt R.C. West, assistant Admin at #1 CERU, I present the following documents which ~~I am satisfied~~ relate to this case-

1. Certified true copy #1 CERU Standing Order #8
2. Certified true copy #1 T Wing Pt.I Order #59 d/10Mar44
3. Certificate in accordance with P.C. 2797
4. AFB 252 d/11 Mar 44, relating to H-36373 Spr Tibbs,BR

The above are presented as Exhibits A,B,C,and D.

RC West Capt.

(R.C. West) Capt

The accused declines to cross examine this witness.

SECOND WITNESS
For the prosecution

A-34934 CSM SARGEANT, I., RCE on the strength of No. 1 C.S.R.U. having been duly sworn states:-

I am, CSM of "E" Coy 1 T Wing in this unit. At 1700 hrs 10 Mar 44 pursuant to authority of 1 Trg Wing Pt. 1 order #59 d/10 Mar 44, I instructed No. A-19215 L/Sgt Bishop of the M.E. M.T. and Tunnellers Pl. of "E" Coy to supply the M.T. picquet for the night of 11-12 Mar 44.

I Sargeant.

(A-34934 CSM I.Sargeant)

The accused declines to cross examine this witness.

THIRD WITNESS
For the prosecution

No. A-19215 L/Sgt Bishop, A.E., RCE, on the strength of #1 CSRU having been duly sworn states:-

I am Pl Sgt of the M.E., M.T. and Tunnellers Pl of "E" Coy, #1 T. Wing. Having been instructed by CSM Sargeant that my platoon was to supply the M.T. picquet from 1800 hrs 11 Mar 44 to 0800 hrs 12 Mar 44. I detailed B-43666 L/Cpl Armstrong, R.G. to be in charge of the nine men I detailed for this duty which number included the accused, whom I recognize and B-86137 Spr Syme, W.S.

A E Bishop

(A-19215 L/Sgt Bishop, A.E.)

The accused declines to cross examine this witness.

FOURTH WITNESS
For the prosecution

No. B-43666 L/Cpl ARMSTRONG, R.G., RCE, on the strength of #1 CERU, having been duly sworn states:-

At #1 CERU, on Mar 11 I was detailed by L/Sgt Bishop to act as NCO in charge of M.T. Picquet from 1800 hrs 11 Mar 44 to 0800 hrs 12 Mar 44. The accused whom I recognize was a member of the Picquet. At 1800 hrs 11 Mar we assembled in front of the Guard Room at which time I instructed the Picquet in their individual duties. I detailed 3 men, including the accused to the garage picquet.

On my inspection of picquet at 2000 hrs the accused was missing and Spr Syme said that at 1930 hrs upon his relief of the accused, accused had gone for his mess tins and failed to return. The Picquet eats at 2230 hrs and apparently Tibbs wanted to have his tins at the Garage Office.

At 2200 hrs and 2400 hrs, the accused was not at his post upon my rechecking and I found that he had not at any intermediate time reported back for duty.

At 0900 hrs 12 Mar I reported the absence of the accused to the Sgt in charge of the Guard.

L/Cpl Armstrong R.G.
(B-43666 L/Cpl Armstrong, R.G.)

The accused declines to cross examine this witness.

FIFTH WITNESS
for the prosecution

No. B-86137 Spr SYME, W.S., RCE, on the strength of #1 CERU, having been duly sworn states:-

On 11 Mar 44 at #1 CERU, I was a member of M.T. Picquet. The accused whom I recognize was also a member. He was on duty from 1800 hrs to 1930 hrs 11 Mar 44, when I relieved him at which time he left saying that he was going to get his mess tins. I reported this fact to L/Cpl Armstrong at 2000 hrs. I did not see the accused again during our duty period, which lasted until 0800 hrs 12 Mar 44.

L/Cpl Armstrong detailed our duties to us at 1800 hrs, 11 Mar 44.

W. S. Syme
(B-86137 Spr Syme, W.S.)

The accused declined to cross examine this witness.

SIXTH WITNESS.

For the prosecution.

No. A-[illegible]3143 L/Sgt Morley G.P., on the strength of #1 C.E.R.U., having been duly sworn, states:-

On the 11 Mar 44, I was Battalion Orderly Sjt at #1 C.E.R.U., as detailed in Unit Pt I Order #70 d/ 11Mar 44. At [illegible]00 Hrs, I read to the M.T. Picquet their duties from Unit Standing Order [illegible] #8., at which time the M.T. icquet was paraded in front of the Guard Room

G.P. Morley

C[illegible]3143 L/Sgt Morley G.P.

[illegible]A3143

The accused declines to cross-examine this witness.

The accused, H-36373 Spr Tibbs, B.R. was cautioned as follows: Doy you wish to make any statement or to give evidence upon Oath? You are not obliged to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ~~three~~ four pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(C),(D),(E) and (F) have been complied with.

(J.D. Siddons) Lt RCE

In the Field
17 Mar 44.

MFM 6
(AFB 122)
40/PAS/138 (3458)

No 1-36373 Name TIBBS, Bernard Roland Sqn, Battery, or Company — Corps R.C.E. — Date of enlistment 5-2-41 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 29-7-41 — No and date of last drunk NIL — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				COMPLETED SIX MONTHS SERVICE.	5 Aug 41			G.W. Jacobs Lieut.A/Adj. & 5th Construction Co.R.C.E.	
Field	17-2-41	Spr.	AA 40 -Unauthorized communication	Lt. Mc Geachy	4 days C.B.	4 DAYS PAYS (FRI & 149-2	27-2-41	Major G.P. Stirrett	
Field	28-3-41	Spr.	AA 15(1) 1330 hrs 28-2-41 to 2000 hrs 28-2-41 (Abs.6 hrs 30 Min A/C Heinbacker DET. SENTENCE REMITTED BY FOUR DAYS	L/S Sinclair 28 days A/C Wells			30-2-41	Major G.P. Stirrett	29 days pay (FRI & 149 (1
Field	3-5-42	Spr	AA 15 (1) AWL 2330 hrs 3-5-42 to 0630 hrs. 4-5-42 (Abs. 8 hrs)	A/C Sinclair	7 DAYS PAY FRI & 149-2		7-5-42	Major G.P. Stirrett	1 DAYS PAY FRI & 149 (1a
Field	12-6-42	Spr	A.A. 40- Failing to comply with security measures- posted letter from civilian post office-Corresponding with pen pal contrary to CARO 1069	DOCUMENTARY	5 DAYS PAY (FRI & 149-2 5 DAYS C.B.			Major G.A. Mc Cintock	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-10-42	Spr	AA	15 AWL from 0900 hrs 4 Oct. 42 to 1230 hrs. 5 Oct 42 (Absent 1 day 3 hrs 30 mins)	1/Sgt Nash Sgt. Keen J.	6 days pay (FRI & 149-2)	6-10-42	Major G.A. Mc C1intock	2 days pay FRI & 149-1-a
Field	30-10-42	Spr		AA 11 Neglecting to obey Part Order No. 98 d/ 3 Oct 42	Sgt Reid AA 1/S Wells S.F.	3 days C.B	30-10-42	Major Mc C1intock	
Field	5-11-42	Spr		(1) AA 15 (1) AWL from 2205 hrs 15 Nov.42 to 1045 hrs 16 Nov 42 (Absent 12 hrs 40 mins.) (2) AA 40 Conduct to the predj. of good Order and Mty. Discp. i/e Improperly dressed.	1/C Tozer A.T. Documentary	4 days pay (FRI & 149-2) 7 days C.B	19-11-42	Major G.A. Mc C1intock	1 days pay (FRI & 149-1-a
Field	29-12-42	Spr		AA 15 (1) AWL 2210 hrs 28 Dec 42 1125 hrs 5 Jan 43(Abs.7d.13h.15m.	1/Cpl Murray 1/C MacPherson	21 days F.P.	6 Jan 43	Major G.A. McC1intock	21 days pay 8 days pay
Field	19 Mar 43	Spr		AA 15(1) AWL from 2359 hrs 19 Mar 43 to 0900 hrs 21 Mar 43 (ABs. 1 day 9 hrs 1 min	1/Sgt Spafford P.E.	6 days pay (FRI & 149-2	25 Mar 43	Major G.A. Mc C1intock	2 days pay (FRI & 149-1-a

Certified True Copy taken fromdocuments in my custody

No. H36373 Name TIBBS Bernard Roland | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 5-2-41 | GC Badges | Service or Proficiency Pay | MFM 5 (AFB 122 40/PAS/136 (3458))

Date of last entry in Company Conduct Sheet 9-7-43 | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-5-43	Spr.		A.A. 15 (1) AWL from 2215 hrs 1-5-43 until 1800 hrs. 3-5-43 (Abs. 1 day, 14 hrs 45 mins.)	C.S.M. Richardson L/S Worral J.H.		4 May 43	Major G.A. Mc Clintock	2 days pay
Field	20-6-43	Spr.		AA 15 (1) AWL from 2305 hrs 20-6-43 until 0500 hrs to 22 June 43 (Abs. 1 day 15 hrs and 55 mins)	Cpl Radley C.A. L/Cpl Pickering R.	4 days pay (FRI & 149-2	23 Jun 43	Major G.A. Mc Clintock	2 days pay FRI & 149-a
Field	18 July 43			AA 15 (1) AWL from 2359 hrs 18 July 43 to 1515 hrs 19 July 43 (Abs. 15 hrs 15 mins)	L/S Worral J.H.	3 days pay (FRI 149-2	19 July 43	Major G.A. McClintock	1 days pay FRI & 149-a

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Nov 43	Spr		A.A. 15 (1) WOAS from 1600 hrs 9 Nov 43 to 1030 hrs 12 Nov 43 (Absent 2 days 18 hrs 30 mins)	B 928197 Sperry Doc	10 days F.P. I.1. Forf 10 days pay FRI& 149 (1) (b) Forf £ 0-6-11 cost of warrant	17 Nov 43	1t. Co1. H.G.J. Woods MD	Forf 3 days pay FRI & 149 1-a
Field	18 Dec 43	Bpr		A.A. 15 (1) AW1 from 2200 hrs 18 Dec 43 until 0630 hrs 20 Dec. 43 (Abs. 1 day 8 hrs 30 mins.)	DOCUMENTARY 6H27123 Sgt Work H.T. C-35422 1Cp1 Hale E.1.	14 days F.P.	20 Dec.43	1t. Co1. H.G.J.Woods	Forf 2 days pay FRI&149 1-a
Field	1 Jan 44	Spr		AW1 from 2200 hrs 1 Jan44 until 0030 hrs 3 Jan 44 while serving Field Punishment.	P135129 1/Cp1 Sandberg H2612 3 Sgt. Work H.T.	21 days DETENTION		1t. Co1. H.G.J. Woods	Forf 2 day pay FRI & 149 1-a

EXC 1442

Certified True Copy taken from documents in my custody

/Jacobs

M.F.B. 388
22M—5-41 (372-0)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R-36373	Spr	TIBBS, Bernard Roland	R.C.E.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 15(1)	~~seven~~ six	times	A.A. 15(1)	~~twelve~~ ten times
For A.A. 40	Nil	times	A.A. 40	~~seven~~ four times
For		times	A.A. 11	one times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

Nil.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~Nil~~ days in ~~Air Force~~ civil custody, and 11 days in military custody, making a total of ~~11~~ days in custody, of which ~~Nil~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ Attestation paper is service and casualty form -23 2/12yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is service and casualty form-5 Feb 41

7. The service which the accused is allowed to reckon towards discharge is 3 1/12 years

8. The accused is entitled to reckon 3 1/12 years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~Air Force~~ military decoration, or ~~Air Force reward~~ military (or is in possession of or entitled to). ~~State any air force decoration or reward.~~

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer ~~last held~~ Air Force the regimental rank of .....

FX B
PMG

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number R96278 Rank
Unit
Name TIBBS Bernard Edward of R.C.E. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22nd day of March 1944. A/Adjutant Lieut R.C.E. A/Adjt. Offr.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

PP 138 (AFRICA)
PTE TIBIDEAU A J

PR 138

Correspondence to be PINNED here.

(COPY)

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 15th day of AUGUST, 1943.

Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 3 CDN INF BDE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

*Omit where convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[redacted]

* Omit if not applicable.

JUDGE ADVOCATE GENERAL - MAJOR C. CAMPBELL
HQ 1 CDN DIV

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL	J.P.E. BERNATCHEZ	R 22 R

Members.

Rank.	Name.	Regiment.
CAPT	G.F. FOSTER	Carl & York R
CAPT	H.S. HOPPER	3 CIB Sp Gp (Sask LI)
WAITING CAPT	K.G. FLEXTON	West NSR

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (WHS PENHALE) Brig
Commanding 3 Cdn Inf Bde
Convening Officer.

(sgd) (JC CAMPBELL) Major (sgd) (JPE BERNATCHEZ) Lt-Col
Judge-Advocate President

PROCEEDINGS REVIEWED
(sgd) [illegible] Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED:
(sgd) [illegible]
REVIEWING OFFICER (JAG) CMHQ

Certified true copy of original proceedings herein.
22 Aug 1943
J.A.G. Rep 3

2

SCHEDULE.

Number, Rank (*a*) Name and Unit o. Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F.42650 Pte THIBIDEAU Arthur Joseph, West N.S.R.	FIRST CHARGE Sec 41 AA	NOT GUILTY	GUILTY Five (5) years penal servitude 19 Aug 43 (sgd) (PE BERNATCHEZ) Lt-col PRESIDENT	I confirm the Finding and Sentence of this Court. (AGL McNaughton) Lt-General Senior Combatant Offr Cdn Army Overseas In the Field 25 day Aug 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer *(to be recorded on separate sheet if necessary)* :—

(*Signed*) (MHS PENHALE) Brig — (*Signed*) (PE BERNATCHEZ) Lt-col
Commanding 3 Cdn Inf Bde — *President.*
Convening Officer (*e*) (sgd) (JC CAMPBELL) Major

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

(C O P Y)

8

B.

I certify that the above Court assembled on the 19th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—

* Omit if not applicable.

1. The members of the Court The Judge Advocate
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

Signed this 19th day of Aug 19 43.

(sgd)
(JC Campbell) Maj
Judge Advocate

(sgd) (E. Bernatchez) Lt-col
President of the Court Martial.

* See footnote (*b*) on page 762 M.M.L. 1929.

C.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. Certificate in case of death sentences.

Signed this day of 19 .

President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. Confirmation.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to ~~prison or~~ detention barrack ~~until further orders.~~)

Signed this 25 day of August 19 43.

(sgd) (AGL McNaughton) Lt-General
Senior Combatant Officer
Canadian Army, Overseas.
Confirming Officer.

Promulgated and extracts taken in the case of F42650 Pte THIBIDEAU A.J., West N.S. Regt

(*a*) (Dated) 30 Aug 43 (Signed) (CB HIGGINS) Capt, Adjt, Offr IC Records West N.S. Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(COPY)

CHARGE SHEET

The accused, F.48650 Pte Arthur Joseph THIBIDEAU, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, stationed in the Field, is charged with:

1ST CHARGE
Sec 41 AA

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE,

in that he

In the Field, on 4 Aug 43, when on Active Service, raped one SCARLATTA MARIANNA, a native of the island of SICILY.

In the Field,
14 Aug 43

(sgd) (MP Boger) Lt-col
Comd West N.S.R.

TO BE TRIED BY F.G.C.M.

In the Field,
15 Aug 43

(sgd) (MHS PENHALE) Brigadier,
Commanding 3 Cdn Inf Bde

(sgd) (JC CAMPBELL) Major
Judge Advocate.

(COPY)

MEDICAL OFFRS CERTIFICATE

19/8/43

F.48650
Pte THIBIDEAU A.J.

This is to certify that I have this day examined the a/m soldier. He is fit to undergo trial by Court-Martial.

(sgd) ?????? Capt

1cc

B.

(C O P Y)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GENERAL Court-Martial held at

on the 19th day of August 1943 by order of

Brigadier MHS PENHALE

Commanding 3 Cdn Inf Brigade

dated the 15th day of August 1943.

President.

Lt-col JPE BERNATCHEZ R 22 R

Members.

Capt GF FOSTER Carl & York R

Capt HS HOPPER 3 CIB Spr Gp (Sask LI)

Trial of• Maj JCA CAMPBELL RCA HQ 1 Cdn Div, Judge Advocate.

F.42650 Pte Arthur Joseph THIBIDEAU
West Nova Scotia Regiment

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N. A. is not available to serve owing to , waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt W.C. JOHNSON, Carl & York Regt, Barrister

Counsel‡ or defending officer† Capt J.R. CAMERON, West N.S. Regt Barrister

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked "A", signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

•Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

94276. Wt.W16632/78 35,000 sets. 6/43 K. & H., Ltd. G657/11. Forms A 9/55.

J 66

B

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Maj W.P. STEEN	Carl & York Regt	
Lt D.W. FIELD	"	"
Capt AG. THEXTON	West N.S. Regt	
Lt G.R. GUY	"	"
Lt J.E. CAMPBELL	"	"

Q. Do you object to Lt D.M. Lamb, Intelligence Corps and Lt G.F. Hall, R.A., acting as Interpreters?

A. No, Sir.

THE TWO OFFRS ARE DULY SWORN AS INTERPRETERS

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ 1st charge against you, which you have heard read? *Question to the accused.*

NOT GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to N.A. charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

1st

B

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

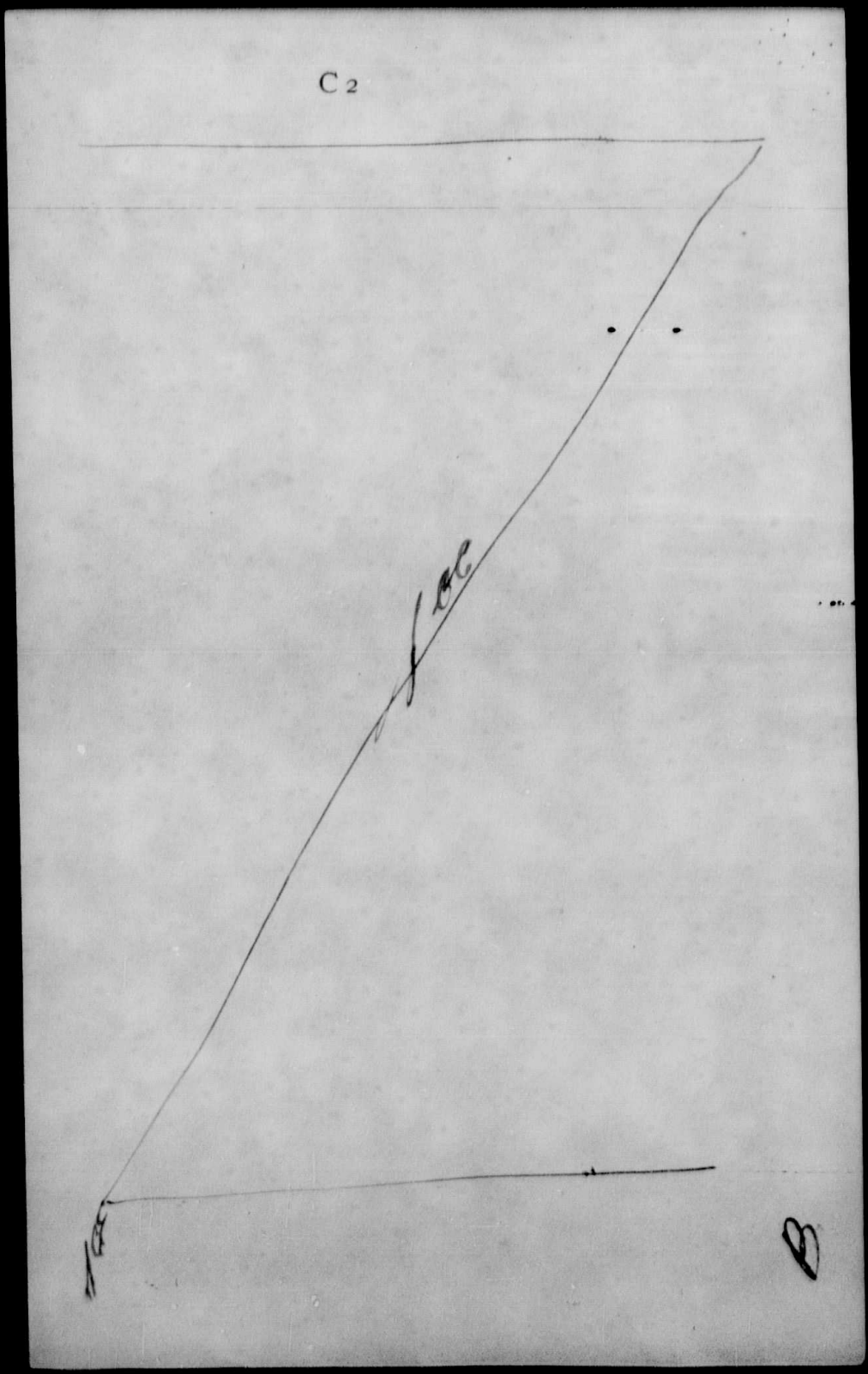
The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. See attached pages

being duly sworn, is examined by the prosecutor.

C 2



(COPY)

WITNESSES

1st WITNESS FOR PROSECUTION

Cutrona Giuseppe, being duly sworn, states:

The soldiers came into the house at about 8 o'clock p.m. They no sooner came in than one of them pointed a machine at us and asked for wine. They took a cask of wine containing 50 litres and started to drink. When they had finished drinking they threw the cask onto the floor and broke it. After that they took my wife and threw her on the bed and committed the offence. After that they wanted to smoke and asked me for cigarettes and I said I had none. They searched through the room and took an envelope containing 9000 lira which they found. After they had taken the money they started fighting and one of them fired a shot from his pistol which went into the wall. In the morning I asked the man who was holding me up if I could go out. He allowed me to go and I went to the Police Station and told them what had happened. I was accompanied to my house by a Policeman, interpreter, and an American officer. We found that the men had gone. We found a pocket book and a pair of spurs which were taken to the Police Station.

PROSECUTOR: Was the accused included among the soldiers?
WITNESS: Four soldiers and he was one of them.

Ques. Did the accused take part in the incidents which took place?
Ans. Yes, he was the first.

Ques. Ask the witness to describe exactly what the accused did to his wife?
Ans. This man threw his wife onto the bed and tore off her dress and had intercourse with her.

Ques. What was his wife's reactions to this?
Ans. My wife did not want anything to do with him and started to cry.

Defence

Ques. How are you sure the accused was in your house on the night in question?
Ans. I recognize the accused.

Ques. How light was it?
Ans. There was a petrol lamp burning.

Ques. How large was the room and what light did the lamp give?
Ans. The room was about the same size as this. The light from the lamp was good because it was a big one.

Ques. During these proceedings where was the witness sitting?
Ans. The bed was at one end of the room. I was sitting about 3/4 of the way across the room. The soldier with the gun was beside me pointing the gun at me and my son was on my knee.

Ques. Could you recognize the other three soldiers if you saw them again?
Ans. He might be able to recognize them.

Ques. Are you sure you would recog. them?
Ans. No, I am not sure.

Ques. Had he ever saw the accused before that night?
Ans. Never.

B

1cc

Ques. How are you positive that the accused was one of the soldiers when you cannot be sure of the others?

Ans. I am certain about this one because I recognized him at the identification parade and because at first he did not wish to do any harm. Afterwards he was the worst of the lot.

Ques. Did the accused take your wine?
Ans. Yes.

Ques. Did he take your money?
Ans. No.

Q. Did the accused at any time point a weapon either at you or a t your wife?
A. He pointed a M.G. at me and pistol at my wife.

Q. Please explain how you can be positive which soldier pointed which?
A. It was another soldier with glasses that pointed the pistol at my wife, and the accused pointed the M.G. at me.

Q. When did the accused point?
A. As soon as he arrived.

Q. Did the accused fire any shots?
A. No.

Q. Did the accused threaten the wife in any way?
A. When they first came in the accused pointed the M.G. and said wine.

Q.
A. During the actual rape or before it the accused passed his gun to another soldier.

Ques The word gun is clarified.
A. The soldier pointed this gun at me while the accused and another soldier threw my wife on the bed.

Q. Did you actually see the accused threaten your wife in any way. You must be positive of the ans. to this ques.
A. Because my wife was shrieking for help the accused put his hand over her mouth. This was before and while she was on the bed.

Q. Was the accused wearing spurs at this time?
A. Yes.

Q. ADJA Clarify the time spurs were worn.
A. Def Off I wish to know if spurs were worn at any time.

Q. Did the soldiers quarrel amongst themselves at any time while they were in the house?
A. They quarrelled about splitting the money and one of them shot his pistol at that time.

Q. Did the accused attempt to break up the quarrel and quiet the other soldiers at this time?
A. Neither of the 2 men who were quarrelling about the money was the accused. The accused was on the bed with my wife at that time and when he heard the pistol shot he appeared to say what are you doing and after that the quarrel ceased.

Def. Refers to Summary of Evidence. Ques on page one, Ques. one.

Q. When the soldiers entered the house was there a young woman present?

A. About ten minutes after the soldiers entered the house a young girl [redacted] whose name I do not know came into our house. When she came in one of the soldiers took her arm and some of them tried to kiss her. She cried and the small child (son of witness) that was there opened the door and the girl ran out. Two of the soldiers ran out after her but came back after a few minutes.

Pros. Requests that witness be made sure of the meaning of the word accused.

Ques. Are you positive that this is the man who was wearing the spurs?
A. I think so but I am not sure.

Q. This young lady referred to. Was she present at the time of the offence?
A. No.

Q. by JA

Ques. Was he present in the house from 8 o'clock in the evening constantly until he went to Police Station?
A. Yes.

Q. Did the accused commit the alleged offence more than once?
A. I am not sure as I was trying to quieten the child.

Q. About what time did you go to the Police Station?
A. About 6.30 a.m.

Q. Was the accused the only one in the room using a weapon?
A. While the accused was violating my wife someone else held the gun. The other two were present at the time.

Q. By President At the time the accused was pointing the pistol were either of the others threatening anyone with any other weapon?
A. Neither was threatening . Pistol in holster - rifle against the wall.

R.P' 83(B) complied with.

2nd WITNESS FOR THE PROSECUTION

Scarlatta MARIANNA, being duly sworn, states:

Prosecutor: Tell the Court the story of the alleged crime against yourself.

Witness: Four soldiers came to the house about 8 o'clock in the evening. Two said they were English and two said they were Canadian. When they first came in they were quarrelling and the accused tried to stop them. After that the accused and another soldier threw me onto the bed, tore off my dress and violated me. One of the soldiers had a pistol pointed in my ear and covered my mouth with his hand. They carried on [redacted] one after the other from 10 o'clock in the evening until about 5 o'clock in the morning. When they saw that I had no strength they left me in peace and I went to sleep. Three of the soldiers went away after daylight about 7 o'clock. The accused remained sleeping and left about 8 o'clock.

DEFENCE

Q. Did the accused offer any personal violence to you?
A. Yes, held the pistol to my side and the other soldier held one to my head, and he (the accused) was the first to violate me.

10 8

Q. Did the accused actually use hands on you?
A. The accused held my arms to my sides.

Q. Did the accused actually hold your arms while he raped you?
A. The accused had his arms around me holding my arms to my sides.

Q. What assistance did you give the accused at the time he allegedly raped you?
A. It was a question of consenting or being shot either myself or my husband, and I was forced to give in.

Q. Was any weapon directed at the witness at the time the accused allegedly raped her?
A. One of the soldiers held a pistol to my head.

Q. At what time did the accused take off his spurs?
A. He took them off when he got up in the morning and left them on the bed.

Q. When did the accused take his pocketbook out of his pocket?
A. I don't know; it was found on the ground.

Q. Are you positive that this is the man who wore the spurs?
A. Yes.

Q. (By Court) Will you describe the details of the alleged violation?
A. He had intercourse with me as between man and woman.

Q. Did the accused have more than one intercourse with you?
A. Yes, twice.

Q. On what date did these soldiers to your house and commit the alleged offences?
A. Two weeks ago today, 5 Aug 43. Corrected to evening 4/5 Aug 43.

ADJA After the accused left what did you do?
Q.
A. After the accused went to sleep I stayed outside the house until the accused left. I waited for my husband and went into the house with him, packed my belongings and went to Agira.

Q. Was your husband present in the room on the night in question?
A. Yes, he was present.

RP 83(B) complied with.

3rd WITNESS FOR THE PROSECUTION

Q. Will you tell the Court?
A. When the S of E was being taken I took charge of the identif parade. I chose 12 men from the Bn LOB Party and "B" Echelon. The accused was placed with these 12 men. For the first identification by Cutrona Giusseppe the prisoner was placed 6th from the right and the witness thought he recognized the accused as one of the men who was in his house. For the second identification the prisoner was placed 9th from the right and was identified by Scarlatta Marianna. The third identification by the child the accused was 3rd from the right. Due to the age of the child the interpreter stopped longer in front of each man. The child identified the accused.

DEFENSE

166

B

Q. Was Cutrona Giuseppe positive that the accused was the man?
A. He was not positive.

Q. Was any action taken that could have pointed out the accused to the witnesses?
A. No.

ADJA

Q. What date was the parade held?
A. I don't know.

Q. Was it 2,3,4 days after the alleged crime?
A. At least 4 days.

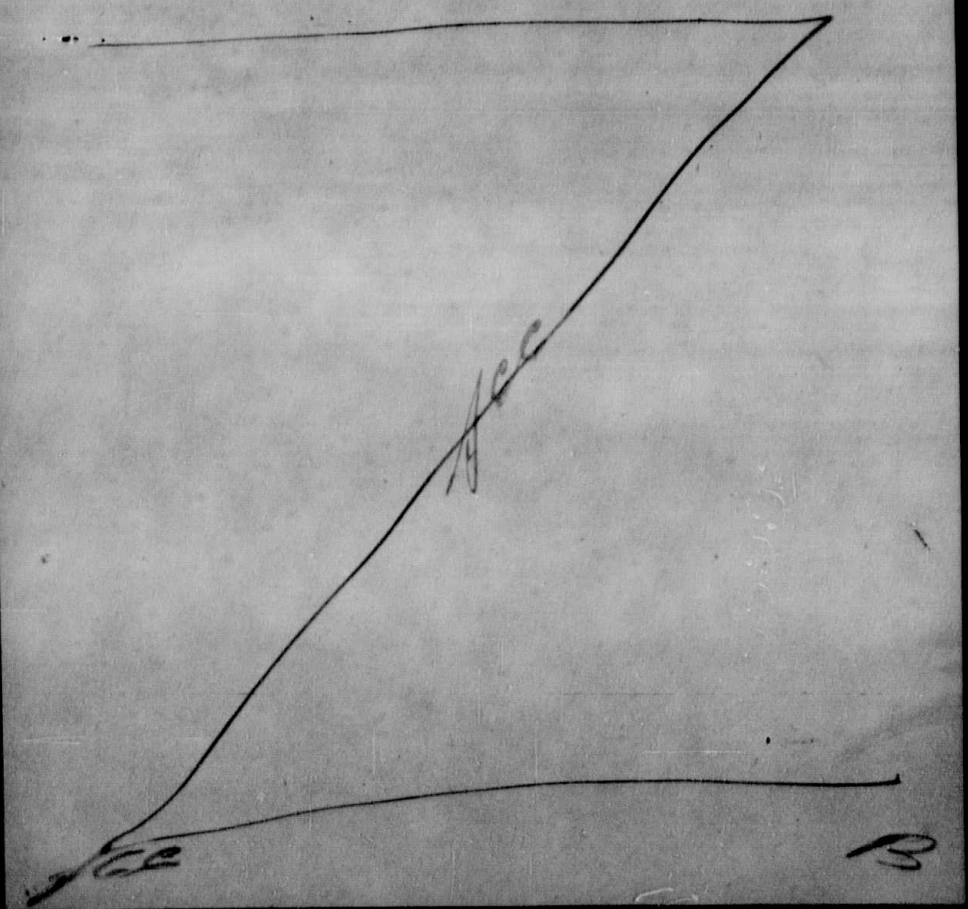
RP 83(B) complied with

THE PROSECUTOR STATES HE DOES NOT INTEND TO CALL MAJ BATTY RCMP, ONE OF THE WITNESSES IN THE SUMMARY OF EVIDENCE.

THE DEFENDING OFFICER DOES NOT INSIST ON THE CALLING OF THIS WITNESS.

PROSECUTOR: I would like to admit into evidence the statement of the accused, after caution.

The statement is read.



(COPY)

D

The prosecution is closed.

Defence.

ACCUSED IS ADVISED BY J.A. AS TO HIS RIGHTS UNDER RP 40 & FN 2.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. Yes, Sir.

Question. Do you intend to call any other witness in your defence ?

Answer. Yes, Sir.

Question. Is he a witness as to character only ? *Answer.* Yes, Sir.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says:† 16

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

1C

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- DEFENCE -

THE ACCUSED ELECTS TO GIVE EVIDENCE ON OATH.

ONE FURTHER WITNESS AS TO CHARACTER ONLY.

THE ACCUSED IS SWORN:

You are No. F42650 Pte Arthur Joseph THIBIDEAU, the accused.

You have heard your statement read over and put in evidence by the Prosecution.

Q. Describe in detail your dress on the
A. I was wearing helmets steel, long trousers, bush shirt and carrying a rifle.

Q. Did you at any time wear any articles not at present on issue to you?
A. No.

The Can was wearing civie hat, spurs and the English soldiers were wearing bush shirts, soft caps, and long trousers. Neither one was carrying a rifle. One had a revolver. The Can was carrying a Tommy Gun.

Q. Was there any change later on?
A. Yes, there was. One of the English soldiers was carrying a rifle which he got from the balcony.

Q. Did you at any time in the evening in question offer violence by use of arms or otherwise to Signor?
A. No.

Q. Did you at any time offer any violence to his wife?
A. (no answer in original transcript) (AHS)

Q. Did you at any time threaten to shoot his wife?
A. No.

Defence told not to ask leading questions.

Q. What weapons did you have in your possession at any time that night?
A. My rifle.

PROSECUTION - NO QUESTIONS

Pres. You heard the evidence of the plantive when she said
Q. that you held her during intercourse?

Accused: I deny it.

RP 83(B) COMPLIED WITH

1E

B

CHARACTER WITNESS IS CALLED

Lt R.W. BULLOCK, Mortar Officer Sp Coy, W.N.S.R.

Q. Do you know the accused?
A. Yes.

Q. How long?
A. I have been his Pl Comd for a year.

Q. Will you tell the Court what you know of the accused?
A. The time I have been the accused's Pl Comd he has never appeared before me or the Coy Comd on any charge. Although was not an outstanding soldier, he has done a fair job and has done his work to the best of his ability.

RP 86(B) COMPLIED WITH

SUMMING UP BY THE PROSECUTION

Very little to add as I feel that the evidence submitted before the Court is conclusive and it is not my job as Prosecutor to make things worse for the accused but to submit the evidence as it is given to me and I am happy to leave the rest to the Court. However I would point out the gravity of the alleged offence.

DEFENCE

As a question of law in order to constitute rape it must be proved that there was actual penetration of the female organ by the male organ. If there is less than that there may be an indecent assault but there cannot be rape. On the question of fact we come to the credibility of witnesses. It is contended that at the time in question the husband did for certain periods at least confuse the accused with certain other soldiers also present who it is submitted were the ones to offer violence. This is borne out by the statement of Capt Day for at the time of the identification parade Signor Cutrona could not be positive of the identity of the accused, and I submit that Signor Cutrona's present positiveness comes through what is sometimes called the power of suggestion and association I submit that in the case of Scarlatta Marianna I submit that in the confusion she was not in a position to identify those who committed specific acts of violence where so many specific acts were alleged. In this connection I would point to the evidence of the accused that another not he was wearing spurs, a point on which he was not cross examined. I would point also to the statement of the accused that he was armed with a rifle, that the MG and pistol were in the hands of and used by their respective owners. The Defence contends that the Prosecution has failed to prove as against the accused those acts of penetration necessary to constitute a rape, and that it is proved at best no more than indecent assault by the accused on the said woman. But there are witnesses to the defence other than the accused it is owing to the fact that it is impossible to ascertain the whereabouts of the other 3 soldiers in the party whose names of regts are not known or again the RCMP to whom the accused made reference. Lastly I would point out that the accused with little fresh material evidence to add to his statement elected to take the stand and under oath submit to cross-examination. The Def rests.

J.A. SUMS UP AS FOLLOWS

1. J.A. duties to summarize evidence and advise on the law relating to the case prior to deliberation of Court on its findings
2. In deciding questions of law Court should be guided by J.A.'s advice . Such advice not to be disregarded except for weighty reasons.
3. If J.A. should express an opinion during summing up, Court not bound by same, as at liberty form own opinion from evidence.
4. To obtain conviction the particular charge must be proved. If not proved acquittal follows

5. J.A. explains burden of proof.

6. J.A. sums up for Pro and Def, analysing the evidence. Defines rape for guidance of Court.

7. In conclusion J.A. draws to court's attention the principles of English law. Accused is presumed innocent until proven guilty and defines reasonable doubt for guidance of Court.

ADDRESS TO COURT BY ACCUSED

If it pleases I would recall the evidence of Lt R.W.Bullock with ref to conduct and character of the accused. Mr. Bullock has stated that during the period of over a year in which the accused was known to him the accused has never been placed upon charge and hasn't committed any military offence. Also, that during this period the accused had carried out all duties required of him to the best of his ability. In the award of sentence I would ask that these facts be taken into consideration.

(C O P Y)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused F42650 Pte Arthur Joseph THIBIDEAU, West Nova Scotia Regt, guilty of the charge as laid.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt CB HIGGINS Adjt West N.S.R. is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, I produce certified copy of MFM6 and MFB 355

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked C&D signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused. N.A.

(Instruction.—If by reason of the nature of the service of the accused on a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused. Do you wish to address the Court? *Answer.* Yes, see att sheet.

The Court is closed for the consideration of the sentence.

1 GE

B

(C O P Y)

F

Sentence.

The Court sentence the accused F42650 Pte Arthur Joseph THIBIDEAU, West Nova Scotia Regiment to suffer penal servitude for the term of 5 years.

Field,
19 Aug 43 (sgd) (C. Campbell) Maj
Judge Advocate

(sgd) (E. Bernatchez) Lt-col
PRESIDENT

MFM 6
(AFB 122)
40/PAM/136 (3428)

No 42650 Name ~~XXXXXXX~~ THIBIDEAU A.J. Sqn, Battery, or Company Sp Corps West NSR Date of enlistment 10 Sep 39 GC Badges Service or Proficiency Pay Unfit "C" Character

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						(sgd) (C. Campbell) Maj Judge Advocate			

I certify that the original MFM 6 of F.42650 Pte THIBIDEAU A.J. has been destroyed by enemy action.

(sgd) (C.B. HIGGINS) Capt Adjt
West N.S. Regt

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.42650	Pte	THIBIDEAU A.J.	West N.S. Regt

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but it is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet. Prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ times.
For _____ times.
For _____ times.
For _____ times.

I certify that the MPM 6 of F.42650 Pte THIBIDEAU AJ has been lost due to enemy action.
(sgd) (CB HIGGINS) Capt
Offr IC Regtl Records
West NS Regt

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N.A. beginning on the N.A. day of N.A.

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 15 days in military custody, *i.e.*, _____ days in open arrest, _____ days in close arrest; of which NIL days were spent in hospital.

"D"
(sgd)
(JC CAMPBELL) Maj
J.A.

5. The present age of the accused is 26 yrs 4 mos

6. The date of his attestation ~~XXXXXXXXXXXXXXX~~ is 10 Sep 39

7. The service which the accused is allowed to reckon is 3 yrs 11 mos

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date— N.A.

Date of Promotion.

In the substantive rank of N.A.
In the war substantive rank of N.A.
In the acting rank of N.A.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(41114) W1.8670/648 100,000 4/42 A. & E. W. Ltd. Gp.698
(42468) W1.8958/1572 60,000 9/42
Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		I certify that the MFM 6 of F42650 Pte Thibideau A.J has been lost due to enemy action. (sgd) (CB HIGGINS) Capt & Adjt Offr IC Regtl Records West NS Regt		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14th day of August 1943 (sgd) (CB HIGGINS) Capt & Adjt
Offr IC Regtl Records West NS Regt

Z-30

PTE TICKNER G.L.

A-4365 Pte. Tickner, G.L.
1 M.T.V.R.D.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 13th day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the ~~trial~~ ~~of~~ ~~the~~ ~~case~~ ~~as~~ ~~a~~ ~~superior~~ ~~qualified~~ ~~officer~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[~~Alternative to appoint~~:—

*(1. ~~The officers to form the Court~~

*(2. ~~A Field General Court~~)

~~for the following reasons, namely~~:]

Proceedings Reviewed
Reviewing Officer (J.A.G.) C.M.H.Q.
13 Jan 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-Col.	D.L. Redman V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
Captain	L.L. VanLuven	1 Adm.Tpt.Coy. R.C.A.S.C.
Lieutenant	A.J. Greathead	1 C.E.C.W. R.C.O.C.
Waiting Member Lieutenant	D.C. Westaway	7 Cdn Const Coy. R.C.E.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier
Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A-4365 PTE. TICKNER, G.L. No. 1 M.T.V.R.D., R.C.O.C.	First Charge A.A. sec 15(1)	Guilty	Guilty Sentence To undergo Detention for a period of One Hundred and Twenty (120) Days 16th Feb 1943 WM	Confirmed H.H.D. Tulan Brig
	See charge sheet attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) ..... Brigadier (*Signed*) .....
Commanding Cdn Reinf Units.
Convening Officer (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of February, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~
4. *The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 16th day of FEBRUARY 1943.

.....
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of A.C.I. 279 of 1918 have been complied with.

Signed this ..... day of ..... 19.....

.....
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 18 day of Feb 1943

H.H.D. Tulan Brig
Confirming Officer.

Promulgated and extracts taken in the case of No A-4365 PTE TICKNER G.L. No 1 M.T.V.R.D. - R.C.O.C.

(*a*) (Dated) FEB 22 1943 (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.S. 47767/1937 20 M. 5/41 K.H.,S.(S65(2) Gp. 698/2

4/3D/5-2

16 FEB 43

THIS is to certify that I have this date examined A-4365 Pte. Tickner, G.L., A1 CDIRU, attached No. 4 Sub Depot, 1 C.B.O.D., R.C.O.D., and find him fit/~~unfit~~ to undergo trial by Field General Court Martial.

(Medical Officer) RCAMC

Bordon, Hants.
16 FEB 43.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NEW MARTINIQUE BARRACKS, BORDON, HANTS.,
ON THE 16th DAY OF FEBRUARY 1943

The accused A.4365.PTE.TICKNER.C.J.....Unit...1.W.T.V.R.D.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President..LT..COL..D.I..BEDWAN..VD.Unit.W.Q...C.B.V.....

Members..CAPTAIN.L.L..VANLUVEN.....Unit.1.Adm..Tpt..Coy..RCASC

..LIEUT...A.J..CHEATHEAD....Unit.1.C.B.C.W..R.C.O.C.

The officers under instruction are duly sworn:-
LIEUT. D.C.WEATHERWAY / T.C.C.C. R.C.E.
LIEUT.I.R.G. FLETCHER....Unit.I.C.O.R.H.....

.....Unit.....

Prosecutor CAPT. W.P. MOSHER.....Unit H.Q.A. DEPOT I.C.B.C.D.

Defending Officer CAPT. P.A.PLEASANCE Unit. R.C.D.C.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces ~~AFB 295~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer:-
The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that since the accused started on these various minor crimes, everybody seemed to have it in for him. I also understand from him that he never readily fulfilled his rightful place in the Army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over one. It seems to be the case of a square peg in a
The court should consider that these committed more out of fun.
I hope the court will take
(OVER)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NEW MARTINIQUE BARRACKS, BORDON, HANTS.,
ON THE 16th DAY OF FEBRUARY 1943

The accused. A.4365 PTE. TICKNER G.L. Unit. 1.W.T.V.R.D.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. LT.-COL. D.L. BEDWAN. VD. Unit. H.Q., C.E.U.

Members. CAPTAIN. L.L. VANLUVEN. Unit. 1. Adm. Tpt. Coy. RCASC

..LIEUT. A.J. CREATHEAD. Unit. 1. C.E.C.W. R.C.O.V.

The officers under instruction are duly sworn:-
LIEUT. D.C. WESTAWAY T.C.C.C. R.C.E.
LIEUT. T.R.G. FLETCHER. Unit. I.C.O.R.U.

.....Unit.....

Prosecutor CAPT. W.P. MOTHER. Unit H.Q.A. DEPOT I.C.B.O.D.

Defending Officer CAPT. B.A. DICKMAN. Unit. R.C.O.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces ~~MFM 5~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~gives a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer.-
The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that once the accused started on these various minor crimes, everybody seemed to have it in for him. I also understand from him that he never readily fulfilled his rightful place in the Army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over (OVER)
it seems to be the case of a square peg in a
The court should consider that these
committed more out of fun.
I hope the court will

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NEW MARTINIQUE BARRACKS, BORDON, HANTS.,
ON THE 16th DAY OF FEBRUARY 1943

The accused A.4365 PTE. TIDMAN G.L. Unit 1.W.T.V.R.D.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.I. BEDWAN V.D. Unit H.Q. C.R.U.

Members CAPTAIN L.L. VAULIVIER Unit 1 Adm. Tpt. Coy. R.C.A.S.C.

LIEUT. A.J. DRAPER Unit 1 C.R.T.C.W. R.C.C.S.

The officers under instruction are duly sworn:-
2/LIEUT. D.C. WESTAWAY T.C.C.C. R.C.E.
2/LIEUT. T.R.G. FACEY R.C.S. Unit 1.C.C.R.H.

.....Unit.....

Prosecutor CAPT. M.C. MOSHER Unit H.Q. & A. DEPOT I.C. R.C.D.

Defending Officer CAPT. F.A. PICKMAN Unit R.C.D.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces ~~AFB 295~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer:-
The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that since the accused started in these various minor crimes, everybody seemed to have it in for him. I also understand from him that he never readily fulfilled his rightful place in the Army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over it. It seems to be the case of a square peg in a round hole. The court should consider that these petty crimes were committed more out of frustration than wilfulness. I hope the court will take

(OVER)

(OVER)

that into consideration when arriving at the sentence. The accused throws himself on the mercy of the court.

The court is cleared to consider its finding.

William V. V.

SUMMARY OF EVIDENCE 24 Jan. 1943.

Summary of evidence in the case of A-4365 Pte. Tickner, G.L., of No. 1 C.D.I.R.U., attached f.a.p., to No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS For the Prosecution

B-74301 Pte. Gould, G.O., of No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

I am Pte. Gould, G.O., B-74301 of No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, on 28 December 1942, I was on duty in the Guard Room of No. 1 M.T.V.R.D., R.C.O.C., and at approx. 1815 hours, I was detailed by B-73655 Sgt. Noble, W.J., guard commander, to take A-4365 Pte. Tickner, G.S., whom I now recognize, to the latrine situated immediately behind the Guard Room. He entered the latrine, and came out carrying a small parcel. As we were rounding the south-~~xxxx~~west corner of the Guard Room , A-4365 Pte. Tickner, G.S., began running across the Parade Squsre, in the direction of Vehicle lines. I then went into the Guard Room and reported the matter to the guard commander, B-73655 Sgt. Noble, W.J.

The accused declines to cross examine this witness.

B-74301 Pte. Gould G.O. ..... Pte.
(B-74301 Pte. Gould G.O.)

SECOND WITNESS For the Prosecution

B-73655 Sgt. Noble, W.J. of No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

I am Sgt. Noble, W.J., B-73655 of No. 1 M.T.V.R.D.,R.C.O.C. At Bordon, Hants, on the 28 December 1942, I was on duty as Guard Commander of No. 1 M.T.VR.D., R.C.O.C. At 1815 hours A/4365 Pte. Tickner, G.L., asked to be taken to the latrine which is situated outside immediately to the rear of the Guard Room. I detailed B-73401 Pte. Gould, G.O., to escort A-4365 Pte. Tickner, G.L., to the latrine. At approx. 1820 hours, Pte. Gould reported to me that A-4365 Pte. Tickner, G.L. had escaped. I immediately informed the Orderly Sergeant and at the same time detailed Pte. Gould to notify the Regimental Police. I've not seen A-4365 Pte. Tickner G.L., since, and know nothing of his whereabouts.

The accused declines to cross examine this witness.

..... Sgt.
(B-73655 Sgt. Noble W.J.)

THIRD WITNESS For the Prosecution

B-68214 Cpl. Brogan, C. of the Royal Regt. of Canada, attached f.a.p. to No. 1 M.T.V.R.D.,R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

I am Cpl. Brogan, B-68214, of the Royal Reg't. of Canada, attached to No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, 28 December 1942. It is my duty to call the roll at Tattoo of the Barrack room where A-4365 Pte. Tickner ~~was~~ has not been present at Tattoo Roll Call since 28 Dec. I have not seen A-4365 Pte. Tickner, G.L., since, and know nothing of his whereabouts.

The accused declines to cross examine this witness.

.....Cpl.
(B-68214 Cpl. Brogan, C.)

SUMMARY OF EVIDENCE 24 Jan. 1943.

FOURTH WITNESS For the Prosecution

H-3704 Cpl. Isbister, W.L. of No. 1 M.T.V.R.D.,R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:
I am Cpl. Isbister, W.L., H-3704 of No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, on the 28 December 1942, at 1820 hours, I was warned by a member of the Guard, B-74301 Pte. Gould, G.O., that a prisoner A/4365 Pte. Tickner, G.L. had escaped while being taken to the latrine. I immediately left my quarters and entered the Guard Room. I then searched the Unit lines and from there proceeded to A-4365 Pte. Tickner's Barrack Room, 96 Exmoor Quarters and stayed there from 1915 hours till approximately 1955 hours, when Pte. Tickner di not return. I then proceeded to search the N.A.A.F.I., after which I returned to my quarters at 2015 hours. I did not see A-4365 Pte. Tickner, G.L., again till 1630 hours of 22 January 1943, when he was handed over to me, at the unit detention room and Army Form C 1617 evidence of his ~~imprisonment~~ was also handed to me (Exhibit "A"), by the No. 9 Canadian Provost Corps. I then placed A-4365 Pte. Tickner, G.L., in a cell in the Unit Guard Room.

The accused declines to cross examine this witness.

W.L. Isbister Cpl.
(H-3704 Cpl. Isbister, W.L.)

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) declines to make a statement.

It is not my desire to have an Officer appointed to defend me at my trial by Field General Court Martial.

G.L. Tickner Pte.
(A-4365 Pte. Tickner, G.L.)

I certify that Rules of Procedure (4) (c) (d) (e) (f) and (g) have been complied with. (c)
I further certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presene and hearing of the accused this 6th day of February 1943, at Bordon, Hants.

D.E. Lewis Lieut.
(D.E.Lewis) Lieut.

LIST OF WITNESSES FOR THE PROSECUTION

1. B-73655 Sgt. Noble, W.J.
2. B-66814 Cpl. Brogan, C.
3. ~~B-87[illegible] Cpl. Isbister, W.L.~~
4. B-74[illegible]01 Pte. Gould, G.O.

[redacted]

LIST OF WITNESSES FOR THE DEFENSE

N I L

EXHIBITS

"A" Army Form C1617

Behalf of
6 Dec 42.

Officer Commanding, .16/93.....

#4 sub-depotR.C.C.C

Re: A-4365 Pte.Tickner,G.R.

1. Forwarded for your information and necessary action, please and disposal under C. [illegible] Orders (c) [illegible] dated 7/10/40

London
21/Jan/43.

No complaints

for Ca[illegible] D. Wood, C. C.,
[illegible] C.C., Can. Provost Corps

Exhibit A

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *i.e.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 480/1940).

(20939) W1.49432/452 25,000 3/42 A.& E.W.Ltd. Gp.698 Forms.

COPY

No. H4365 Name TICKNER | Sqn., Battery, or Company | Corps ROYAL CON. REGT | Date of enlistment 6-7-40 | C.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 177) (15M—7-41 (1219-20) H.Q. 1772-39-1052

Date of last entry in Company Conduct Sheet 29-11-40 | No. and date of last drunk NIL | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 6-1-41 N. Campbell Lieut					
Camp Borden	21-3-41	Pte.	NIL	AA 15(2) Absent fr place of parade	Nutter	3 days CB	22-3-41	Major Keagan	Nil.
Camp Borden	1-4-42	"	"	Conduct to the prejudice of Good Order & Discipline in that he did Overstay his Leave	Sgt Lee	7 days CB	2-4-42	Capt Page	Court of Inquiry Appointed
Algonquin	15-7-42	"	"	WOAS Breaking out of barracks	Lt Shelly	15 days det	15-7-42	2/Col Bingham	
				WOAS - AWL 1360-15-7-42-1545-16-7-42	Col Hamilton				
				WOAS - AWL 0745-18-7-42-0805-18-7-42	Capt Wynne				
Algonquin	20-7-42	"	"	WOAS - AWL 1800-20-8-42-0015-21-8-42	Cpl Cawthar	28 days det	21-8-42	Lt. Col Bingham	Nil.
				WOAS - Conduct to the prejudice of good order & discipline in that he used insubordinate language to superior officer	Lt. Cantley Col Hendley				
London Hants	21-11-42	Pte		AWL from 0630 hrs 21 Nov 42 till 1010 hrs 28 Nov 42 (4 days, 3 hrs & 40 mins) AA Sec 15 (1)	Sgt Maynard Cpl Browne	27 days detention	27 Nov 42	Lt. Col. A.R. Smith	7 days CB 5 days pay Awld 144 (1) (a) 1123.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	18-12-42	Pte		WOHS a soldier of the 6A (C) conduct to the Sup. Pte in that he used insubordinate language while under escort of R.A.P. police HA sec 40.	Pte McMullen HM	7 days pay Act 149 (1)(2) FRs	21-12-42	Lt.-Col. C. Raynor Smith	
In the Field.	24-12-42	Pte		HA sec 15 (1) WOHS AWL from 12 hrs. 24-12-42 till apprehended at 1415 hrs 26-12-42 by the Can Provost Corps. (AWL 2 days, 7 hrs. 45 min.)	Cpl Burgar	27 days FP 27 days forf of pay Act 149 (1)(B) FRs	28-12-42	Major H.M. Drum	3 days pay Act 149 (1)(A) FRs

"CERTIFIED True Copy" of original Copy in my custody

Adjutant,
No. 4 Sub Depot I C.B.O.D.

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
A-2566	Pte.	Tickner, G.L.	M.T.V.R.D., R.C.O.C.S., C.A.-(C)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, pronouncing being given to the most serious offences in each entry and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
	-1-el-Previous Sheet destroyed	
For A.A. Sec. 1a(2) Absent on place of parade	times	1 times.
For A.A. Sec. 40 Insubordinate lan	times	2 times.
For A.A. Sec. 40 Out of Bounds	1 times	1 times.
For A.A. Sec. 40 Breaking out of Camp	1 times	1 times.
For A.A. Sec. Absent without leave	5 times	5 times.

xxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-4365 Rank Private Name Tickner, G.L. of #1 MTVRD RCOC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16TH day of Feb., 1943

J.M. Turner Lt Col

O.C., No.1 M.T.V.R.D. RCOC.

In the rank of ____ years.

In the rank of NIL years.

In the rank of ____ years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

CHARGE SHEET

The accused, A-4365 Pte. Garnet Lewis Tickner, 1 Canadian Division Infantry Reinforcement Unit, attached to 1 Motor Transport Vehicle Reserve Depot, Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas, is charged with

ABSENTING HIMSELF WITHOUT LEAVE

First Charge
Army Act
Sec 15 (1)

in that he

When in arrest, at Bordon, Hants, absented himself without leave from 1820 hrs 28 Dec. 42 until he surrendered himself to Inspector Young at the Elephant Tube Station, London at 2110 hrs 21 Jan. 43.
(absent 24 days, 2 hours, 50 minutes)

Bordon Hants.

To be tried by Field General Court Martial

(P.M.Irwin) Lt. Col.
O.C., No. 1 M.T.V.R.D., R.C.O.C.
C.A. (Overseas)

[redacted] Brigadier
Commander, 5th Reinforcement Units.
Convening Officer

Farnborough Hants.
This 15th day of Feb 43.

COUNTER NUMBER 570864

HOUR 21 25'

OPERATOR'S INITIALS QL

RELIEVING OPERATOR _____

END

FIRST

SIDE


44.101

START

SECOND

SI


44.101

Z-30

PTE TICKNER G.L.

A-4365 Pte. Tickner, G.L.
1 M.T.V.R.D.

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 13th day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY OVERSEAS., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reasons as to superior qualified officers]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I hereby appoint:—

*(1. The Officers to attend the Court)

*(2. A Field Officer to preside)

for the following reason, namely:—]

Reviewing Officer (A.G.) C.M.R. 13 Mar 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Lt-Col.	D.L. Redman V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
Captain	L.L. VanLuven	1 Adm.Tpt.Coy. R.C.A.S.C.
Lieutenant	A.J. Greathead	1 C.B.O.W. R.C.O.C.
Waiting Member Lieutenant	D.C. Westaway	7 Cdn Const Coy. R.C.E.

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-4365 PTE. TICKNER, G.L. No. 1 M.T.V.R.D., R.C.O.C.	First Charge A.A. sec 15(1)	Guilty Guilty	Sentence To undergo Detention for a period of One Hundred and Twenty (120) Days 16th Feb 1943 See charge sheet attached.	Confirmed H.H.D. Tilson Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer *(to be recorded on separate sheet if necessary)*:—

(Signed) [illegible] Brigadier (Signed) [illegible]
Commanding Cdn Reinf Units,
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 16th day of February, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 16th day of FEBRUARY 1943.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 379 of 1918 have been complied with.

Signed this XXXXXXXXXXXXXXX day of XXXXXXXXXXXXXXX 19XXXXX

XXXXXXXXXXXXXX

4/3D/5-2

16 FEB 43

THIS is to certify that I have this date examined A-4365 Pte. Tickner, G.L., #1 CDIRU, attached No. 4 Sub Depot, 1 C.D.O.D., R.C.O.D., and find him fit/~~unfit~~ to undergo trial by Field General Court Martial.

C. H. Lythgoe Capt.
(Medical Officer) R.A.M.C.

Bordon, Hants.
16 FEB 43.

PROCEEDINGS
HELD AT NEW MA
ON THE 16th D.

The accused A.4365 PTE. TICK

The order convening the
the Court, who satisfied themse

The accused is brought before the MARTIAL
The Medical Certificate is presented by
The order convening the Court is read by
accused having been asked, stated that he had no objection
president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President..LT..COL..D.I..REDWAY..VD.Unit.H.Q...C.R.U.....

Members..CAPTAIN.L.L..VANLIVEN.....Unit.1.Adm..Tng..Coy..RCASC

..LIEUT...G.J..GREATHEAD....Unit.1.C.R.C.W...R.C.O.C.

The officers under instruction are duly sworn:-
LIEUT. D.C. WEATHERWAY T.C.C.C. R.C.E.
LIEUT. L.A. FRETTER R.C.E. ....Unit. C.R.C.W.....
.....Unit.....
.....Unit H.A.A.B. DEPOT. C.A.O.C.

Prosecutor CAPT. W.C. MOSHER.....Unit. R.C.O.C.....

Defending Officer CAPT. T.A. PLEWMAN Unit. R.C.O.C.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer:-

The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that once the accused started on these various minor crimes, it very easily seemed to have it in for him. I also understand from him that he never readily fulfilled his rightful place in the army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over (OVER)
it seems to be the case of a square peg in a
The court should consider that there
committed more out of frust-
I hope the court will ta

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NEW MARTINIQUE BARRACKS, BORDON, HANTS.,
ON THE 16th DAY OF FEBRUARY 1943.

The accused A.4365 PTE. TICKNER C.J. ..... Unit ... 1 W.T.V.S.D. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.I. BROWN V.D. Unit H.Q. C.B.U. .....

Members CAPTAIN L.L. VANLUVEN ..... Unit 1 Adm. Tpt. Coy. RCASC

LIEUT. A.J. SHEATHEAD .... Unit 1 C.B.C.W. S.C.O.T.C.

The officers under instruction are duly sworn:-
LIEUT. D.C. WESTAWAY T.C.C.C. R.C.E.
LIEUT. L.G.B. FLETCHER .... Unit 1 C.C.R.H. .....

..... Unit .....

Prosecutor CAPT. W.C. MOSHER ..... Unit H.Q.A. DEPOT I.C.D.C.P.

Defending Officer CAPT. F.A. BLACKMAN Unit R.C.P.C. .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces ~~AFB 295~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~gives a statement in mitigation of punishment~~
(b) ~~calls no witness as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer:-
The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that once the accused started on these various minor crimes, everybody seemed to have it in for him. I also understand from him that he never readily fulfilled his rightful places in the army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over one. It seems to be the case of a square peg in a
(OVER)
The court should consider that these committed more out of fear.
I hope the court will take
[illegible]

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT NEW MARTINIQUE BARRACKS, BORDON, HANTS.,
ON THE 16th DAY OF FEBRUARY 1943

The accused A.4365.PTE.TICKNER.G.L.....Unit...1.W.T.V.R.D.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President.LT.-COL..D.L..BEDWAN..VD.Unit.H.Q...C.B.V.....

Members..CAPTAIN.L.L..VANLIVEN.....Unit.1.Adm..Tpt..Coy..RCASC

..LIEUT...A.J..HEATHEAD....Unit.1.C.B.V.R.W..R.V.R.V.

The officers under instruction are duly sworn:-
LIEUT. D.C.WESTAWAY T.C.C.C. R.C.E.
LIEUT.L.N.G.FLETCHER....Unit.1.C.O.R.H.....

.....Unit.....

Prosecutor CAPT..W.P..MOTHER.....Unit H.Q.A.A.DEPOT.I.C.R.C.D.

Defending Officer SGT..B.A.PIECEMAN.Unit.R.C.O.C.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces ~~AFB 296~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witnesses as to character~~
(c) ~~calls witnesses in mitigation of punishment~~
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation of punishment by Defending Officer:-
The court will see from the crime sheet that the accused has had a very bad record. I interviewed the accused as his defending officer, and from what I can gather it seems that once the accused started on these various minor crimes, everybody seemed to have it in for him. I also understand from him that he never really fulfilled his rightful place in the Army. He joined as a driver, but the nearest he ever got to a vehicle was to stand guard over it. It seems to be the case of a square peg in a round hole. The court should consider that these petty crimes were committed more out of frustration than wilfulness. I hope the court will (OVER)

(OVER)

that in its consideration when arriving at the sentences. The accused throws himself on the mercy of the court.

The court is cleared to consider its finding.

SUMMARY OF EVIDENCE 24 Jan. 1943.

Summary of evidence in the case of A-4365 Pte. Tickner, G.L., of No. 1 C.D.I.R.U., attached f.a.p., to No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS for the Prosecution — B-74301 Pte. Gould, G.O., of No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:
I am Pte. Gould, G.O., B-74301 of No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, on 28 December 1942, I was on duty in the Guard Room of No. 1 M.T.V.R.D., R.C.O.C., and at approx. 1815 hours, I was detailed by B-73655 Sgt. Noble, W.J., guard commander, to take A-4365 Pte. Tickner, G.S., whom I now recognize, to the latrine situated immediately behind the Guard Room. He entered the latrine, and came out carrying a small parcel. As we were rounding the south-~~xxxx~~west corner of the Guard Room , A-4365 Pte. Tickner, G.S., began running across the Parade Square, in the direction of Vehicle lines. I then went into the Guard Room and reported the matter to the guard commander, B-73655 Sgt. Noble, W.J.

The accused declines to cross examine this witness.

B-74301 Pte. Gould G.O. ..Pte.
(B-74301 Pte. Gould G.O.)

SECOND WITNESS for the Prosecution — B-73655 Sgt. Noble, W.J. of No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:
I am Sgt. Noble, W.J., B-73655 of No. 1 M.T.V.R.D.,R.C.O.C. At Bordon, Hants, on the 28 December 1942, I was on duty as Guard Commander of No. 1 M.T.VR.D., R.C.O.C. At 1815 hours A/4365 Pte. Tickner, G.L., asked to be taken to the latrine which is situated outside immediately to the rear of the Guard Room. I detailed B-73401 Pte. Gould, G.O., to escort A-4365 Pte. Tickner, G.L., to the latrine. At approx. 1820 hours, Pte. Gould reported to me that A-4365 Pte. Tickner, G.L. had escaped. I immediately informed the Orderly Sergeant and at the same time detailed Pte. Gould to notify the Regimental Police. I've not seen A-4365 Pte. Tickner G.L., since, and know nothing of his whereabouts.

The accused declines to cross examine this witness.

.....Sgt.
(B-73655 Sgt. Noble W.J.)

THIRD WITNESS for the Prosecution — B-68214 Cpl. Brogan, C. of the Royal Regt. of Canada, attached f.a.p. to No. 1 M.T.V.R.D.,R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:
I am Cpl. Brogan, B-68214, of the Royal Reg't. of Canada, attached to No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, 28 December 1942. It is my duty to call the roll at Tattoo of the Barrack room where A-4365 Pte. Tickner, was not present at Tattoo Roll Call ~~Since 28 Dec~~ I have not seen A-4365 Pte. Tickner, G.L., since, and know nothing of his whereabouts.

The accused declines to cross examine this witness.

.....Cpl.
(B-68214 Cpl. Brogan, C.)

SUMMARY OF EVIDENCE 24 Jan. 1943.

FOURTH WITNESS
For the
Prosecution

H-3704 Cpl. Isbister, W.L. of No. 1 M.T.V.R.D., R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

I am Cpl. Isbister, W.L., H-3704 of No. 1 M.T.V.R.D., R.C.O.C. At Bordon, Hants, on the 28 December 1942, at 1820 hours, I was warned by a member of the Guard, B-74301 Pte. Gould, G.O., that a prisoner A/4365 Pte. Tickner, G.L. had escaped while being taken to the latrine. I immediately left my quarters and entered the Guard Room. I then searched the Unit lines and from there proceeded to A-4365 Pte. Tickner's Barrack Room, 96 Exmoor Quarters and stayed there from 1915 hours till approximately 1955 hours, when Pte. Tickner di not return. I then proceeded to search the N.A.A.F.I., after which I returned to my quarters at 2015 hours. I did not see A-4365 Pte. Tickner, G.L., again till 1630 hours of 22 January 1943, when he was handed over to me, at the unit detention room and Army Form C 1617 evidence of his ~~arrest~~ was also handed to me (Exhibit "A"), by the No. 9 Canadian Provost Corps. I then placed A-4365 Pte. Tickner, G.L., in a cell in the Unit Guard Room.

The accused declines to cross examine this witness.

W.L. Isbister Cpl.
(H-3704 Cpl. Isbister, W.L.)

The accused having been duly cautioned in accordance with Rules of Procedure 4(e) declines to make a statement.

It is not my desire to have an Officer appointed to defend me at my trial by Field General Court Martial.

G.L. Tickner Pte.
(A-4365 Pte. Tickner, G.L.)

I certify that Rules of Procedure (4) (C) (D) (E) (F) and (G) have been complied with. (c)

I further certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presene and hearing of the accused this 6th day of February 1943, at Bordon, Hants.

D.E. Lewis Lieut.
(D.E. Lewis) Lieut.

LIST OF WITNESSES FOR THE PROSECUTION

1. B-73655 Sgt. Noble, W.J.
2. B-68214 Cpl. Brogan, C.
3. H-3704 Cpl. Isbister, W.L.
4. B-74301 Pte. Gould, G.O.

[redacted]

LIST OF WITNESSES FOR THE DEFENCE

N I L

EXHIBITS

"A" Army Form C1617

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-4365 Rank Private Name Tickner, G.L. of #1 MTVRD RCOC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16TH day of Feb., 1943

S.M. Lawson Lt

O.C., No.1 M.T.V.R.D. RCOC.

13. [illegible]

In the rank of [illegible] years.

In the rank of [illegible] years.

In the rank of NIL years.

(Instruction.—If any matter in any of the above paragraph cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph corrected accordingly.)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A-2305	Pte.	Tredrea, G.L.	2.P.W.A.D., K.C.O.Y.L.I., C.M.F.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R. 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
			-1-61-Previous Sheet destroyed	
For A.A. Sec. 15(2) Absent Off place of parade		times	1	times.
For A.A. Sec. 40 Insubordinate lan.		times	2	times.
For A.A. Sec. 40 Out of Bounds	1	times	1	times.
For A.A. Sec. 40 Breaking out of Camp	1	times	1	times.
For A.A. Sec. Absent without leave	5	times	5	times.

~~XXXX

CHARGE SHEET

The accused, A-4365 Pte. Garnet Lewis Tickner, 1 Canadian Division Infantry Reinforcement Unit, attached to 1 Motor Transport Vehicle Reserve Depot, Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas, is charged with:

ABSENTING HIMSELF WITHOUT LEAVE

in that he

First charge
Army Act
Sec 15 (1)

When in arrest, at Bordon, Hants, absented himself without leave from 1820 hrs 28 Dec. 42 until he surrendered himself to Inspector Young at the Elephant Tube Station, London at 2110 hrs 21 Jan. 43.
(absent 24 days, 2 hours, 50 minutes)

6 Feb, 43
Bordon Hants.

To be tried by Field General Court Martial

.....Lt. Col.
(P.M.Irwin)
O.C., No. 1 M.T.V.R.D., R.C.O.C.
C.A. (Overseas)

[redacted]) Brigadier
Commander, Can Reinforcement Units.
Convening Officer

Farnborough Hants.
This 15th day of Feb 43.

Exhibit A

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 469/1940).

(20939) W1.49432/452 25,000 7/42 A. & E. W. Ltd. Gp.695 Forms/Pamphlets.

Officer Commanding,

#4 sub-depot R.C.O.C

Ref: A-4365 Pte. Tiekner, G.R. .16/93 .....

1. Forwarded for your information and necessary action, please.

Wood Capt.

for Officer Commanding,

London

21/Jan/43.

MM-78 (Case #2)

PTE TICKNER G.L.

See Z-30 for lot case

A.4365 Pte. TICKNER, Garnet Louise
Royal Canadian Regiment
No. 3 Cdn. Infantry Reinforcement Unit.

MM-78

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fifth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lieut.Colonel	D.L.Redman	Calg.Highrs

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by	C.O.,4 C.I.R.U.
A Lieutenant	to be detailed by	C.O.,4 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Brigadier

"D" Group, Cdn. Rft. Units
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.4365 Pte. TICKNER, Garnet Louise K.C.R. 3 C.I.R.U.	First Charge A.A. Sec. 15(1),	Guilty	Guilty Sentence To undergo detention for a period of Ninety (90) Days. 6th Aug-/43 RM and to be put under stoppages of pay until the sum which should be 20-3-4 the expenses of his arrest-return 6th Aug 1943 RM	Confirmed 7 Aug 1943 Courtenay Brig
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) Courtenay Brigadier (Signed) RM

Commanding "D" Group, C.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~ The Interpreter RM
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable

were duly sworn.

Signed this 6th day of Aug 1943

RM

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 76 M.M.L. 1929.

~~I~~ RM ~~certify that the terms of *A.C.I. 579 of 1918 have been~~ complied with.

Signed this ____ day of ____ 19 .

RM

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Courtenay

Signed this 7 day of Aug. 1943.

Courtenay Brig

Confirming Officer.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of A 4365 Pte Tickner Garnet Louise

(a) (Dated) 8/Aug/43 (Signed) E Bletchly Lt Col

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

Promulgated and extracts taken in the case of

(Dated) ____ (Signed) ____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(38066) W1.38280/411 90,000 12/42 A.A.F.W. Ltd. Gp.698

CHARGE SHEET

The accused, Regimental Number A.4365, Pte. Garnet Louis Tickner, the Royal Canadian Regiment, a reinforcement on the strength of No. 3 Canadian Infantry Reinforcement Unit, a soldier in the Canadian Army, Overseas, is charged with:-

FIRST CHARGE
A.A.Sec15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 3 C.I.R.U. at 1500 hours 10 Jul 43 until apprehended in Oatland Drive, London, England at 0730 hours 31 Jul 43, thereby incurring cost of £0-3-4 for return to unit. (Total time absent - 20 days, 16 hours and 30 min.)

J.A. McIntosh

Dated:
In the field,
3 Aug 43

J.A. McIntosh Colonel,
Commanding Officer,
3 Cdn. Inf. Reinf. Unit.

To be tried by Field General Court Martial.

E.W. Haldenby

In the Field
5 Aug 43.

(E.W. Haldenby) Brigadier
Commander
"D" Group, Cdn. Rft. Units

3 CANADIAN INFANTRY REINFORCEMENT UNIT

Medical Officers Certificate
K.R. (Can) 557para 557.

I certify that I have this morning examined No. A4365 Pte. Tickner G.L.
Name & Rank

of (R.C.R.)3CIRU and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station Aldershot

Date 6 Aug. 43.

Medical Officer
3 Cdn. Inf. Reinf. Unit.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Salamanca Brks, Aldershot Hants
ON THE DAY OF 1943

The accused. 4436[illegible] Pte Dickens G.L. Unit. The R.C.R. & 3 C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt. Col. D.L. Redman ... Unit. H.Q. C.R.U.

Members. Capt. A.G. Allan ..... Unit. 4 C.I.R.U.

Lt. W.G. Leonard ... Unit. 4 C.I.R.U.

The officers under instruction are duly sworn:-

Lt. G.A. Hampson. Unit. 3 C.I.R.U.

..... Unit.

Prosecutor. Lt. R.E.A. Bartlett. Unit. 3.C.I.R.U.

Defending Officer. Lt. E.L. Ritchie Unit. 3 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces ~~MFB 355~~, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
~~(b) Calls witnesses as to character.~~ below
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer. attached

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Character witness

H 35442 L/Cpl Taylor being duly sworn states

In May and June 1943 I was the accused's Instructor and I knew the accused well. I thus knew his job and did his part at all times. I had no trouble with him.

Statement by Defending Officer

Sir, Pte Tichen came Overseas in June 42 having joined me the 8 July 1940.

May and June he spent in "B" Company No 2 Pl. and during this period he was told that he would be sent to a Specialist Company when his training was completed. At the end of this period all the men were sent to E and D Company but he was left behind. He was put on fatigues and given the role instead of being allowed to train. He was for ever trained than the men who had gone to the field Unit but instead for some unknown reason he was left behind.

Finally seeing no prospect of getting to the field he got browned off and disgusted and went loose. Pte Tichen's record during that period was good and to this he lost to soldier. I have talked to Sgt Fox, who at the present time is on leave and unable to be here for character reference. Sgt. Fox told me that Pte Tichen was one of the best men in the platoon and an excellent story.

Sir therefore I ask that this man be given a break and I ask the Court to be lenient.

[signature]

R. A. Rob D. Lieut.
3. C. I. R. U.
Defending Officer

6 August 43.

Exhibit "A"

RECORDS 8
40/P & S/39

PART II D.O. EXTRACT FORM

Extracted from:

UNIT: 3 C.I.B.H.

NO:	RANK:	NAME:	D.O. NO:	DATE:
A 4365	Pte.	Tickner, G.L.	134	15 Jul 43

CASUALTY: AWL from 1500 hrs. 10 Jul 43

Records Officer, 2 C
5 Cdn. Inf. Reinf. Unit
Canadian Army (Overseas)

C. M. H. Q.
Records Office

Entered by.....

Date.....

CARD INDEX:

Shows
Unit:.....

Date:.....

Final verification:

SECTION:.....

Where entered:

UNIT:.....

EXHIBIT A. [illegible]

RECORDS 8
407-8-8070

PART II D.O. EXTRACT FORM

Exhibit "B"

Extracted from:

UNIT: 3 C.I.R.U.

NO:	RANK:	NAME:	D.O. NO:	DATE:
A.4365	Pte.	Pickman, O.L.	151	2 Aug 43

CASUALTY: Apprehended from AWL at 0730 hrs 31 Jul 43

Records Officer,
5th Cdn. Inf. Reinf. Unit
Canadian Army (Overseas)

C. M. H. Q.
Records Office

Entered by.....

Date.....

CARD INDEX:

Shows
Unit:.....

Date:.....

Final verification:

SECTION.....

Where entered:

UNIT.....

EXHIBIT "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No A4365 Rank Pte Name Tickner A.L. Unit 3 C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Slough

Date	Particulars ⅓ Portion	Amount £	s	d
1 Aug 43	Escorts return fare from LONDON To Slough		1	11
	Prisoners single fare to LONDON From Slough		1	5
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		3	4

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000 55
40/P & S/483

"CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (ii) A.C.I. 2253/42."

I certify that No. A.4365 Rank PTE Name TICKNER C.

Unit ROYAL CANADIAN REGIMENT was arrested at SLOUGH time 0730

date 31st JULY 1943.

Was wearing military uniform at time of arrest.

Signature of Provost Marshal, A.P.M. or other Officer, into whose custody the above-named person was taken on arrest.

[signature] Capt. R.A.O.C.

A/A Regimental Wing R.A.O.C.

IM

Army Form B 252
(See King's Regulations)

CHARGE

ROYAL CANADIAN REGT — Regiment
B. — Battery / Squadron / Troop or / Company

CHARGE against No. A-4363 Rank PTE

Name TICKNER. G

Place SLOUGH Date of Offence ?

OFFENCE W.O.A.S ABSENT FROM ? UNTIL APPREHENDED BY THE MILITARY POLICE IN OAKLAND DRIVE AT ABOUT 0730 HRS ? STATEING A FALSEHOOD TO AN N.C.O OF THE MILITARY POLICE.

Names of Witnesses:—
CPL. D. DINNER. C.M.POLICE (P)
4 CPL. J. RUSH C.M. POLICE (P)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded — Adjutant.

P.T.O.

2032 W.L.W.(S.&T.)/7868 2,000,000 5/42 K.&H. Ltd. G.278/42

STATEMENT OF EVIDENCE IN THE CASE OF
No A.4365. PTE ACKNER. G
B. COMPANY. ROYAL CANADIAN REGIMENT
ALDERSHOT. HANTS.

On duty at SLOUGH on the 31st JULY 1943 at about 0730HRS I was on duty in OATLANDS DRIVE, accompanied by 4/Pte Rusin, G. C.M. POLICE (D) whose I asked him to produce his pay, this he failed to do, he produce his MILITIA BOOK No 1, he stated that his No was D.124313. Pte BURNS. R.R.C.R.I.C. 3 C.I.U. After I had taken his particulars he stated that Pte Burns was in his room, I asked him to produce it & he did so, I found it & on reading it I found it was dated the 30th and contained a leave pass for 48 hours. I then arrested him & conducted him to the MAIN GUARD ROOM SALT HILL RAMP. SLOUGH handed him over to the N.C.O i/c GUARD to be detained pending the arrival of an escort from his UNIT.

SLOUGH
31st JULY 1943

D. Acknerley
C.M. POLICE. P.

REMARKS

Sir, I have read over and understand the above statement
31st July 1943

S.E. Rail Traffic
C.M. POLICE

SUMMARY OF EVIDENCE

in the case of A 4365 Pte Garnet Louise TICKNER, The Royal Canadian Regiment, a reinforcement on the strength of 3 CIRU, a soldier in the Canadian Army (Overseas).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS Prosecution — Capt. W.E. Thorne, C.M.S.C., Records Officer 3 CIRU, having been duly sworn states:-

"I am Capt W.E. Thorne, Records Officer 3 CIRU and have custody of the regimental documents of that unit. I hereby produce a certified true extract of 3 CIRU Pt II Orders No. 134 d/13 July 45 (Extract marked Exhibit "A" to this Summary of Evidence) showing A4365 Pte Tickner, G.L. to be absent from his quarters from 1500 hrs 10 July 45. I further produce a certified true extract of 3 CIRU Pt II Orders No. 151 d/2 Aug 45 (Extract marked Exhibit "B" to the Summary of Evidence) showing A4365 Pte Tickner, G.L. as being apprehended from AWL at 0730 hrs 31 July 45."

(W.E. Thorne) Captain
Records Officer 3 CIRU

The evidence is read back to the witness.
The accused declines to cross-exsmine the witness.

SECOND WITNESS: Capt. W. Fern, (DAPM) London Area
Prosecution

I certify that in my opinion the attendance of this witness, owing to his office and being employed on special duty, is not readily procurable and a written statement of his evidence purported to be signed by him has been read to the accused and is attached hereto as Exhibit "C".

(R.E.A. Beckett) Lieut.

The accused does not require the presence of this witness.

The accused was cautioned as follows:-
"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution the accused reserved his defence.

The accused does not call any witnesses for the defence.

I certify the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that the Rules of Procedure 4 (c),(d), (e), (f) and (g) have been complied with.

(R.E.A. Beckett) Lieut.
R.C.R. 3 C.I.R.U.
Officer detailed to take
Summary of Evidence

Dated in the Field
this 3 day of August 1945.

LIST OF WITNESSES

Prosecution Capt W. E. Thorne, C.M.S.C. Records Officer 3 CIRU
Capt W. Fern, DAPM, London Area.

Defence Nil.

LIST OF EXHIBITS

Exhibit "A" Certified true extract of 3 CIRU D.O. Pt II 134 d/13 July 43.

Exhibit "B" Certified true extract of 3 CIRU D.O. Pt II 161 d/2 Aug 43.

Exhibit "C" Certificate of apprehension.

STATEMENT OF ACCUSED

I certify having received free of charge a copy of the Charge Sheet Summary of Evidence, List of Witnesses, and a List of the Exhibits.

I do/do not desire the services of an Officer to represent me at my trial.

Date: 3 Aug 43. Tickner G.L.

A 4565 Pte Tickner, G.L.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Algonquin	20-8-42	Pte		(2)WOAS Conduct to the prejudice using insubordinate language to superior officer A.A. 40	Lt Cantley Cpl Hartley				
Field	21-9-	Pte		WOAS disobeying a lawful command given by his superior officer A.A. 9	Sgt Skelly	28 days detn.	25-9-42	Lt Col Bingham	
Field	30-10 42	Pte		WOAS AWL at 1900 hrs 30-10-42 from parade. A.A. Sec 15(1)	Documentary	7 days C.B.	2-11-42		
Gordon Hants	21-11 42	Pte		AWL from 0630 hrs 21 Nov 42 till 1010 hrs 25 Nove 42(4 days 3 hrs 40 mins) A.A. Sec 15(1)	Sgt Niqudult Cpl Browne	27 days detn.	27-11-42	Lt Col S Raynor Smith	Forf 5 days pay 149(1)(a) FR&I
Field	18-12	Pte		WOAS conduct to prejudice etc. using insubordinate language while under escort of Regt'l Police A.A. Sec 40	Pte McMillen Cpl Brogan	Forf 3 days pay 149(1)(2)	21-12-42	Lt/Col C. Raynor Smith	
Field	24-12 42	Pte		WOAS AWL from 1200 hrs 24-12-42 to apprehension 1915 hrs 26-12-42 (2 days 7 hrs 15 mins) AA15(1)		27 days F.P. 27 days forf of pa. 149(1)(b) FR&I	28-12-42	Major F.M. Irvin	3 Days pay 149(1)(a) FR&I

No. A4365 Name TICKNER, G.L. Sqn., Battery, or Company — Corps R C R — Date of enlistment 8-7-40 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.132) 40-7 & /8136 (2965)

Date of last entry in Company Conduct Sheet 29-11-41 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Camp Borden	21-3-41	Pte		Absent from place of parade AA Sec 15(1)	Written Evidence	3 days C.B.	22-3-41	Major Pearkes	
Camp Borden	1-4-41	Pte		Conduct to the prejudice etc. out of bounds A.A. Sec 40	Sgt Lee Documentary	7 days C.B.	2-4-42	Capt Page	Cost of $1.24
Algonquin	15-7-42	Pte		WOAS breaking out of barracks WOAS AWL 2300 hr 15-7-42 till 1545 hrs 16-7-42 A.A. Sec 15(1) WOAS AWL 0745 hrs 18-7-42 till 0015 hrs 21-8-42 A.A. Sec 15(1)(2)	Sgt Shelley Cpl Hamilton L/C Gynes	15 days detn	18-7-42	Lt Col Bingham	Apprehension
Algonquin	20-8-	Pte		WOAS AWL from 1800 hrs 20-8-42 A.A. Sec 15(1) (1)	Cpl Bowman	28 days detn.	21-8-42	Lt Col Bingham	

(P.T.O.)

M.F.M. 6
(A.F. B.122)
40/P&/8156 (2965)

No. [illegible] Name TICKNER, G.L. Sqn., Battery, or Company — Corps R C R — Date of enlistment 8-7-40 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 24-12-42 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28-12-42	Pte		AWL from 1820 hrs 28 Dec 42 till 2110Ohrs 21 Jan 43 (24 days 2 hr 5 mins) A.A. Sec 15(1)	Sgt Noble Cpl Brogan Cpl Isbister	one hundred and twenty (120) detention	16 Feb 43	F.G.C.M.	Released from Headley Detn. on 17 May 43 Sentence having expired Remission earned 28 days
Field	18-6-43	Pte		AWL from 0800 hrs 18 Jun 43 until 2230 hrs 19 Jun 43(1 day 14 hrs 30 mins) AA Sec 15(1)	Cpl Chute Sgt Poole	14 days C.B.	21-6-43	LtCol Fletcher	Forf 2 days pay FR&I 149(1)(a)
Field	22-6-43	Pte		WOAS AWL from defaulters parade at 1245 hrs 22 Jun 43 AA Sec 15(1)	C McKinney	5 days C.B.	23-6-43	Major C.V. Clark	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28-6-43	Pte		WOAS AWL from 0600 hrs 28-6-43 to 1100 hrs 6-7-43 Absent 8 days 5 hrs AA Sec 15(1)	Cpl Koplman	Documentary 28 days F.F. 7-7-43 28 days loss of pay FRAI 149(1)(b)		LtCol Fletcher	$ days pay FRAI 149(1)(a)

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION

J Campbell Capt
OC B Coy

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 4365	Pte	TICKNER, Garnet Louis	(R C R) 3 C.I.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is of drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	(9)nine times	nine (9) times.
For A.A. Sec 15(2)	one (1) times	twice (2) times.
For A.A. Sec 9	one (1) times	one (1) times.
For A.A. Sec 40	two (2) times	three (3) times.
For A.A. Sec 10(4)	one (1) times	one (1) times.

~~Number of instances of gallantry or distinguished conduct~~ Nil

or

~~There are no entries in the conduct sheets of the accused~~ Nil

2. ~~The accused has not been previously convicted~~ Nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence of~~

~~imprisonment or the~~ Nil

4. The accused has been in confinement, awaiting trial on the present charges, for ~~Nil~~ Nil days in civil custody, and arrested 31 Jul 41 days in military custody, making a total of ~~Nil~~ four 5 days, of which ~~Nil~~ days were spent in hospital.

5. The present age of the accused according to his ~~Nil~~ attestation paper is 22 yrs 1 month

6. The date of his ~~Nil~~ attestation specified in his ~~Nil~~ attestation paper is 8 July 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years

8. The accused is entitled to deferred pay or gratuity in respect of 3 years service.

9. The accused is entitled to reckon 3 years service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~Nil~~ ~~Nil~~ ~~Nil~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A 4365 Rank Private Name Tickner, Garnet Loube RCR #3 CIR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	16 Feb 43 In the Field	W.O.A.S. Absenting himself without leave in that he did absent himself without leave from 28 Dec 42 uhtil 21 Jan 43 (Total time absent 24 days 2 hrs 5 min)	120 days detention	Sentence suspended 17 May 43 28 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of August 1943

(W.E. Thorne) Captain

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years,

In the rank of years

In the rank of years,

(Insert here, if any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected amended accordingly.)

SH-8

Pte. Tidgwell, A.P.

RECEIVED AT CMHQ IN AB 160 5-11-8.

FIELD GENERAL COURT-MARTIAL

CPA88 (To Insert No. of AA) 40/P & S/1690 (2 Copies) 4 38B

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 20 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirm. rank, and (b) apprnt, A/rank or A/appmt, if any, see AA 162, 183 (as, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	
F-16372		Harold Percy	TIDGWELL	Nth N S Highrs att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
18 May 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date*(1)) 22 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(2) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1125 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to as interpreter? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC att 1 Cdn Disciplinary Centre
Member	Major	A.E. Lefroy-Leafloft Highrs	att 1 Cdn Dis Centre
Member	Lt.	T.S. Robinson. RCC.	11 CBRBn.
Judge-Advocate			
Prosecutor	Captain	J.H. Labrie. RdeHus	att 1 Cdn Dis Centre
Defending Offr	Captain	J.D. Pollock. CamHus.	att 1 Cdn Dis Centre.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See Dir p 3.)

A8. The accused F-16372 Pte Harold Percy TIDGWELL before arraignment make(s) (no) objection(s) to the charge sheet.(1) Plea GNC

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 73. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol XI p 1

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-16372 Pte Harold Percy TIDGWELL Nth N S Highrs att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty.	Guilty	
2nd AA 15 (1)	Guilty.	Guilty.	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years, and to be discharged with ignominy from His Majesty's service.

(Sgd) Judge-Advocate, if any. 22 Mar 45 Date awarded. (Sgd) George B H Cox President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 23 Mar 45 (Sgd) (G S N Gostling) Brigadier, Commanding 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F16372 Pte Tidgwell, H.P.	12 Apl 45	Lt-Col. Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans *No*.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB.: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 147(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans *No*.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans *Yes, in mitigation of punishment, plea as ex Exhibit D*.
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 49. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 47(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, F-16372 Pte HAROLD PERCY TIDGWELL, North Nova Scotia Highlanders, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0830 hrs 10 Nov 44 until 1009 hrs 11 Jan 45.
(Absent 62 days 1 hr 39 minutes)

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 2000 hrs 20 Jan 45 until apprehended at LILLE, France at 2350 hrs 7 Mar 45.
(Absent 46 days 3 hrs 50 minutes)

In the Field
19 Mar 45

(A O Hood) Lt col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court-Martial

In the Field
20 Mar 45

(G S N Costling) Brig
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-16372	Pte		Harold Percy	TIDGWELL	Nth N S Highrs att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G B H COX	CAC att 1 Cdn Disciplinary Centre	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	A E LEFROY	Seaforth Highrs att 1 Cdn Disciplinary Centre	
Lt	to be detailed by OC 11 CBR Bn		11 CBRBn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

(G S H Gostling)

Brigadier (Rank.)

Dat 20 Mar 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Reg of AFA 3) 40/P & S/1607 (6143)

(See overleaf for oaths and notes for use on trial.)

Exhibit 7 - C&R

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined F16872 (No.)
Pte (Rank) Tidguell H.P (Name) and in my opinion he is fit to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 22 Mar 45

Williams Capt (Sgd) (Medical Officer)

Unit 1 Cdn Disciplinary Centre

Exhibit D QR;

Plea of mitigation in the case of
F. 16372 Pte. Harold Percy Tidgwell.

Gentlemen of the Court;

This ~~soldier~~ is 24 years of age. He enlisted in Sept. 1939 came overseas in Sept. 1944 and to N.W. Europe in Oct. 1944.

While in Europe he has served with the N.N.S. Highlanders as a rifleman. While he has been in the army since 1939 until he came to England in Sept '44 he knew nothing of infantry work. He states that when he got into the line he still knew very little about infantry weapons. While in England he had a two week course in infantry. He reverted from Cpl. to private before he came to Europe. The unit was in a rest area when he went AWL.

The clemency of the court is requested.

22 march 1945

D. Leacock Capt
Defending Officer.

Exhibit 'A' CBS

Summary of Evidence in the case of F-16372 Pte HAROLD PARKER TIDGWELL, X-3 List NNS Highlanders, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - Absence without leave (two charges)

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 69 dated 19 Nov 44

Exhibit "B" - Certificate of apprehension dated 11 Jan 45

Exhibit "C" - Certified true copy of Extract from Pt II Order No 31 dated 12 Mar 45.

Exhibit "D" - Certificate of apprehension dated 7 Mar 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

Maurice Pallaire Capt

Officer detailed to take Summary of Evidence.

Dated on the 19th day of Mar 45
In the Field

Exhibit 'A'

PART II ORDER EXTRACT FORM

TO: OC,
No 1 CDN DISCIPLINARY CENTRE,
Canadian Army Overseas.

99/20/ NNS/1 (A5c)

16 MAR 1945

EXTRACTS FROM: UNIT NORTH NOVA SCOTIA HIGHLANDERS

Part II Order No. 69 dated 19 NOV 44

ABSENT WITHOUT LEAVE

AWL from 0830 hrs 10 NOV 44
F16372 Pte TIDGWELL H P

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech, HQ. 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials

Officer in Charge for
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
10-7 & S/1276 (6704)

CERTIFICATE OF SURRENDER UNDER THE ARMY ACT

SECTION 183 (1) (j)

Exhibit B

I.....(Rank and name) certify that No. E.16.72.....

Rank..Pte.....Name..TIDSWELL.....of C.Coy. 1st Bn. Kings Own Scot. Borderers (Unit)

surrended himself to No. 16366.....Rank...Pte.....

Name...PARKER..R.....of..60th..Coy..C.M.P.....(Unit)

at.....Lille.....(place) at..1000....hrs on .....

..11.JAN.1945..(date) as a ~~deserter(or~~ absentee without leave).

He was dressed in uniform

~~plain~~ clothes

(Signature).....

Officer Commanding COMMANDING 60th COY. C.M.P. (U.P.)

CAPT.

Date.....

.....(Unit)

Exhibit 'C'

PART II ORDER EXTRACT FORM

TO: A.8.

99/20/ X NNSH/1 (A.5x3)

16 Mar 45 19

EXTRACTS FROM: UNIT X-3 List NNS HIGHLANDERS

Part II Order No. 31 Para 4(a) dated 12 Mar 45

ABSENT WITHOUT LEAVE.

AWL from 2000 hours 20 Jan 45 (X-3 List)
F16372 Pte TIDGWELL HP

Clerk
Pay [illegible]
custody.

Officer
Cdn. Sec. 2 Ech, HQ [illegible] Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

FOR INFORMATION

Certified to be a true extract from the regimental books and documents in my custody.

[signature] Lieut.
Officer IC Records
Cdn. Sec. 2 Ech, HQ 21 A Gp. for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Originating Clerk's Initials PMNJG-J

ECH—6
40/P & S/1276 (5757)

Exhibit 'D'

CERTIFICATE OF ARREST IN ACCORDANCE WITH
ARMY ACT, SECTION 163(1) (ii)

I certify that No. F 16372 Rank CPL. Name TIDGWELL, H.F.
of "C" COY, 5 CAN DIV, 9 BDE. (unit) was arrested at LILLE (place)
at 23.50 hrs on 7 MAR 45 (Date). He was ~~dressed in uniform~~.

Date 7 MAR 45

Signature of Provost Marshal, A.P.M. or other officer to whose custody the above-named person was taken on arrest.

(H. JEFFERY).
O.C. 242 F.S. PROVOST COMPANY, C.M.P.

ARMY FORM B.296 (War).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F16372	Pte	TIDGWELL HP	A-3 List NnS Highlanders

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For 15 (1) AWL 1 3 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 23 Jan 41

Date of last entry in Field Conduct Sheet 8 May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for No

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 15 days in military custody, *i.e.*, Nil days in open arrest, 15 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 years old

6. The date of his attestation ~~calling up for training~~ is 4 Sep 39

7. The service which the accused is allowed to reckon is .....

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of //////////	
In the war substantive rank of //////////	
In the acting rank of //////////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27853) Wt.24939/3404 24,000 7/44 A. & E. W. Ltd. Gp.695 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of convictions by Court Martial on MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 22 19 day of Mar 45

Capt

Extract Conduct

MFM 6
(AFB 122)
10(F43)538 (3488)

No F16372 Name TIDGWELL RF | Sqn, Battery, or Company | Corps CIC | Date of enlistment 4-9-39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
York Shore	23-1-41	Gnr		AWL from 2145 hrs 23-1-41 to 2345 hrs 23-1-41(Absent 2 hrs)	L sgt Hibbit	5 days CB	24-1-41	F D Silver	Lt
Ogilvie	27-10-41	Gnr		AWL from 1300 hrs 29-10-41 to Apprehended by the RCMP about 1445 hrs 17-11-41(Absent 19 days 1 hr 45 mins)	sSM Jessop	14 days det	18-11-41	?? Boland	Maj
Windsor NS	8-5-44			Absent without leave from 0800 hrs 8-5-44 to 1830 hrs 9-5-44 (Absent 1 day 10 hrs 30 mins)	pdr Ladourceur	admonished forf 2 dys pay	10-5-44	????Major	FR&I 149(1)(a)

Certified to be a true extract from the regimental books and documents in my custody.

RSC Williams Lt. Officer ic Records X Cdn Sec 2 Ech HQ 21 A Gp R

Certified true copy of MFM 6 in my possession

(PTO)

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of extract from Pt 11 Order No. 69 dated 19 Nov 44	"A"
Certificate of apprehension dated 11 Jan 45	"B"
Certified true copy of Extract from Pt 11 Order No. 31 dated 12 Mar 45	"C"
Certificate of apprehension dated 7 Mar 45	"D"

I, F-16372 Pte TIDGWELL HP, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge on 19 Mar 45.

F-16372 Pte Tidgwell HP

HF-38

Pte Tidwell C.B.A.

Proceedings not
FOUND by AGSA

MM-85 (AFRICA)

PTE TIFFEN R.W.

K48371, Pte. Tiffen, R. W.,
2 Bn., 1 Cdn Base Rft Depot

A-81

MM 85

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this third day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of No. 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[redacted]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

	President.	
Rank.	Name.	Regiment.
Lt.-Col.	F. D. Tweedie,	C&Y, 1 Bn., 1 CBRD.
	Members.	
Rank.	Name.	Regiment.
Captain	D. S. Mills,	CIC, 1 Bn., 1 CBRD
Capt.	F. W. Smith,	RCA, 3 Bn., 1 CBRD

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Colonel
Commanding 1 Cdn Base Reinforcement Depot
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K48371, Pte. Tiffen, R. W. 2 Bn., 1 CHRD	FIRST CHARGE A.A. Sec 15(1)	Guilty	Guilty	I confirm the findings and sentence of the Court. C. Rodney Bashes. Colonel Commandant, 1 Cdn Base Reinforcement Depot
	SECOND CHARGE A.A. Sec 24(2)	Guilty	Guilty	60 days Field Punishment with loss of pay for 60 days and stoppage of pay to make good the value of differences $8.29.
	FOR FULL DETAILS OF CHARGES SEE CHARGE SHEET.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded on separate sheet if necessary.

(Signed) C. Rodney Bashes. Colonel
Commandant, 1 Cdn Base Reinforcement Depot
Convening Officer (*b*)

(Signed) J. D. Tweedie Lt Col
Capt & Adjt Regt 1 Bn
President. C.O.R.D.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of Sep 43. , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~ DOT
*(4. The officers under instruction)

were duly sworn.

Signed this 4th day of Sep. 1943.

J. D. Tweedie Lt Col.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 702 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*I direct that the soldier named in the margin be not committed to prison or detention barrack until further order. (See 5 & 6 Geo. V, c. 58, s. 43 (2).)

Signed this 5th day of Sept. 1943.

C. Rodney Bashes. Colonel
Commandant, 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of K48371 Pte. Tiffen, R.W.

(*a*) (Dated) 6 Sep. 1943 (Signed) R.H. Griffin Capt.
2 En 1 Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23479) W.A.6817/9-939 50,000 2-43 A.&E.S.&L.Ltd. Gp.698
(24256) W.A.11126/73 100,000 5-43

CHARGE SHEET

THE ACCUSED NO. K48371 PTE RAYMOND WILLIAM TIFFEN, "A" COY., NO 2 BN., 1 CANADIAN BASE REINFORCEMENT DEPOT, A SOLDIER OF THE CANADIAN ARMY (OVERSEAS) IS CHARGED WITH:

First Charge
A.A. Sec. 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

absented himself without leave from 0600 hours, 10 Aug 43 until apprehended by C.M.P. in Avenue Georges Clemenceau, Setif, at about 2000 hours, 24 Aug 43. (Time absent - 14 days and 14 hours).

Second Charge
A.A. Sec. 24 (2)

WHEN ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

on 31 Aug 43 was deficient in Equipment, Clothing and Regimental Necessaries to the value of $8.29, particulars as follows:-

ARTICLE	No	Price	25% DISCOUNT
Badges (Canada) shoulder prs	3	.15	.11
Brush button brass	1	.15	.11
Brush Hair	1	.24	.18
Brush Shaving	1	.30	.23
Brush Tooth	1	.08	.06
Comb Hair	1	.04	.03
Capes A/G	1	4.43	3.33
Mug, drinking	1	.13	.09
Blanket, G.1098	1	2.91	2.20
Shirts Bush	1	1.75	1.30
Hosetops prs	2	.86	.65
TOTAL			8.29

H. D. 4 Sep 43

R. S. Hallett
.....Lt.-Col.,
(R. S. HALLETT), Officer Commdg.,
No 2 Bn., 1 Cdn Base Reinf Depot

In the Field
31 Aug 43

To be seen by B.G.B.M.
2 Sept 43

G. Barker
.....Colonel
Commandant, 1 Cdn Base Reinforcement Depot

MEDICAL OFFICERS' CERTIFICATE

I certify that K48371 Pte. Tiffen, R.W.

No.2 Bn., 1 C.B.R.D., is fit to undergo trial by Court-Martial.

4 Sept 43
A.B.F.

4 Sep. 43.

Capt.
Medical Officer,
No.2 Bn., 1 C.B.R.D.

Accused K 48371 Pte. TIFFEN, Raymond William 2 Bn 1 C.B.R.D.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in North Africa on 4 Sep 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Lt. Col	J. D. Sweeney	1 Bn. 1 C.B.R.D.
MEMBERS:	Capt.	D. V. Wells	1 Bn 1 C.B.R.D.
	Capt	F. W. Smith	3 Bn 1 C.B.R.D.
JUDGE ADVOCATE: (If any)			
OFFICERS UNDER INSTRUCTION:	Capt	W. J. Sammis	2 Bn. 1 C.B.R.D.
	"	A. M. McLeod	2 Bn 1 C.B.R.D.
	"	D. W. Hay	2 Bn 1 C.B.R.D.
	"	P. E. Reanney	2 Bn 1 C.B.R.D.
	"	E. Hay	2 Bn 1 C.B.R.D.
PROSECUTING OFFICER:	Lt.	J. A. Dougan	Lawyer? Ans Yes
DEFENDING OFFICER:	Lt	E. M. Mason	Lawyer? Ans Yes.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1405 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to accused:~~
Do you object to _____ as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to _____ as shorthand writer? _____

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.26)

~~The Convening Order was read in the hearing of the accused.~~
~~The names of the President and Members of the Court were read to the accused.~~

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Guilty

Second Charge Guilty.

Third Charge _____

Fourth Charge _____

Fifth Charge _____

Sixth Charge _____

Seventh Charge _____

Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans No.

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans Yes.

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans No.

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans No. (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

F. D. Tweedie LtCol
(Signature of President)

(For use when accused pleads 'Not Guilty' to all charges)

(All printed matter not applicable to be struck out, and all alterations erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans _____

2. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans _____
Q. Do you intend to call any other witness in your defence? Ans _____
Q. Is he a witness as to character only? (R.P.40(B)) Ans _____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.a.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings, (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D). Ans _____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

PLEA FOR MITIGATION

Plea for Mitigation in the case of K-48371 Pte Tiffen R.W. of 'A' Coy. 2nd Bn., No 1 Canadian Base Reinforcement Depot, Canadian Army B.N.A.F.

Sir,

There are some facts which I would like to bring before the Court which, although not excuse for the crime committed by the accused, will give a clearer picture of the reasons.

1. When recruited in Canada, 25 Nov 1942, the accused was told he would be put in transport work in which he was interested. Although he has applied time and again to be placed on this type of work, he has been, and still is retained as an Infantry Rifle Coy Reinforcement. This I think naturally tended to bring him to an unhappy state of mind.

2. Since being recruited this man has received five days embarkation leave in Canada and a few days at New Year, Jan 1943. Other than this he has had no privilege leave or furlough since joining the army.

3. I have known the accused since his arrival at No. 1 C.B.R.D. in England, 1 June 1943. I being his Platoon Comd. part of that time, can vouch for his willingness to work and to his being of a sober quiet nature. Also in referring to his M.F.M. 6 I found that he has had no previous crime record. He has been of generally good character, surely therefore, a first offender should be shown some leniency.

4. Upon considering the actions of the accused immediately prior to his absenting himself without leave, I feel sure that his act was not premeditated because it does not seem plausible to me that a man planning to go A.W.L. would start out in full battle order in the middle of a night training scheme, but would have awaited a favourable opportunity when on pass or some other such favourable time.

Conclusion:

It would appear in the face of these facts, that the accused became mentally depressed and giving way to a sudden impulse, did something which was not really in keeping with his normal way of soldiering.

Thank you Sir,

E.M. Mason

(E.M. MASON) Lieut.,
Defending Officer

T.O.T.
4 Sep 43.

Additional remarks re the case of K-48371 Pte. Tiffen R.W. of A.Coy. 2nd Bn.,No 1 Canadian Base Reinforcement Depot , Canadian Army B.N.A.F.

Upon considering the A.W.L Charge against the accused, It seems rather strange to say the least , that this man has been subjected to Court-martial for an absence of 14 days 14 hours. The accused did NOT request a court-martial, and to me it appears unusual that he was not dealt with summarily by his Commanding Officer.

If the accused had been a man with a long and colorful crime record , the procedure which has been followed in this case would be understandable, But under the circumstances as they do exist, It would appear that this proceeding has been quite unnecessary.

Thank you Sir,

(E.M. Mason) Lieut.,
Defending Officer

HQ. 4 Sep 43.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K-48371 Pte Tiffen R.W., 'A' Coy 2nd Bn., No 1 Cdn Base Reinforcement Depot, Canadian Army, B.N.A.F.

The Commanding Officer directs that the Evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

A21367 Sgt May J.J. of 2nd Bn., 1 C.B.R.D., having been duly sworn states:-

"I am A21367 Sgt May J.J., Provost Sergeant of 2nd Bn., 1 C.B.R.D. On 30 August 1943 at 1540 hours, the accused, K-48371 Pte Tiffen R.W. was handed over to 2nd Bn. Guardhouse by the Provost Corporal."

Cpl/Sgt May J.

The accused declines to cross-examine this witness.

SECOND WITNESS FOR THE PROSECUTION

P20077 C.S.M. Cahill V.E. 'A' Coy. 2nd Bn., No.1 C.B.R.D., having been duly sworn, states:-

"I am C.S.M. of 'A' Coy 2nd Bn., 1 C.B.R.D. At about 1000 hours, 10 August 1943, I noted that the accused, K-48371 Pte Tiffen R.W. was absent from 0600 hours, 10 August 43. and He N.F.B. continued to be absent from that time until 30 August 1943 on which day I saw the accused for the first time since his absence, in the 2nd Bn. Guardhouse."

V.E. Cahill CSM.

The accused declines to cross-examine this witness.

THIRD WITNESS FOR THE PROSECUTION

A/Capt R.L. Griffin, Adjutant of 2nd Bn., 1 C.B.R.D., having been duly sworn, states:-

"I am Adjutant of 2nd Bn., 1 C.B.R.D.. I produce Certificate of Apprehension of K-48371 Pte Tiffen R.W. The accused is the person referred to therein."

R.L. Griffin Capt

The accused declines to cross-examine this witness.

The certificate referred to by the witness produced, read over to the accused, marked Exhibit "A", signed by me and attached hereto.

R.A. Outhet Lieut.
(R.A. Outhet) Officer detailed to take Summary.

FOURTH WITNESS FOR THE PROSECUTION

H40501 Sgt Moody W.G. of 'A' Coy 2nd Bn., 1 C.B.R.D. having been duly sworn states:-

"I am A/C.Q.M.S. of 'A' Coy, 2nd Bn., 1 C.B.R.D. On 31 August 43 I made an inventory of the kit belonging to the accused, K-48371 Pte Tiffen R.W. and found thefollowing shortages:-

ARTICLE	PRICE	25% DISCOUNT	
Jersey Pullover	1.51	1.13	
Badges Shoulder prs CANADA	.15	.11	
Brush Button Brass	.15	.11	
Brush Hair	.24	.18	
Brush Shaving	.30	.23	
Brush Tooth	.08	.06	
Comb Hair	.04	.03	
Holdall	.17	.13	
Belt Waist	1.03	.77	
Braces W.E.(left)	.50	.37	
Frogs Bayonet	.21	.16	
Haversack	2.14	1.60	
Pouches Basic	2.98	2.14	
Sling Rifle	.24	.18	
Straps Shoulder (haversack)	.90	.67	
Capes A/G	4.43	3.33	
Bayonet	1.90	~~1.90~~ wdn.	RAO
Bottle Oil	.22	.17	
Pullthrough	.12	.09	
Rifle(No. AE10928)	45.48	~~45.48~~ wdn.	RAO
Scabbard Bayonet	.84	~~.84~~ wdn	RAO
Sheet Ground	2.40	1.80	
Mug Drinking	.13	.09	
Blanket 1098	2.91	2.20	
Shirts Bush	1.75	1.30	
Net Sand Fly	5.59	4.19	
Hose Tops	.86	.65	
Gymn Shorts	.43	.32	
Total		~~$50.43~~ 70.23 wdn.	R.A.O.

W.J. Moody Sgt

The accused declines to cross-examine this witness.

R.A. Outhet Lieut.
(R.A. Outhet) Officer detailed to take Summary.

The accused was cautioned as follows:
"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence."

After the above caution the accused elected to state:
"I understand some of the missing articles are now found,"

R W Jeffcoat

Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

I certify that the foregoing Summary of Evidence consisting of 3 pages, was taken down by me in the presence and hearing ot the accused this thirty first day of August 1943.

R A Outhet Lieut
(R. A. Outhet) Officer detailed to take Summary.

NOTICE UNDER R. P. 76

TAKE NOTICE THAT H40501 Sergeant MOODY, W. G. will give evidence at your trial that, since the taking of the Summary of Evidence, the following items of your kit have been recovered.

ARTICLE	No.	Price	25% Discount	
Rifle	1	45.48	45.48	no discount
Sling, Rifle	1	.24	.18	
Bottle, Oil	1	.22	.17	
Pullthrough	1	.12	.09	
Haversack	1	2.14	1.60	
Straps shoulder Haversack	2	.90	.67	
Pouches Basic	2	2.98	2.14	
Belt waist	1	1.03	.77	
Frog Bayonet	1	.21	.16	
Braces W.E. (left)	1	.50	.37	
Bayonet	1	1.90	1.90	no discount
Scabbard Bayonet	1	.84	.84	No discount
Sheet ground	1	2.40	1.80	
Net sandfly	1	5.59	4.19	
Holdall	1	.17	.13	
Jersey pullover	1	1.51	1.13	
Shorts gym	1	.43	.32	
TOTAL			61.94	

R. Griffin Capt.
.....
Adj. 2 Bn. 1 C.A.R.D.

In the Field
1 Sept 43.

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2988)

No. K48371 Name TIFFEN, Raymond William Sqn., Battery, or Company — Corps Calg Highs — Date of enlistment 25/11/42 — G.C. Badges — Service or ~~Proficiency Pay~~ — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Currie Barracks	17/3/43			Certified no furtherentries to date. A. G. WILSON, Major		A16 C.I.T.C.			
				1 Pint of Blood Donated - at 3 C.M.C. 3/5/43					
				Certified to be a true copy from the Regimental Book in my custody.					
				(R. L. GRIFFIN) Adjutant, 1 September 43		Capt.,			

B
T.D.T.
4 39 43

(P.T.O.)

M.F.B. 333
22M—5-41 (372-2)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

3 SEP

Number	Rank	Name	Regiment (or unit)
K48371	Private	Tiffen, Raymond William	2 Bn. 1 C.B.R.D.

R.L.A. 1. ~~The following is a fair and true summary of the entries in the Service and General~~ Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	R.L.A. Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ R.L.A.

R.L.A. ~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

R.L.A. ~~or~~

R.L.A. ~~Previous convictions of the accused by a court martial or a civil court, of summary awards under~~ Air Force Act Section 47 of the Army Act and dispensations for trial under A.A. 73 R.L.A. A.F.A. 73 are set out in the Schedule ~~annexed to this statement.~~ ——— R.L.A.

3. The accused is not under sentence at the present time.

R.L.A. ~~or~~

R.L.A. ~~The accused at the present time is under sentence for beginning on the day of~~ R.L.A.

R.L.A. 4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~Air Force~~ civil custody, and eight days in military custody, making a total of eight days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 31 years, 8 months, 25 days. ~~attestation paper is~~ R.L.A.

R.L.A. 6. The date of his ~~commission~~ attestation specified in his record of service is 25 November 1942. ~~attestation paper~~ R.L.A.

R.L.A. ~~7. The service which the accused is allowed to reckon towards discharge is~~

R.L.A. ~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward ~~(or is in~~ military military R.L.A.

R.L.A. ~~possession of or entitled to).~~ State any air force decoration or reward. military N/A.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated N/A, and in his regiment (or corps), the rank of dated N/A.

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~ N/A.

Date of promotion.

In the rank of years. N/A.

In the rank of years.

~~In the rank of years.~~ N/A.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		— Nil —		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this First day of September 1943 [signature] Capt. & Adj. 2 C.B.R.D.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A signed by the president, and annexed to the proceedings.

A.D.J. 4 Sep 43.

5 R 44
Cpl. Tifford, Jd.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 45095 CPL LIFFORD JOHN DAVID No 13 CANADIAN PROVOST COMPANY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 41	NOT GUILTY	NOT GUILTY	
2nd AA 15 (1)	NOT GUILTY	NOT GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP ~~44 and MML p 753~~, and in loss of kit see RP 44 fn 6.)

~~In present under sentence for ..... beginning on (date) .....~~
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.~~
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court.~~

(Sgd) J. K. Kidd Capt — 4 Aug 45 — (Sgd) W. J. Bailie Major
Judge-Advocate, if any. — Date Awarded. — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn i.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. — Date. — Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 15 AUG 45 ARMY PAY HQ

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA96) 40 pp 8.5/1000 (1945) 4/388

Convened by Order of BRIG W H BOSTOCK Comd ATPS AREA HQS dated 30 JUN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 45095 CPL	JOHN DAVID	LIFFORD	No 13 CANADIAN PROVOST COMPANY

PROCEEDINGS REVIEWED
R Lawrence Capt
21 Aug 45
REVIEWING OFFICER, JAG BRANCH, C.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 3rd 4 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to H 57032 WCPL BANGLEY W. 13 PROV COY (Interpreter) Ans NO SIR
~~The Interpreter is sworn.(1)~~ ~~Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	W J BAILIE	1 CDN C PT COY RCASC
Member	CAPTAIN	F P CRONK	666 AIR OP SQN RCAF
Member	CAPTAIN	J M DOOHAN	666 AIR OP SQN RCAF
Judge-Advocate	CAPTAIN	J K KIDD	HQ ATPS AREA FIRST CDN ARMY
Prosecutor	LIEUT	D L G WHITE	RCEME 4 CAR WKP
Defending Offr	LIEUT	J A McLAN	HQ AIPS AREA FIRST CDN ARMY

Questions by President: Is the Prosecutor a lawyer? Ans NO SIR Is the Defending Offr a lawyer? Ans YES SIR

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused G 45095 CPL LIFFORD J D before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 4 E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

6 DUE TO THE EXIGENCIES OF THE SERVICE CAPT E. B. CAMPBELL WAS UNABLE TO ATTEND & ACCORDINGLY THE WAITING MEMBER TOOK HIS PLACE.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 90(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3, para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(s). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP 37(D).*)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by~~ using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence will be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. ~~The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans EVIDENCE ON OATH. Do you intend to call witnesses on your behalf ?
Ans YES, Are they witnesses as to character only ? Ans NO
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court (is/are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding~~ of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6). RP 45, 120(A).* 2. *AA 54(3). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. ~~The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which~~ is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, No. G45095, Cpl JOHN DAVID LIFFORD, No. 13 Canadian Provost Company, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE:
SEC 41 A.A.

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE THAT IS TO SAY,

STEALING,

in that he, at about 1715 hrs., on 2 Jul 45, did steal a radio (Make SABA), the property of Mrs. Schultze SCHWICKING, of Waltrop 26, ALTENBURG, Germany.

SECOND CHARGE:
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, in Holland, absented himself without leave from 1010 hrs 5 Jul 45 until 1200 hrs 5 Jul 45. (Absent 1 hr 50 mins).

REMANDED FOR F.G.C.M.

(G.E. Michaud) Lt.,
A/O.C. 13 Cdn Pro Coy.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
30 Jul 45

(W N Bostock) Brig
Comd A Tps Area, First Cdn Army

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-45095	Cpl		JOHN DAVID	LIFFORD	No 13 Canadian Provost Company

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Jul 45 endorsed by me, ~~(or by an offr of my staff (or me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR	W J BAILIE		1 Cdn C Tpt Coy RCASC
(Rank.)		(Must be named. RP 106.)	(Unit.)

MEMBERS.

CAPTAIN	E B CAMPBELL		HQ 2 Cdn A Tpt Coln RCASC
CAPTAIN	F P CRONK		666 Air Op Sqn RCAF
(Rank.)		(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

CAPTAIN	J M DOOHAN		666 Air Op Sqn RCAF
(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

CAPTAIN	J K KIDD		HQ A Tps Area, First Cdn Army
(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland
(Country.)

Dat 30 Jul 45

(Signed personally. RP 105 fn 2.)
(W N Bostock)
Brig
(Rank.)
Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

3 Aug 45.

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. G 45095 Cpl Lifford, J.D., 13 Cdn Pro Coy

is fit to undergo trial by Court-Martial.

(Medical Officer)

4 Aug 45

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. G 45095 Cpl Lifford, J.D., 13 Cdn Pro Coy is ~~fit~~ ..... to undergo trial by Court-Martial.

J. H. Fraser Capt
(Medical Officer)

I

FIRST WITNESS FOR THE PROSECUTION

Miss Martha Schulz Schuerkinj of Wallrup 26 Allenberg
germany sworn states:- I am as above. I recognize
the accused. I first saw him the day he
took the radio it was on the 2 Jul. I was
sitting at the window sewing. The soldier
came + asked me if I could speak English
+ if any other members of the family in
the house. The soldier asked how he could
get into the House. I asked the soldier what
the unit patches on his sleeve were. I am
afraid + I told my Sister in law
to transfer the radio to another place.
I had not told him that there was a radio
set in the House. The soldier told her
he wished to make things clear to her +
he walked into another room. The
soldier said to her he was a member
of the allied police. Any fear was Not
Necessary as He would give her a
certificate for the radio set. I got the
Certificate. Soldier said He must gave
me the certificate so radio wouldnt
be stolen by other people. Then I had
to give him the Number of the radio
set. I told him I would have to take
the radio set as I didnt know the
Number by heart. The soldier said
the radio was to be brought to Munster.
The soldier said I could get the
radio from Munster. I could go out
from the Building. Now the Soldier was talking
I dont know what Soldier was talking
I associate the talking unit with
Soldiers. The Nurse to Speak with
My Sister - Law but They stood close
behind me + I couldnt speak to her
I couldnt think what to do. The
soldier asked her when it would
suit her to come to Munster + I told
them Friday at 1700 hrs. The soldier
Handed me the Certificate. The accused
here I think wrote the Certificate.
The Soldiers took the radio set
+ put it in between them. The
last Soldier was driving the jeep
the radio between them. On Front
of jeep was written Can prov. Corps

11

One of soldiers put a coat over radio. The rear of jeep was towards house. I didnt see Number of jeep. I said I dont believe I will tell the radio any more. Soldiers said sure if Radio hurt com back. Then they drove off. Next time I saw accused was Sept Thursday last week Hung to. as soon as soldiers left House I reported the Captain in the Town. Friday we had to go to Penalty + Thursday before We came up here To Provost. On Thursday the soldiers were lined up on parade I had to go along parade but I was not quite sure I could recognize the accused in the Morning In the afternoon I saw the Soldiers from some distance + I recognize accused immediately. I was on another duty Parade + I didnt see them. The Black Soldier Not the accused put the coat over the radio. I was running out + soldier said He would put coat over radio To protect it from Rain. But soldiers were talking home at our House.

CROSS EXAM The radio was taken on 2 Jul about 1715 hrs. It was between 1700 hrs + 1730 hrs. The two soldiers came to House. We went into big Kitchen. One Soldier went up to My Sister In law I think it Was black Soldier. My Sister in law was in Room Next To Kitchen I was in Kitchen Door between Was open. My sister in law first looked in My Mother Then Sister in law went about the word. Soldiers were in House 10-15 Minutes. I was afraid as they were police. I never saw Cdn police I only Had To deal with British police While I was sitting at window I saw None or just Cdn Provost. I saw just Outside the Windshield. When Soldiers first Came in I saw Cdn Provost on jeep.

11

I didnt look for Number of guys I had too Much fear I was excited + Nervous When Spoken to My Sister in law Several times about the case I speak a little Englist. On Thurs 5 Jul I Came to Hengelo for identification parade at first I thought I saw Someone On the Norway parade but wasnt this Soldier I identified a Soldier that Norway as a soldier who Came To My House + stole the radio. I said pointing to a 3rd soldier that he was possibly the other one. I spoke + German and interpreter I spoke English to the officer. There was 2 other Soldiers + identified My Sister in Law owns the Radio. She is Mrs Schelly Schmidt of Wesdorp 26 Altenburg Germany The Radio was a gift from My father

RE Exam When I identified the soldier + the 2nd as possibly one I was doubtful

Court I was doubtful of two soldiers that I picked out I picked Soldier out several times on Norway parade. They were same two Soldiers as later When I was asked if I recognized soldiers in Norway I said Yes but when I saw eight ones in Coptown this didnt Happen. I gave the slip of paper I got from soldier to the Captain in Altenburg I call the other Soldier a black Soldier as He has black wavy hair with darker on of the two Soldiers would be Caucasian I am Not sure When this soldier Wrote it or did Not I was Nervous + The radio was a Sabo Radio I was at My sister in laws House When this Happened I have Never seen the radio since In the Army I told the officer that I stood next on the side of parade that is Not the officer that Walked along

parade Watt Na. He asked Watt Us to keep sister in law + D from Talking. I told officer in Morning that I was doubtful. The Military police said some Soldiers were Missing. I recognised the accused in the afternoon parade. Lgt Hos clerk. Round face, + freckles. The accused had a long coat on When He came on for radio. Black soldier took his coat off. The bald Soldier did not take his coat off. I saw NO patches on long coats but I am sure I saw the patches on bodi. Accused did Not Take off his coat. NO patches on His coat. The coat were PR coats. I only pointed to accused on identity parade. I did not speak with him. Capt. Said it was Not Usual to go to Munster So I did Not go.

RP 83 B Complied Watt.

SECOND WITNESS FOR PROSECUTION.

MRS JS SCHNICKING OF WALTROP 26 ALTENBORG GERMANY SWORN STATES:- I am a doctor.

On 11 I believe this is the soldier who took the radio. On Jul 2 at about 1700 hrs. The soldiers stood in the Kitchen. The soldiers speaking to ~~the soldier~~ him. I noticed the I saw the soldiers writing piece of paper. I dont know what Soldier wrote on the piece of paper. I saw a soldier write something. The soldiers were there about 30 Minutes. I saw them several times I think it was around 1600 or 1700 hrs the Soldiers were there. The soldiers had raincoats + belts over the shoulder. I saw the soldier put the radio up I dont know what Soldier it was. On 5 Jul I attended an identification parade. I saw a person in the Morning who I thought was the Man. I doubted He was the Man. In the afternoon on the identification parade I identified Two Soldiers. I believe the accused is one of them.

CROSS EXAM.

On the Morning parade I cant Remember whether I picked the soldier out or Not. I am Not quite sure that this is the Man.

The soldiers were brought down to My house after they were identified. Several times I have discussed the case with My sister But I dont know whether we discussed identity. I am Not sure whether she or the Man or Not. I was excited when Soldiers came to My House as I was sure I wouldnt recognise radio set but I was in the Kitchen cooking while soldiers were there.

RE EXAM - NONE

COURT - I didnt believe Saturday were asking for Radios. One picked up radio + carried it away. I saw the car the two soldiers came in. I only saw the front of the car. I didnt pay Much attention to the car. Soldiers had white belts on. I was Not in same room as soldiers but I believe I walked into the room once as I was going to + fro. I recognise accused on identity parade as I thought I remembered his face. I looked at of Kildare several times at the soldiers It was possible it - Not the Man. On the identification parade in Morning I identified One Soldier but I told Officer I was doubtful. I identified two in the afternoon + also said I was doubtful. The radio belongs to Me. I am Mrs Scholtz Schmidt. It was a Sobo Radio. We Never got the radio back.

RP 83 B Completed Well

VI

THIRD WITNESS FOR PROSECUTION

X 97901 Sgt Simmons W A R 13 Cdn Prov Coy Sworn

States: I am as above I recognize the accused

Exam At 0930 hrs 5 Jul 45 I called a Muster parade of D + F Sections. All Men were present. At approx 1005 hrs I told the Men who were going to O C re a release to Lieut off into the house + get their web. At this time all Men were on Parade. I then went into the house for my own Web. At approximately 1005 hrs Labor informed that O C 13 Coy had arrived ~~so I went~~ outside. The O C ordered Sgt Manley to fall in the Muster parade. ~~Sgt Manley~~ Sgt Manley then called the roll + found two men were missing. The O C then ordered me to look through the house + I could find No Sign of the two men. I also went to the NAAFI + Couldn't find the Two Men so I reported the fact to the O C. Cpl Iffod was one of the Men absent.

CROSS EXAM I ordered one of the Cpls to Warn each Man individually then would be a Muster. I told them it was a Muster parade. Some Men asked me the Note before I told them it was an identification parade. I don't know what Cpl Iffod told the Men About parade.

RE Exam :- NONE

COURT :- Cpl Iffod was in D Section + was on parade at 0930 hrs. I took Note Men off parade Cpl Iffod Wasn't One of those Men. The rest remained on parade ground. Iffod was present at 0930 hrs. at 1005 hrs after he was Not present. Picket have duty roll + ascertained was to be on Duty at 1300 hrs that the Men were warned ~~at 0930~~ that O C would be on Muster parade. I called roll at 0930 hrs ~~last~~ preparatory for coming of O. C. of Coy.

RP 83B Completed Wet.

VII

FOURTH WITNESS FOR PROSECUTION

D77239, 2/Cpl Graham G. 13 Cdn Prov Coy

Sworn States: I am as above I am — F Echn Section. On 5 Jul at 0930 hrs a Muster Parade was called. Some of us were detailed for O.C. I/C Parade at appeldoorn. We were all in the Yard of Unit lines waiting for O.C. to Have Muster parade at 1000 hrs Sgt Simmons told us to strut off as O.C. had Not appeared Sgt Simmons said strut off + wait for O.C. At approx 1020 hrs the O.C. came down + held the parade. The Muster parade was announced in order. Sgt Handley called the roll Cpl Lifford + Pte Charette failed to answer their Names. When we were struck off I saw Cpl Lifford + Pte Charette standing inside the gate. This was at 1000 hrs on 5 Jul

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CROSS Exam On Summary I said there was Noise said about 0930 hrs. We were grouped in yard on Muster Parade.

RE Exam Only 15 Men on parade. Sgt Simmons was 6 feet from O.C. Lifford Sgt Lifford was about 5 or 6 feet from the Sgt at the time the order given

Court I did not hear any Talk about the Muster Parade being + Identification parade I saw Cpl Lifford at about 1200 hrs on 5 Jul in the Unit lines in the Streets. We were warned for Muster parade at 0930 hrs but did not know O.C. T. Comm at 1000 hrs

RP 83 (6) Complied Unit

FIFTH WITNESS FOR THE PROSECUTION

VIII

K53169 Sgt Hanley H #13 Edm Provost Company
Sworn States:

Exam At 0900 hrs on 5 Jul I had been detailed by Provost O C to hold identification at Coy H.Q here & at Detachment at Ensdale. At Coy H.Q all personell were on at unit disciplin of 1 Sgt. There were two Men picked out on the parade. There were approx 25 on parade. They were dressed alike. Miss Schmeky & Mrs Schmeky passed through the parade. Miss Schmeky passed through & picked out Cpl Miller & Cpl McKay. I think the two soldiers were beside each other. Miss Schmeky pointed to these two soldiers. C H P Cpl & Myself ~~passed thru~~ O C & Women passed through. Mrs Schmeky passed through the parade. Sgt I don't think she picked out anyone. One Sgt was missing from this parade so another parade was held. until Sgt on it. I don't think anyone was picked out. Mrs Schmeky picked out Cpl McKay & Miller again & I think the older lady picked Cpl McKay.

The O C, two Women, Cpl C H P & Myself then went to detachment at Ensdale. Sgt Simmons gave me a roll of all ranks. I checked parade & found 2 Men Missing so I called the roll. Cpl Leffard & Pte Chevalle were missing. This was at about 1010 hrs on 5 Jul. I then went through the billets & found Neither Men. We held the parade & two ladies went through the parade. no soldiers were picked out.

At 1300 hrs on 6 Jul Sgt Leffard & Chevalle had returned we held another identification parade. Twenty Men were on parade. Cpl Leffard & Pte Chevalle were on parade. but Cpl McKay & Miller were kept off the parade. Miss Schmeky went through & identified Cpl Leffard & Pte Chevalle Miss Schmeky pointed at the two Men Mrs Schmeky also picked out the same two Men by pointing to them.

15 Two Women were kept out of step of the parade. NO interpreter was on the parade until 0 s.

Then we put Cpl McKay & Miller Luffad & Clarette all on parade together to approx 16-20 soldiers. Miss Schmeby picked out Cpl Luffad & ~~Sty~~ Clarette. Then O.C pointed to the two Men picked out before. Ste.

CROSS EXAM - NONE
RE EXAM - NONE

COURT - When Miss Schmeby picked out Luffad & Clarette first she looked Hesitate. Luffad was ~~a~~ from Rank, ~~Rate~~ Schmeby did Not Hesitate at all but on last Part when Clarette was Selected 90% of Men on parade are ... N.C.O.'s.

RP. 83 B Compiled Wld.

X SIXTH WITNESS FOR THE PROSECUTION

762276 Sgt Lewis R W 13 Cdn Prov Coy Seven Stokes.

Exam on 5 Jul 45 I left word for Cpl Liffard to report to me and about 1200 hrs Cpl Liffard reported to me. I asked Liffard where he had been & he said that he had gone down to the Gift Shop.

CROSS EXAM

RE EXAM

COURT. I was out in the Yard at 0730 hrs at 1005 hrs Cpl Liffard was missing & I never saw him till 1200 hrs of the same day Jul 5. I had warned Troops that there would be a Muster parade that morning as soon as the SC arrived Sgt Simmons was in charge of parade out in Yard. Sgt Simmons took orders. I got warned the Troops. Troops were to assemble at 0730 hrs. Sgt Simmons called the roll. Accused was to go on duty at 1300 hrs. I got warned them there would be a Muster parade. It is customary for Provost personnel to go out of that Sub if Not on duty with the Unit. I warned troops for Muster parade at 0730 hrs & that was all.

RP 83 B Complied Wid

XL

FIRST WITNESS FOR THE DEFENCE

Accused Sworn States -

On ~~Mon~~ Sun Jul 1st I had been on detachment at Enscede, Cpl Wynngraski of #8 Prov Coy dropped into our billets at Enscede at 2200 hrs He informed me that Sgt Popkey had been killed up the road just outside Almelo. I had been in same Section with Sgt Popkey & that is why Cpl Wynngraski told me. On Mon Jul 2nd Sgt Seitel of 19 Special Employment Company ~~Was~~ had been in same section with me. Told me that Manny To Tell Sgt Seitel of Popkey death. We decided to go to Almelo after lunch to find out about Popkey's funeral arrangements I was off duty Monday afternoon Until 1800 hrs that day. I met Sgt Seitel down Town between 1430 - 1430 hrs. We then went to Hengelo & stopped in at ~~Coy #8~~ Prov Section To see Cpl Plante. Who was afraid of bows. There was a L/Cpl Labelle there also. We said we were going To Coy at Almelo. Cpl Plante & Labelle were on duty & Excellent Ground O-s. Labelle was a L/Cpl. Sgt Seitel & myself went on To Almelo we got there about 15 30 hrs. I left My Jeep in Number 8 Prov Coy Yards. We went into the other Ranks quarters from there we were in the orderly room. We met Sgt Mayor Capillo & Staff Sgt Hanna We then went into the Sgt Mess & talked about the accident & about the funeral which was To be held the following Wednesday. We talked there till about 1700 hrs the Batman was getting tea ready. They invited us for tea & during as I had to get back To Enschede Sgt Seitel & myself left Almelo about 16 55 hrs & drove back to enschede On way back we stopped into 21 FDS in Enschede Sgt Seitel went into the mess & I spoke To Sgt Mayor. Who I told I couldn't go to show in that billet that evening as I was on duty at 1800 hrs.

VII

It would be around 1125 hrs I was at the Hospital. I then drove Sgt Leslet to his quarters at 14 Space Troop Coy and understood he wound go to Funeral at Almelo on Wednesday. I then drove to Section quarters + without having tea I went on duty at 1800 hrs I was in Charge of a Section that Night. From 1800 hrs till 2400 hrs I was on duty. On ~~Thurs~~ Nite before Inoculation there was a Nasty parade at 0925 hrs I knew there was a Nasty parade I knew nothing else Sgt Simmons fell in the parade + stood at ease Sgt Simmons told one off I was under impression parade over I went up to get stop + then over to Naafi Where I stayed till 1150 hrs I went back + was told to Report to Sgt Simmons I did + He told me I was to go to Hengelo for identity parade First Time I saw them ~~some~~ Women were on identity parade Held on 5th Jul ~~But some~~ On Identity Parade Miss Schmidt passed through + I didnt Notice She Looked Me on parade after She had gone around Parade I saw her Talking to Dutch Hanglow Then She came past again + this Time She pointed Me out with her finger. Then we broke off + they Held another identity parade On First parade Mrs Schmidt did Not pick Me out first Time She went by on Second try by She did point Me out. On second parade Miss Schmidt pointed her finger at Me I dont Know whether it was a finger or a cent. Mrs Schmidt passed through + pointed Me out. Then we were taken off to our billets again. Cpl Charlie + I went into the orderly room.

XVII

~~Question~~ Lieut O'Connell myself, Charlette, + Sergeant went to form when ladies live & I saw them to the house that exhibit Both ladies were there. On our jeeps below the Windshield is printed in Unit No 83 + Provost. The word Canadian was Not on our jeeps My own jeep has only 83 Provost on it

CROSS EXAM - On Nite of Jul 2nd I went to work at 1800 hrs Rifle Yard about 1000 clock on the Morning of 5 Jul. On Evening 2 Jul L/Cpl Charlette but My Section was on duty in My Section

NONE

RE Exam

COURT - On Morning of 5 Jul men got ready on Parade Square. On 2nd Jul I dont know whether it was raining or Not On My raincoat I have No Unit Title or Badges of rank. On 5 Jul No one accompanied off the parade Square. Some soldiers were into the buildings when parade broken off. I appointed an officer or OC to stand up on parade at 0930 hrs but I thought parade was called off. I dont know whether I wore a raincoat on 2 Jul or Not - Sgt Inlet told TO Not them downtown I have Known Labelle + Plant since 1942.

R.P. 83B Completed Nil

SECOND WITNESS FOR THE DEFENCE

D109620 Sgt Major C Appiedo #8 Prov Coy

Sworn States: I recognize the accused, one of our

Exam Sgt Popkay was killed on Sun 1 Jul I saw deceased about 1615 hrs on 2 Jul. He was at our Company for ½ hour at our Coy HQ in Almdo. He was then with Sgt Lelet I parted I left for supper but Lifford said He was on duty at 1800 hrs that Night

Cross Exam I last saw Lifford about 1695 + he told me at that time he was returning To Enclede for duty

RE Exam - None

Court - I have Never seen a key with the Provost on the time of arr. Sgt Popkay was taken to Hospital on 3rd Jul I that Popkay was dead on 4th but I am Not sure Almdo is about 35 Kms from Enclede

RP 83 B Complied With

...

THIRD WITNESS FOR THE DEFENCE

A5[illegible]749 L/Cpl Hanna JA #8 Prov Coy sworn States: - I recognize the accused

Exam Sgt Popkay was killed on a Sunday I saw him in the afternoon with a Sgt Lelet. They enquired re Popkay. I saw him in guarded stores. I don't know which we went upstairs to Mess I don't know I don't know whether he stayed there To Club Funeral was on a Wednesday It was the day following Sgt Popkay's death that I saw accused.

Cross Exam I last saw Lifford around 1700 hrs that day I don't know whether I was in Messfurl accused Cpl was dressed Normally No comment on

RE Exam -

Court - I was in the orderly Room with Lifford I was in the Mess with him I thought Orderly Room was Next QM.

RP 83 B complied With

XV

FOURTH WITNESS FOR DEFENCE
A 56748 Sgt Jeffs CP 19 Spec Emp Coy Sworn States:-

Exam. Cpl Jeffrd picked me up at about 1450 hrs on 2nd Jul 45 + we went to Almelo to enquire re Sgt Pogsley's death. He first came at 10 30 on 1st Morning. He picked me up downtown. We stopped in Hengelo on the Way + asked a couple of Cpls to go with us they were on duty + could not go. We then went on to Almelo. We are billeted in Enschede. We went to 8 Prov Coy in Almelo. We met Sgt Major Capello + Staff Sgt Hanna. We talked about Sgt Pogsley's death the previous night. We stayed there about 1655 hrs. They invited us for Supper but we did not stay as Jeffrd was on duty in Enschede at 1800 hrs. We returned to Enschede at 1730 hrs + called in at 21 FDS to see Sgt Boyne. Sgt Hodgson Cpl Jeffrd told Sgt Boyne that he would not be over to go to Show as he was going on duty at 1800 hrs. Jeffrd then drove me to My Coy HQ about 1745 hrs.

CROSS Exam. Cpl Jeffrd was dressed Normally. No cross Examination.

RE Exam. None.

COURT - I know it was Monday as it was My day off. I don't remember what I did on all 9 days of my leave.

RP. 83 b Complnd Wit.

FIFTH WITNESS FOR DEFENCE
R 50188 Sgt Boyne G.A 21 FDS RCAMC Sworn States:-

Exam. On Monday 2 Jul 45. I recall talking to Cpl Jeffrd at My room in Unit lines. It was about 1740 hrs. He told me he wasn't coming to the Show that Evening which was to be held in our building. I know it was 2nd Jul as Pogsley was killed on that + on that I went on leave.

CROSS Exam - He was only there a short while.

RE Exam - None

Court - I saw Jeffrd after 2 Jul. It was on the

XVI 9th of Jul.

RP. 83 B Complnd Wnt.

SIXTH WITNESS FOR DEFENCE

222654 Cpl Miller E. 13 Prov Coy Sworn States

Exam: Miss Schmeder & Miss Schmeder I first saw on an identification parade. Miss Schmeder came around first & identified me. She said in English at the time that this one was one of the men. Next time I changed my tunic put a pte. Tunic on & she came through again & picked me out. Says that is the man again. Miss Schmeder passed through first she did not identify me.

On a later identification Miss Schmeder also pointed me. She said in English to the man on the far end & one out. She was me I that was 3rd parade.

On 4th parade she said she made a mistake that it was not Hemi.

CROSS Exam: Nil

RE Exam Nil

COURT: Nil

RP. 83 B Complnd Wnt.

236177 Cpl McKay T D. # 13 Prov Coy Sworn States.

Exam: On identification parade at the H.Q. Miss Schmeder & Miss Schmeder I took picked me out on both parade.

CROSS Exam Nil

RE Exam Nil

COURT: Two women were brought around separately. ~~Women~~ Miss Schmeder said this is the other man when she pointed me out. I was picked out on 2 identification parades by the women on 3rd the I was Not.

P.P. 83 B Complnd Wnt.

XVII

26173 8 Cpl White C. 13 Prov Coy. Sworn

States

Exam. I have travelled from our H.Q in Erselede to Farm House where Miss Schuerbeg lives & drove at 45 Miles an hour that took me an hour to go up. The distance is 34 Miles. The Round Trip takes two hours. Issued Cpl Laffots jeep on this Trial Run.

CROSS Exam. NONE

RE Exam NONE

COURT. This was on / aug. Charlie showed me the Way. Capt Kapsky also went with us.

RP. 83 B completed Mud

L45095 Cpl Clifford J.D.

Plea on behalf of accused

The accused spent the afternoon of July 2 in Enschede Hengelo & Almelo in company with Lyt Kool. During the course of this time they visited No 8 Coy Provost HQ & spent approx an hour & a half with Lyt Hoyt Coppelli & L & MS Hanna. They were there until 1450 hrs. They then returned to Enschede & the accused was ~~during~~ on guard duty until 1745 hrs. He went on duty at 1800 hrs.

The place where the crime occurred is 34 miles from Enschede, a good hours drive. The accused could not possibly have been there before 1845. But the main witnesses for the prosecution were definite that the radios was taken between 1700 & 1730 hrs, at a time when the accused was shown to be elsewhere.

Two other soldiers were also identified by the main witness for the prosecution at identification parades held in Hengelo. In the case of one of these, Cpl Miller, Miss Maatje Steintje Schwiebing said at the identification parade she was "sure" he was one of the men who had taken the radios. She picked him out on three different parades. On the fourth parade she singled out the accused and another man and said in reference to her previous identification of Miller that she "had made a mistake". If a fourth identification parade had not been held Miller would be the defendant in this case today & Miss Steintje Schwiebing would have been just as positive of his guilt as she was of Clifford's in her evidence before this court. The other witness Miss Sebuljze Schwiebing throughout her evidence made it clear that she couldn't be sure of the accused's identity although she believed he was one of the men who took the radios. Her evidence must be discounted entirely.

The defence produced four character witnesses who proved conclusively that Cpl Tiffird could not have been in Germany on the afternoon of July 2; as against this the prosecution had no witness who was certain he had been. This same witness had previously been equally sure Cpl Miller was one of the men who took her orders. If she was wrong once she could be wrong again & her evidence must be given just that value.

An independent witness has testified that the distance from Enscheds to Altenberg, Germany, was 14 miles & an hour's ride in a jeep.

On the morning of July 3 the accused turned up for muster parade at 0730 hrs. Nominal roll was called & the parade kept standing for approx 30 mins. Accused then was under the impression that parade was broken off. It was for this reason he left camp area. He only went on duty at 1300 hrs & the date in question. He was back in camp by 1200 hrs. If he had been on parade at 0730 hrs he would not have been a hand at 0930 hrs. I cannot see how he can be held guilty of being absent without leave.

I feel that the prosecution has failed to prove its case on either count & that both charges should be dismissed.

John A Nolan Lt

Charge Re Cpl. Lifford

Miss Martha Schwicking in her evidence proved beyond a doubt that Cpl Lifford the accused was one of the soldiers who stole her radio. She picked him out on a parade from a number of other soldiers. Miss Schwicking gave the court a false impression due to her not speaking English and although certain of the men she didn't know which soldier called out the particulars. She picked out a wrong soldier on an identity parade but this was due to a definite resemblence. Sgt Simmons in his evidence points without a doubt that the accused was on a parade at 1005. As was brought out in the evidence of the accused knew he was to be duty at 0800 hrs he could not have missed seeing that a muster parade was being held the following morning.

Sgt Hanson gave evidence to the effect that on the parade held at 1005 hrs on 25 July 45 at Enschede. The accused was absent without leave. Also from the evidence it is definitely established that Martha Schwicking did definitely & readily identify the accused Sgt Lewis in his evidence definitely established the time of Cpl Lifford return as being approx 1005 hrs he further states as see Sgt he warned the men of a muster parade.

With this evidence which has been put before the court I humbly demand the accused Cpl Lifford be found Guilty of both charges.

D.D.E. Lieut. R

J. A Sums Up. Cpl Lafford

① Function of J. A.
② Court Sole Judge of the facts.
③ Analysis of Charge.

FIRST CHARGE AA 41 STEALING.

① Definition of Stealing Arch 31st Ed. Page 487
② Intent Must be permanently to Deprive Owner Page 491
③ The Taking p. 494
④ The Carrying Away p. 512
⑤ The Owner. p. 513.

SECOND CHARGE AA2.

① ~~Accused~~ Members of Court May Use their Personal Knowledge to assist them in Coming to a Finding

Adverse Court Re.

① Credibility of Witness.
② Accused innocent till Proven guilty.
③ Onus of Proof.
④ Reasonable Doubt.

Prosecuting Officer, Defending Officer Nor Court request any further address on any Matter.

J. A. Lafford Capt

Summary of Evidence in the case of G 45095, Cpl John David LIFFORD, No. 13 Canadian Provost Company, Canadian Army Overseas, charged with (1) Theft of a radio, the property of Mrs. J.S. SCHWICKING, a German civilian, and (2) A.W.L. from 1010 hrs to 1200 hrs., 6 Jul 45.

The Commanding Officer directs that the evidence be taken on oath. Call 2 wits

FIRST WITNESS:

Miss Marthe Schulze SCHWICKING of Waltrop, 26, ALTENBURG, Germany, sworn, states:

On Monday, July 2, approx 1715 hrs., I was sitting by window sewing when a Jeep drove into our yard with two soldiers in it. They got out of the Jeepand walked up to the window and started to question me regarding how many in the family and how many living in the house. They asked if we had a radio and where the door was so that they could come in. While they were coming in I told my sister-in-law to hide the radio, but they did not have time. They searched two rooms of the house and I followed them around. While they were searching they told me that I would be given a receipt for the radio and that they would get it back to us in a short while as they were Military Police from Munster and they were searching all the houses in the district. One started to write something on a paper and wanted to know the number of the radio. I went and got the radio and they took the number and wrote it on the paper. The other one meanwhile was talking very fast to me as I speak and understand English slightly. I made out a little of what they were telling me. The other gave me the receipt for the radio while one took of his coat and wrapped it around the radio. They said I was to come on Friday to Munster where I would get the radio back and a permit for it. They then took the radio and put it in the jeep and droveaway.

Q. Can you identify which man said they were M.P. from Munster?

A. I can't say for certain.

Q. Who was here at the house when they came?

A. My Mother and sister-in-law and myself. My Mother did not speak with the soldiers at all.

Q. Did you refuse at all to give the radio?

A. No, as I did not know what to do or say.

Cross examined by the accused:

Q. When did you first see me?

A. I saw him first at the window at about 1715 hrs.

Q. What date was it?

A. July 2/45.

Q. Are you certain I took the radio?

A. I am not certain which one took the radio but I believe it was the dark one who is the other soldier.

G45095 J D Lifford Cpl Signed [illegible]

SECOND WITNESS:

K 97901, Sjt SIMMONS, W.A.R., 13 Canadian Provost Company, sworn, states:

At 0830 hrs., 6 Jul 45, a muster parade was called, of all D and

SECOND WITNESS (Cont'd)

Sections Personnel at Section H.Q., Enschede, Holland. At 1000 hrs, as I had to report to Coy H.Q., HENGELO by 1030 hrs., with 10 ORs, I called the parade together saying "As it is now 1000 hrs, all those men on the GOC in C's Rehearsal Parade will break off into the house and get their web on". At this time, G 45095, Cpl LIFFORD, J.D., was on parade. That was the last I saw of him, and I went into the barracks for my own equipment.

Q. Did you know that the Coy O.C. was coming up for a special muster parade?

A. Yes, Sir.

Q. Were the men notified of this muster parade before they were broken off for their webbing?

A. Yes, Sir.

Q. When this muster parade was called on the Coy O.C.'s arrival, were there any absentees that you know of?

A. Yes, Sir.

Q. Who was absent from the parade in question?

A. G 45095, Cpl LIFFORD, J.D., and B 64826, Pte CHARETTE, B.A.

Q. Had they permission tobe absent?

A. No, Sir.

Cross examined by the accused:

Q What was the order you gave when the men broke off at 1000 hrs on 5 Jul 45?

A. All men on the G.O.C. in C.'s Rehearsal will break off into the house for their web.

(Signed) A R Simmons

THIRD WITNESS:

D 77239, L/Cpl GRAHAM, G., 13 Canadian Provost Company, sworn, states:

On 5th July, F & D Section personnel were warned for a muster parade at 0930 hrs. We were all in the yard of Unit lines until approx 1000 hrs. Sgt Simmons told the ones who were on the GOC in C's inspection to go inside the house and get their web. At the time the parade was broken off, I saw Cpl LIFFORD standing at the gate. Approx 15 minutes later the Coy O.C., and RSM came to the Unit lines and they called the muster parade.

Q. Was the parade in full, or just the GOC in C's Inspection personnel broken off by Sgt Simmons?

A. We were all broken off in the yard and the GOC in C's Inspection personnel were to go in the house for their web.

Q. The rest of the men were broken off in the yard only, or could they leave the Unit Lines?

A. Sgt Simmons did not say that we could leave the lines, and we were all grouped around.

Q. When the muster parade was called on the Coy O.C.'s arrival, were there any absentees?

A. Yes, Sir, Two.

Q. Which two were absent?

A. Pte Charette and Cpl Lifford.

Cross examined by the accused:

Q. At 1000 hrs, did Sgt Simmons say "We will break off, those in the GOC in C's Inspection will go in the house for their web"?

A. Yes, Sir.

Signed. G.W. Graham

FOURTH WITNESS:

G 5224, L/Cpl SAVOIE, E.R., 13 Canadian Provost Company, sworn, states:

When the O.C. appeared in his jeep, Cpl LIFFORD was standing by the fence of the Unit lines, I did not see him after that.

Q. Were the men of the Sections at Enschede warned of a muster parade?

A. Yes, Sir.

Q. When the muster parade was called was everyone there?

A. No, Sir. Cpl Lifford and Pte Charette were absent.

Q. When Sgt Simmons broke off the parade previously to the O.C.'s arrival, were you given to understand that you were to remain in Unit Lines for the muster parade?

A. Yes sir, we were told to put our web on. That is those who were to go on the Rehearsal.

Q. Those not on the rehearsal were to remain in Unit lines, also. Is that right?

A. To my knowledge, yes.

FOURTH WITNESS (Cont'd)

Cross examined by the accused:

Q. At 1000 hrs., Sgt Simmons said "It is 1000 hrs, we will break off. Those on the GOC in C's Inspection fall in the house to get on their web". Is that right?

A. Yes sir, he said something to that effect.

Q. At the time we were broken off, was there anything mentioned as to what the remainder of the parade was to do?

A. No, not to my knowledge.

Signed. C B Lewis

FIFTH WITNESS:

M 62276, Sgt LEWIS, R.W., 13 Canadian Provost Company, sworn, states:

All personnel of "E" & "F" Sections had been warned that there would be a muster parade and that they were to fall out in front of their Section H.Q. at 0925 hrs., 5 July 45. A few minutes before the O.C.'s arrival, at approx 1000 hrs., I noticed that Cpl Lifford was present in the yard, near the gate. On the O.C.'s arrival, I entered the house to make sure that all personnel would be present for the parade. At approx 1005 hrs., Sjt Mansley called the parade, and on calling the roll, it was found that Cpl Lifford was absent. At approx 1200 hrs., 5 July 45, Cpl Lifford reported to me at my Section H.Q. I then brought Cpl Lifford to Coy H.Q., and reported to Sgt Mansley.

Q. Were the men broken off the parade after being warned of the muster parade later on.

SIXTH WITNESS:

Mrs. J. SCHWICKING, of Waltrop, 26, ALTENBURG, Germany, sworn, States:

On Monday, July 2nd, at approx 1700 hrs., I was cooking in the kitchen. I heard a noise and when I looked up I saw 2 soldiers in the doorway with my sister-in-law. They just glanced in the kitchen and then went away. From what I could gather they were looking through the house and I could hear my sister-in-law talking to them, from time to time, as she speaks English slightly. While they were looking around the house my sister-in-law explained to me that they were Military Police and were looking to see if we had any radios. The radio was standing in a room next to the kitchen and while I continued cooking I could see one of them write something on a paper which I believed to be the number of the radio. My sister-in-law told me that they were taking the radio to Munster and that we would get it on Friday. One then picked up the radio and carried it out to the car. In a few seconds I heard the car start and drive away.

Q. Are you pretty certain of the men you picked out on the identification parade?

A. Yes, I was fairly certain of them.

Cross examined by the accused:

Q. Are you certain I was here on Monday, July 2/45 at approx 1700 hrs?

A. No, I am not certain, but I believe so.

Signed. Frau Schulte Schwicking

A 56745, Sgt LEITCH, C.P. (Cont'd)

Q. You are certain that it was Monday, July 2/45?

A. Definitely, as it was my day off.

Q. You remained with Cpl Lifford all the afternoon until you returned?

A. Yes, Sir.

Q. What was the name of the Sgt who was killed?

A. Sgt Papkey, Sir.

Q. You are quite definite of the time you returned to your Coy H.Q. from the F.D.S.?

A. Yes, Sir. It was about 20 or a quarter to six.

Signed C.P. Leitch Sgt

G 50188, Sgt BOYNE, G.A., 21 F.D.S., RCAMC, having been sworn, states:

On Monday, July 2/45, I recall talking to Cpl Lifford at my room in Unit Lines. It was about 5.30 in the afternoon, as I had just come from the Mess. He was with Sgt Leitch at the time, and we talked together for about 10 minutes and the two of them left.

Q. You are quite sure of the date and time?

A. Yes, Sir.

Q. Can you say why you are so sure of the day?

A. I am not certain of the date, but I am certain of the day, as Cpl Lifford told me he could not attend the show because he was on duty. We only have shows on Monday and Thursday and I was not here for the Thursday show.

Q. Could this have been the Monday previous to July 2nd/45?

A. No, because it was just about a week ago.

Signed G Boyne Sgt.

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused, this 10th day of July 45.

(J.D. O'Connell) Lt.,
Officer taking Summary.

SUPPLEMENTARY SUMMARY OF EVIDENCE

Supplementary Summary of Evidence in the case of G 45095, Cpl John David LIFFORD, No. 13 Canadian Provost Company, Canadian Army Overseas, charged with (1) Theft of a radio (AA Sec 41 and (2) A.W.L. (AA Sec 15(1)).

BY DIRECTION OF THE COMMANDING OFFICER, THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS: Mrs. Schultze SCHWICKING, Waltrop 26, ALTENBURG, Germany.

I certify that, in my opinion, the attendance of this witness is, owing to distance and time involved, not readily procurable, and a written statement of her evidence, signed by her, has been read to the accused and is attached hereto as Exhibit "A".

J.D. O'Connell Lt

(J.D. O'Connell) Lt.

I do not require the attendance of Mrs. Schultze SCHWICKING for the purpose of cross examination.

G 45095 J D Lifford

(G 45095, Cpl Lifford, J.D.)

SECOND WITNESS:

K 97401, Sjt SIMMONS, W.A.R., 13 Cdn Provost Company, sworn, states:

On the morning of the 4 July 45, Sgt Mansley told me to call a muster parade of all ranks of the Enschede Detachmentfor 0930 hrs., 5 July 45. I had it put on orders on the 4 July 45 that all ranks would attend a muster parade at 0930 hrs the 5 July 45 and also ordered one of the Detachment corporals to tell each man individually.

Question - When the parade was called at 0930 hrs were there any absentees?

Answer - No, Sir.

Question - Was Cpl LIFFORD one of the men who was to put on his web when the parade was broken off?

Answer - No, Sir.

Question - Did the men know why the parade was called?

Answer - No, Sir, they were just told it was a muster parade of all ranks.

Question - Upon the O.C.'s arrival and the parade was again formed up, were there any absentees?

Answer - Yes, Sir, Cpl Lifford and Pte Charette.

Question - Had they permission to be absent?

Answer - No, Sir.

Question - At what time did they return?

Answer - I don't know, as they reported to Sgt Lewis.

The accused declines to cross-examine this witness.

Signed W.R. Simmons

THIRD WITNESS:

M 62276, Sjt LEWIS, R.W., 13 Can Provost Company, sworn, answers the following questions:

Question - Why did Cpl LIFFORD report to you at approx 1200 hrs on the 5 Jul 45?

Answer - Because I had said he was to report to me on his return.

Question - Did he say anything as to his absence from parade?

Answer - Yes, I asked him why he was absent and he told me that they had gone to a gift shop to buy gifts.

Question - Did he make any other statement at that time?

Answer - No, Sir.

The accused declines to cross-examine this witness.

Signed. R W Lewis

FOURTH WITNESS:

K 88189, Sjt MANSLEY, H., No. 13 Cdn Provost Company, sworn, states:-

I was detailed by the O.C. to lay on an identification parade and was told not to mention what was the nature of the parade. Accordingly I called one at Coy H.Q., and one at the Enschede Detachment.

Question - What time was the parade called for?

Answer - 0900 at Coy H.Q., and 0930 at Enschede.

Question - Was Cpl LIFFORD on these parades?

Answer - No, Sir.

Question - Was anyone identified by the women at these parades?

Answer - Yes, Sir, two men.

Question - Was there any resemblance between these men and the accused?

Answer - Yes, Sir. There is quite a resemblance between Cpl LIFFORD and Cpl McKay.

Question - On the next identity parade held, who was identified?

Answer - Cpl LIFFORD and Pte CHARETTE were identified on the next parades, one with Cpls McKay and Miller on it, and one with Cpls McKay and Miller left off.

The accused declines to cross-examine the witness.

Signed. H. Mansley Sjt

Mrs Schulze SCHWICKING of Waltrop, 26, ALTENBURG, Germany, sworn, answers the following questions:-

Question - To whom did the radio belong? What make was it?

Answer - It belonged to my husband who is now deceased. It was a SABA.

Question - Does it now belong to you?

Answer - Yes, Sir.

Question - Have you still got the receipt that was given for it by the soldier?

Answer - No, I turned it over to the Military Police.

The accused declines to further cross-examine this witness.

Frau Schulze Schwicking

LLL-10

PTE TIGHM A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B. 1504 Pte. Tigani A. 40 Coy § BN 2 C.B.R.D.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1) A.L.L.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1) A.L.L.

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for the period 7 ninety days ~~and to~~ A.L.L.

~~for field punishment for a period 7 ninety days~~ A.L.L.

(Sgd) ..... Judge-Advocate, if any. 26 April 44. Date awarded. (Sgd) A.L. Macmillan Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed E.W.T.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) E.W. Harding Brig

Date 26 Apr 44 Commanding COMMANDER 1 CDN BASE Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B1504 Pte Tigani, A.	29 Apr 44	L2 Macdonald Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 22 MAY 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 222-10

CFA96 (1st Issue of AFA33) 40/P & S/1008 (3864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier E. W. Harding Comd HQ (Can Base Rft Gp CAE) dated 25 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-1504	Pte		Alfred	Tigani	8Bn 2CBRD.

2 MAY 1944 PROCEEDINGS REVIEWED 2nd ECHELON

REVIEWING OFFICER JAG BRANCH CMHQ

G 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 26 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.~~(2) A.L.L.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans ~~Ans~~ A.L.L.

The Interpreter is sworn.(1) ~~Do you object to~~ ..... as shorthand writer? Ans A.L.L.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.L.	Macmillan	R.C.A.	38 Can Base Rft Coy 1 CBRD
Member	Capt.	C.F.A.	Graham	C.A.C.	38 Can Base Rft Coy 1 CBRD
Member	Lieut.	R.H.	McMillan	C.I.C.	2 Bn. 1 CBRD.
Judge-Advocate					
Prosecutor	Lieut.	C.V.	Allen	R.C.O.C.	6 Bn 2 CBRD
Defending Offr	Lieut.	C.L.	Rowan	R.C.O.C.	8 Bn 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused Pte Tigani A. before arraignment makes(s) (no) (~~s~~) plea A.L.A. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. A.L.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witness from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty ~~to Not Guilty on~~ ..... charge(s). The accused is ~~are~~ so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) on~~ ~~charge(s). Part I of the Schedule is amended accordingly~~.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(C) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 123,4 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. DP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 40, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 43, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(I) (g) (b), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM a. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 126. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused, No. B.1804, Pte. TIGANI, A., 40 Coy, 8 Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Section 15 (1)
Army Act

When On Active Service, ABSENTING HIMSELF WITHOUT LEAVE, in that he

in the Field, absented himself without leave from 2200 hrs 11 March 44 until surrendering to the Unit Guard Commander at 1630 hrs, 15 April 44.

ABSENT: 32 days, 18 hrs, 30 min.

J. E. Conrad

(F. E. CONRAD) Lt-Col.
Commanding,
8 Bn., 2 C.B.R.D.

Field
15 Apr 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
IN ITALY
25 April 44.

E W Haldenby

(E W Haldenby) Brigadier,
Commander,
H Q 1 Cdn Base Mft Group,
Cdn Army-CMF.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/FAS/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-1504	Pte		Alfred	TIMANI	8 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 25 APR 44, endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". GWH

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.) GWH

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GWH

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ GWH

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	A L MacINNIS RCA	38 Cdn Base Rft Coy 1 CBRGp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT C.F.A. GRAHAM	AC	38 Cdn Base Rft Coy 1 CBRGp
LIEUT A H Mc MILLEN	CIC	2 Bn 1 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
CAPT OR LIEUT TO BE DETAILED BY OC 38 Cdn Base Rft Coy 1 CBRGp		

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Courtenay (Signed personally. ~~RP 105 fn 2.~~) Brigadier (Rank.)

Date 25 April 44 Commanding (E W Baldenby) Brigadier, Commander, Convening Officer. H Q 1 Cdn Base Rft Group-CMF

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS GWH

(See overleaf for oaths and notes for use at trial.)

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY that I have this date examined B-1504, Pte. TIGANI, A.

and find him fit to undergo trial by Court Martial.

26 April 44

N.S.Bowers Capt

(N.S.BOWERS) Capt.
Medical Officer,
8 Bn., 2 C.B.R.D.

Squadron / Battery / Company / Detachment

8 Bde. DETENTION & R.P. Unit or Battalion

April 26 1944

MORNING SICK REPORT

Regt'l No.	RANK	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
B 1504	Pte	ALFRED TIGANI	21	R.C. Detention		S		
F 39884	L/Cpl	MURRAY, CORBIN	22	C of E	R.P.	S		

Medical Officer

Cpl. Jones (R.P.) Orderly N.C.O

(OVER)

M. F. B. 292
1 Mil.—12-39 (2926-9)
H.Q. 1772-39-245

In lieu of Army Form B 115

RECORD OF THE DECLARATION OF A COURT OF
INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER

RECORD of the Declaration of a Court of Inquiry assembled at In the Field
on the .....3rd..... day of .....April..... 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any in Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. ...B.1504, Pte. TIGANI, A.

DECLARATION.

The Court declare, ...B.1504, Pte. TIGANI, A. illegally absented himself without leave at 2200 hrs on 11 Mar 44, that he is still so absent, and that on the 12 Mar 44 he was deficient, and that he is still deficient of the following articles:

		100% Vocab Price	75% Vocab Price
Blouse B.D. Serge	1	$ 6.18	$ 4.65
Boots Ankle, Prs	1	4.81	3.60
Socks, Prs	1	.37	.27½
Trousers B.D. Serge, Prs	1	6.24	4.68
		$17.60	$13.20

Names of President and Members.

President. Lieut. J.A.Morrison

Members. Lieut. C.F.Rowan
Lieut. C.W.Beale

F.B.CONRAD, Lt-Col.
Signature of the Commanding Officer.....

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record.

In the case of B.1504, Pte. TIGANI, A. (N.Z.E.C.)

LIST OF WITNESSES

For the Prosecution.

1.	B.64063, Sgt.	Rapley, C.E.	- 21 Coy, 5 Bn.
2.	C.94197, L/Sgt.	Bryson, T.	- 40 Coy, 8 Bn.
3.	D.81508, Sgt.	Thomas, W.J.	- 40 Coy, 8 Bn.
4.	A.6087, Cpl.	Buchanan, R.C.	- 40 Coy, 8 Bn.
5.	H.2589, Sgt.	Brown, A.D.	- 36 Coy, 8 Bn.

For the Defence

Nil.

J. G. Morrison Capt.
(T.A.MILLER) Capt.
Officer detailed to take the
Summary of evidence.

In the case of B.1504, Pte. TIGANI, A.

The accused requests the services of a Defending Officer.

(T.A. Miller) Capt.
Officer detailed to take Summary.

A.G.'s

April 26 – 1944.

Plea in mitigation of sentence in case of Pte Ligoni.

Circumstances which make this an outstanding case and worthy of deep consideration in passing of sentence.

1 Pte Ligoni a soldier of the Canadian Army – Italian extraction born in Italy since Nov 1943 doing a useful job as interpreter and linguist.

2 He was sent to front with – when he was wounded. After one month in hospital was sent to convalescent depot where he asked for leave which was refused. Not having seen in 18 mos. – having relatives in this country and being in convalescent depot not well enough for active service

limit in condition to get around, decided to take care of his own.

3. Pte Ligari gave himself after being absent 32 days.

In view of the above facts and the fact Pte Ligari gave himself up when he could have, being well aware of the language contained in above indefinitely I make a plea that the sentence should be as light as possible and still conform with the practice of the Canadian Army.

Charles Rowan Lieut.
Officiating O.C. Depot.

Exhibit "A"

Summary of Evidence in the case of B-1504, Pte. TIGANI, A., on the strength of 40 Coy, 8 Bn, 2 C.B.R.D., Cdn Army, C.M.F.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS
For Prosecution

No. H.2569, Sgt. ARCHIBALD D. BROWN, on the strength of 36 Coy 8 Bn. 2 C.B.R.D., a soldier of the Canadian Army Overseas, being duly sworn states:

I am H.2569, Sgt. Archibald D. Brown, on the strength of 36 Coy, 8 Bn., 2 C.B.R.D., Cdn Army, C.M.F. While on duty as Guard Commander, B.1504, Pte. Tigani, A. reported to me in the Guard Room at 1630 hrs on 13 Apr 44, sober and properly dressed. He informed me that he had been absent for approximately 30 days. I then placed him under close arrest.

The accused does not wish to cross-examine this witness.

Sgt. A.D. Brown
H.2569, Sgt. Brown, A.D.

SECOND WITNESS
For prosecution

A.6087, Cpl. BUCHANAN, R.C. on the strength of 40 Coy, 8 Bn, 2 C.B.R.D., a soldier of the Canadian Army Overseas, being duly sworn states:

I am A.6087, Cpl. Buchanan, R.C. acting C.Q.M.S. 40 Coy 8 Bn, 2 C.B.R.D. On 12 Mar 44 I inspected the accused's kit and found his kit deficient. I again inspected his kit on 15 Apr 44 and found his kit complete.

The accused does not wish to cross-examine this witness.

Richard C. Buchanan
A.6087, Cpl. Buchanan, R.C.

The accused was cautioned as follows:

Do you wish to make any statement or to give any statement upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence, at this time.

I certify that the foregoing Summary of Evidence consisting of one typewritten page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e)(f)&(g) have been complied with.

T.A. Miller
(T.A.Miller) Capt.
Officer detailed to take Summary

In the field
15 Apr 44.

IN THE CASE OF B-1504 PTE TIGANI, A.

Notice under R.P. 76

Take notice that at your trial B-2589 Sgt BROWN, A.D. will give additional evidence as follows:

I produce record of declaration of the court of inquiry held 3 Apr 44 showing that B-1504 Pte TIGANI, A. absented himself without leave from 2200 Hrs on 11 Mar 44.

In the case of B.1504, Pte. TIGANI, A.

I am an Orderly Room clerk in the Bn. Orderly Room of 8 Bn, 2 C.B.R.D. I now produce facsimile of A.F. B115 being the Record of the Declaration of a Court of Inquiry on the Illegal Absence of B.1504, Pte. TIGANI, A., whom I now recognize, (Marked Exhibit "A" hereto) and which said record is signed by Capt. C. Armstrong, Adjutant of 8 Bn, 2 C.B.R.D., the officer having custody of the original record.

B-2779, Pte. Whitford, J.I.

Exhibit "3"

COPY

No B-1504 Name TIGANI, Alfred | Sqn, Battery, or Company | Corps RCOC | Date of enlistment 5 Oct 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Simcoe	1 Jan 1943	Pte		AWL in that he at Simcoe, Ont. WOAS did absent himself withoug leave from 0630 hrs 1-1-43 until 2300 hrs 2-1-43 Total 1 day 17 hrs. A.A. 15(1)	Cpl. Berzel Pte. Morris, H.B.	7 days C.B.	4 Jan 43	Major J.F. West	Forfeits 2 days pay FR&I
Barriefield	4 Feb 1943	Pte		Sec. 15 (2) A.A. Going without leave or urgent necessity from a place of parade appointed by his Commanding Officer.	L/Cpl. Mason, G.E.	7 days C.B.	5 Feb 43	Major W.F. Baylay	
Barriefield	20 Feb 43	Pte.		A.W.L. 0600 20-2-43 to 2350 23-2-43 3 days 17 hrs 50 min	Documentary	Admonished	24-2-43	Major W.C. Jack	Forfeits 4 days pay FR&I

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield	8 Mar 1943	Pte.		AWL from 2200 hrs 13 Mar 43 until 2130 hrs, 17 May 43. Absent 64 days 23 hrs 30 Min	Cpl. Cowburn, W.	28 days detention	18 May 1943	Col. A.E. DUNCANSON	

E. Armstrong Capt.
CERTIFIED TRUE COPY

Exhibit "C"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-1504	Pte.	TIGANI, A.	40 Coy, 8 Bn, 2 C.E.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absent without Leave. A.A. 15(1)	0 times	3 times.
For A.W.L. from Parade A.A. 15(2)	0 times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted by

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. *or* The accused at the present time is under sentence of

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Not 14 days in military custody, making a total of 14 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 21

6. The date of his commission attestation specified in his record of service attestation paper is 5 Oct 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to any military decoration or military award for is in possession of or entitled to (*state any military decoration or reward*). C.V.R.M.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated

and in his regiment, corps or department the rank of dated

(72847) Wt.31705/1977 10,000 10/42 A.A.E.W.Ltd Gp.698
(23927) Wt.32856/1257 92,000 2/43

PPP-65

Pte TILLEY E

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-53548 Pte Tilley, E. 4 Cdn Armd Bde Sub Pln RCOC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th	Ss.	Ss.	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~one~~ Ss beginning on (date) ~~——~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(1) (5 days Close Custody 10 days Awaiting Trial Custody)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 140 days and to be put under stoppage of pay until he has made good the sum of $ 1.18.2 in respect of the cost of clothing to the unit.

(Sgd) Gordon H. Jermyn — Judge-Advocate, if any — 26 May 44 — Date awarded. (Sgd) [signature] — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"Confirmed"

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 31 May '44 — (Sgd) [signature] Brig — Commanding CCRA 2 Cdn Corps — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B53548 Pte Tilley E	9 June 44	[signature] Lt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 P.M.-65

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P.S.S./1058 (2864)

Convened by Order of Brig A.B. Matthews Comd CCRA 2 Cdn Corps dated 24 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-53548	Pte		Earl	Tilley	4 Cdn Armd Bde Sub Pln RCOC

RECEIVED 28 JUN 1944 JAG BRANCH C.M.H.Q.

REVIEWED [signature] 29 June 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED GHQ 21 Army Gp Date 4 JUL 1944

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 26 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnnn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate [illegible] number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 48(6), RP 40 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Lt.~~ as interpreter? Ans ——

The Interpreter is sworn.(1) Do you object to ——— as shorthand writer? Ans ———

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.R. Allen	4 Armd Bde Sub Pln RCOC
Member	Capt	W.J.A. May	HQ 2 Cdn Corps Sig Regt RCCS
Member	Lt.	S.A. Grose	HQ 2 Cdn Corps Ord Fd Pln RCOC
Judge-Advocate	Capt	G.H. Jermyn	HQ 2 Cdn Corps
Prosecutor	Capt	J.A.T. Joly	4 Cdn Armd Bde Sub Pln RCOC
Defending Offr	Lt.	V.A. Tatow	2 Corps and Army Tps Sub Pln RCOC

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ——— before arraignment make(s) (no) ~~(a)~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B of E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes sir .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the ..... charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Rln here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D5.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AA6. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I do sir, through my defending officer.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(2)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 76(2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas Rl 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused, No. B-53548 Private Earl TILLEY, 4th Cdn. Arm'd Crd. Sub-Park R.C.O.C., a soldier of the Canadian Army Overseas, is charged with

CHARGE
Sect. 15(1)
Army Act

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he

in the field on the 12 Apr. '44 absented himself without leave from his Unit from 0800 hrs 12 Apr. '44, until he surrendered to civil authority at 2330 hrs. 11 May '44, costs of apprehension and return to his Unit being. £1-18-2. (Time absent 29 days 15 hrs. 30 minutes)

In the field
17 May 1944

(R.W. McBride) Major
Officer Commanding
4 Cdn. Arm'd Crd. Sub-Park RCOC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

CCRA 2 Cdn Corps Brig

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40 FAS/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.53548	Pte		Earl	Tilley	4 Cdn Armd Ord Sub Pk RCOC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 May 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior (judicial authy.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.R. Allen	4 Armd Div Ord Fd Pk RCOC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W.J.A. May	HQ 2 Cdn Corps Sigs RCCS
Lieut	G.A. Grose	HQ 2 Corps Ord Fd Pk RCOC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	G.H. Jermyn	HQ 2 Cdn Corps

On Active Service in the Fd

in England
(Country.)

Date 24 May 44

A.H. Matthews
(Signed personally. RP 105 fn 2.)

(A.H. Matthews)

Brig
(Rank.)

Commanding CRA 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

This is to certify that I have this day examined B53548 Pte Tilley E
4 Cdn Armd Ordnance Sub Pk RCOC
and that in my opinion he is fit
to undergo trial by Court-martial

26 May 44

J. W. McCluntry Capt RCAMC
12 Cdn Lt Fd Amb

B-2 Statement of accused in reference to the charge.

I have been in the army about 3 years now and so can be seen by my record that although I've never been out of trouble and although I will be going to detention this time when I come out it will just be the same thing again. I've different units I've been in I've had all the breaks but I have become convinced I'll never be any good to the army.

E-3. Statement of defending officer in mitigation.

P.O. Tilley attempted to enlist in the navy when he was 17. The navy turned him down but he went to the army and they accepted him. He is only 19 now. He was born 11 Aug 1924. His interests do not lie with the army but with the navy. He has since tried to transfer to the navy but his applications have been refused. He was in the Sea Cadets for three years. He has been employed as a D.R. and has done considerable petty work which has caused him to become very "browned off". What he needs is a change of employment and interests. He needs new interests, new hopes and a new outlook. I trust the court will consider these points and be as lenient as possible with P.O. Tilley.

Exhibit "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at in the field on the 4th day of May 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-53548 Pte. Tilley, E. of 4 Cdn Arm'd Ord Sub Park RCOC.

DECLARATION.

The Court declare, that No. B-53548 Pte. Tilley, E. of 4th Cdn Arm'd Ord Sub Park RCOC illegally absented himself without leave in the field from 0800 hrs 12 April 1944, and that he is still absent, and that on the 4th May 44 he was deficient and that he is still deficient of the following articles: as per list overleaf.

Names of President and Members.

PRESIDENT: CAPT. J.A.T. JOLY

MEMBERS: LIEUT. T.C. LEWIS
LIEUT. B.A. BECKWORTH

Signature of Commanding Officer MAJOR.
4 CDN ARMD ORD SUB PARK RCOC.

CERTIFIED TRUE COPY

Signature of Officer having custody of the Original Record.

(12261) W1.34315/1622 75,000 10/39 A.A.E.W.Ltd. Gp.698 Forms/B115/56
(15443) W1.45725/760 225,000 1/40 " "

	Quantity	Full Price	¾ value
		$	$
Anklets, web prs	1	.99	.75
Battledress, blouses, serge	1	5.25	3.94
Boots Ankle, prs (5.46 pr)	2	10.92	8.19
Greatcoat, drab	1	11.31	8.49
Jersey, pullover	1	1.79	1.35
Shirts, Angola drab	1	2.03	1.58
Shoes, canvas, prs	1	2.55	1.91
Trousers, battledress, serge (5.39)	2	10.78	8.09
Braces, prs.	1	.28	.21
Brushes Clothes	1	.48	.36
" hair	1	.34	.26
" shaving	1	.37	.28
" shoe polishing	1	.28	.21
" tooth	1	.11	.08
Combs hair	1	.04	.03
Holdalls	1	.19	.15
Housewives	1	.17	.13
Knives, clasp	1	.86	.65
Razor, safety, w/blade, set	1	.06	.05
Bottles, water, Mk VII	1	.82	.62
Packs, WE patt. '37	1	1.84	1.38
Tins, mess, rect.	1	.35	.27
		$51.81	$38.92

Exhibit "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B53548 Rank Pte Name Tilley, E Unit 4 Ord. Sub. Pk. R.C.O.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount		
13 May 44	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ Portion)		2	3
	Total £	1	10	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. P. Tinson Lieut.

Officer Issuing Railway Warrant and Expense Account

No. 6 Provost Company, Canadian Provost Corps

F. P. TINSON
ADMIN. OFFICER - D.P.W's BR.
C. M. H. Q.

Exhibit B

Expense Voucher No:- Ref: K.R. & O. (Can) 539

Reg. No. B22345 Rank Pte Name Gilley, E. Unit R.C.A.D. Orbs. Old Pals.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
10 May 44	Escorts return fare from LONDON To Barfield		5	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Barfield		2	7
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

F. W. Stinson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

F. W. STINSON
ADJT. OFFICER - D.P.M's BR.
C.M.H.Q.

C.M.H.Q. 1000:55
40/P & S/452

IMMEDIATE. Exhibit "C" Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† More.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

(26929) W1.49482/483 25,000 3/42 A.& E.W.Ltd. Gp.698 Forms/O.1617/12.

CHARGE Exhibit "D" Army Form B 252
(See King's Regulations)

R.C.O.C. Regiment
4th, Cdn. Armd. Div. Battery / Squadron / Troop or Company

CHARGE against No B-53548. Rank Pte.

Name Tilley, E.

Place Oldham, Lancs. Date of Offence 11-May-44

OFFENCE W.O.A.S. was A.W.L.

CAPT
R. D. HOLMES, D.A.P.M.
LONDON AREA

Names of Witnesses:—

P.C. "16" Brown, Oldham Civil Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

30188. Wt.W21274/P61 2,000,000 10/42. K. & H., Ltd. 04/57/47.

F.T.O.

EVIDENCE

Sir;-

Documentary evidence is attached hereto.

REMARKS

LIST OF WITNESSES

For the Prosecution:-- (1) Lieut. B.A. Beckworth,
4 Cdn. Arm'd Ord. Sub-Park RCOC.

For the Defence:-- N I L

LIST OF EXHIBITS

Exhibit "A"-- A.F.B.115 "Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Exhibit "B" C.M.H.Q. 1000;55 "Expense Voucher"

Exhibit "C" O.1617 "Certificate of surrender to the Civil Police"

Exhibit "D" A.F.B.252 "Provost Charge"

In the field
17 May 1944

Major
Officer Commanding
4 Cdn. Arm'd Ord. Sub-Park RCOC

EXHIBIT "A"

SUMMARY OF EVIDENCE in the case of B-53548 Pte TILLEY, Earl, 4 Canadian Armoured Ordnance Sub-Park RCOC.
Charge Absenting himself without leave.

By direction of the Officer Commanding, the summary of evidence is taken on oath:

1st WITNESS for the Prosecution

Lieut. B.A. Beckworth 4 Cdn. Armoured Ordnance Sub-Park RCOC having been duly sworn, states:-

"I am the Officer i/c of No.2 Section 4 Cdn. Arm'd Ord. Sub-Park RCOC. I produce A.F.B.115, record of the Declaration of a Court of Inquiry on the Illegal absence of a soldier, (Marked Exhibit "A"). Also CMHQ 1000:55, expence voucher (Marked Exhibit "B"), and Army Form O.1617, certificate of Surrender to the Civil Police, (Marked Exhibit "C") and A.F.B.252, provost charge, (Marked Exhibit "D"), all of which relate to the accused.

B. Beckworth Lt. Lieut
Signature of witness

The accused does not wish to cross-examine this witness

The accused having been duly cautioned in accordance with Rule of Procedure 4(E)

"reserves his defence"

Certified that Rule of Procedure 4(C), (D), (E), and (F) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 17th day of May, 1944, in the field.

R. Gordon Ivy Captain
Signature of officer taking summary.

EXHIBIT "C"

Regimental No. B.53548 Rank Pte. Sheet No.

Name TILLEY, Earl.

MFM 1 & 2a
40/P & S/119 (3912)

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority: PO Number	Authority: Dated
Reported A.W.L. 0200 hrs.	Pte.	1 May 45	C.O.R.U.	U.K.	116	11 May 43
Still absent 2200 hrs. 8th day	Pte.	9 May 45	C.O.R.U.	U.K.	119	14 May 43
Ret'd. from A.W.L. at 2215 hrs.	Pte.	9 May 45	C.O.R.U.	U.K.	120	15 May 43
A.A. Sec 15 (1) forf. 37 days pay	Pte.	11 May 45	C.O.R.U.	U.K.	120	15 May 43
A.W.L. 0200 hrs.	Pte.	7 May 45	B.O.W.S.	U.K.	56	7 May 43
Still absent 0200 hrs. 8th day	Pte.	9 May 45	B.O.W.S.	U.K.	57	9 May 43
Ret. from A.W.L. 1600 hrs. awarded 30 days d 14 May 43	Pte	12 May 45	B.O.W.S.	U.K.	58	12 May 43
A.A. Sec.15(1) Awd. 28 days F.P. forf. 28 days pay DO 59/14 May 43	Pte	12 May 45	B.O.W.S.	U.K.	58	12 May 43
A.W.L. from 0600 hrs.	Pte.	21 May 45	B.O.W.S.	U.K.	66	31 May 43
A.W.L. from 0600 hrs. 31 May 43. Apprehended at 1600 hrs.	Pte	9 Jun 45	B.O.W.S.	U.K	72	14 Jun. 43
A.W.L. Awd. 45 days Det. Forf. 52 days pay. Stoppage £1.10.8.	Pte	15 Jun 45	B.O.W.S.	U.K.	73	16 Jun. 43
A.W.L. from 1015 hrs.	Pte	20 Jun 43	B.O.W.S.)	U.K.	75)	21 Jun. 43
[redacted]			C.O.R.U.)	U.K.	155)	24 Jun. 43
Reported A.W.L. from 0600 hrs.	Pte.	31 May 43	C.O.R.U.	U.K.	152	21 Jun 43
Apprehended from A.W.L. 1100 hrs.	Pte.	4 Jun 45	C.O.R.U.	U.K.	152	21 Jun 43
Still absent 2359 hrs.	Pte.	29 Jun 45	C.O.R.U.	U.K.	161	30 Jun 43
Still absent 2359 hrs.	Pte.	30 Jun 45	C.O.R.U.	U.K.	162	1 Jul 43
Ret'd. from A.W.L. 0540 hrs. (on app.)	Pte.	27 Jun 45	B.O.W.S.)	U.K.	80)	30 Jun 43
			1 C.O.R.U.)	U.K.	164)	3 Jul 43.
F.G.C.M. A.A. Sec. 15 (1) and 40 90 days detention forf. 63 days pay Stopp. £1.12.2.	Pte.	3 Jul 45	(CORU	U.K.	169	9 Jul 43
			(1 C.B.O.W.	U.K.	82	5 Jul 43
Reported A.W.L. from 0730 hrs. 20 Sep 43 Still A.W.L. at 0730 hrs. 8th day	Pte.	28 Sep 45	C.O.R.U.	U.K.	237)	24 Sep 43)
					241)	28 Sep 43)
Still absent 2359 hrs.	Pte.	29 Sep 45	C.O.R.U.	U.K.	243	30 Sep 43
Still absent 2359 hrs.	Pte.	30 Sep 45	C.O.R.U.	U.K.	244	1 Oct 43.
Still absent 0730 hrs.	Pte.	11 Oct 45	C.O.R.U.	U.K.	252	11 Oct 43.
S.O.S. as a deserter. forf 25 days pay & def. in kit $1.36	Pte.	15 Nov 43	C.O.R.U.	U.K.	287	19 Nov.43
Awd. 28 days detention and forf. 9 days pay A.A. Sec 15. (1)	Pte.	24 Nov 45	C.O.R.U.	U.K.	292	25 Nov.43
Granted 26 days suspension of sentence no remission of pay	Pte.	25 Nov 43	C.O.R.U.	U.K.	295	29 Nov 43
forf. 3 days pay A.A. 15 (1) to run concurrent with award of 28 days detention	Pte.	14 Dec 43	4 CADSP.	U.K.	50	30 Dec 43
Forf. 7 days pay under A.A. 15 (1) A.W.L.	Pte.	10 Jan 44	4 CADSP.	U.K.	3	19 Jan 44.
A.A. Sec. 40 forf. 2 days pay-	Pte.	7 Feb 44	4 Arm'd.Div.S.P.	U.K.	7	14 Feb 44.

CERTIFIED TRUE EXTRACT FROM M.F.M.2.

(A.C. JOHNSON) Capt.,
for Officer i/c Records,
CANADIAN MILITARY HEADQUARTERS

Regimental No. B.53548 Rank Pte. Sheet No.

MFM 1 & 2a
40/P & S/119 (2913)

Name TILLEY, Earl

Record of Promotions, Reductions, Transfers, Casualties, Reports, etc—	Rank Shown	Effective Date	Unit	Place	Authority: DO Number	Authority: Dated
5 days C.B and forfeits 2 days pay for A.W.L. 14 Dec 41/ 16 Dec 41	Pte.	14 Dec 41	RCOC Ser Wing	Toronto	300	17 Dec 41
Awarded 5 days C.B. and to forfeit one days pay and A. for AWL	Pte.	20 Jan 42	All IATC	Borden	17	21 Jan 42
Forfeits 12 days pay and A. for A.W.L.	Pte.	9 Mar 42	All IATC	Borden	58	10 Mar 42
Awarded 28 days detention forfeits 21 days pay, being A.W.L. 20 days 11 hrs. 30 mins (21 days) Total forfeiture of pay 49 days, placed under stoppage of pay in amount $5.72 being the cost of equipment.	Pte.	8 Apr 42	V.T.W.	Toronto	86	11 Apr 42
Is attached to Military Detention Barracks, Brampton for R. & Q.	Pte.	9 Apr 42	V.T.W.	Toronto	86	11 Apr 42
Awarded 28 days detention. Awarded cost of apprehension. forf. 6 days pay for (1) A.W.L. from 1600 hrs. 15 May 42 until 2335 hrs. 20 May 42 (2) Conduct tp the prejudice, etc. in that he was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine. Held in close arrest from 2355 hrs. 20 May 42 until 1400 hrs. 25 May 42. Forfeits 4 days pay. Total forfeiture of pay, 31 days. Cost of apprehension $10.00.	Pte	25 May 42	MTS	London	124	26 May 42.
Awarded cost of apprehension and 14 days C.B. forfeits 5 days pay for A.W.L. from 2359 hrs. 29 Jun 42 to 0445 hrs. 4 Jul 42	Pte.	6 Jul 42	MTS	London	160	7 Jul 42.
Awarded 7 days C.B. Awarded cost of apprehension of $11.10. and forfeits 2 days pay for A.W.L. from 0600 hrs. 27 Jul 42 to 2215 hrs. 28 Jul 42 (Apprehended)	Pte.	30 Jul 42	MTS	London	181	31 Jul 42.
Awarded 7 days forfeiture of pay 22 Sep 42. Forf. 4 days pay Placed under stoppages of pay $11.10. Cost of apprehension A.W.L. from 0600 hrs. 14 Sep 42 to 0915 hrs. 17 Sep 42 Total forf. pay 11 days, plus cost of apprehension $11.10.	Pte.	22 Sep 42	MTS	London	227	23 Sep 42.
Awarded 28 days detention, eff. 26 Oct 42 for A.W.L. forf. 9 days pay for A.W.L. from 0800 hrs. 12 Oct 42 to 1430 hrs. 20 Oct 42. Forfeits 5 days pay for period of close arrest from 1430 hrs. 20 Oct 42 to 0001 hrs. 26 Oct 42 Total forf. pay 42 days. To pay cost of app. amt. to 12.36	Pte.	26 Oct 42	COCTC	Barriefield	255	27 Oct 42
Awarded 168 hrs. detention, eff. 1400 hrs. 7 Dec 42 for A.W.L. forfeits 5 days pay for A.W.L. from 1500 hrs. 28 Nov 42 to 0005, 3 Dec 42. Forfeits 4 days pay for period of close arrest from 0005hrs. 3 Dec 42 to 1400 hrs. 7 Dec 42. Total forf. of pay 16 days. To pay cost of apprehension amt. tp $15.45.	Pte.	7 Dec 42	A21 COCTC	B'Field	292	8 Dec 42.

EXHIBIT "B"

ARMY FORM B. 196.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-53548	Pte.	TILLEY, Earl.	4 Cdn. Armd Ord. Sub-Park RCOC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—As a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For. Section 15(1)	5	times	15	times.
For. Section 40	1	times	2	times.
For		times		times.
For		times		times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct,~~ Nil

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted~~ The accused has been previously convicted

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 3 days in civil custody, and 12 days in military custody, making a total of 15 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs. 8 months 23 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 24 Nov. 1941

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of ~~service~~.

9. The accused is entitled to reckon ~~service~~ for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of ~~, dated~~

~~and in his regiment (or corps or department) the rank of dated~~

(*16548) WL.30246/805 75,000 12/40 A.& E.W.Ltd Gp.499
(17657) WL.48491/1001 25,000 4/41

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-53548 Rank Pte Name TILLEY, Earl of 4 Can. Armd. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	3 July 1943 at 1-C.O.R.U.	Section 15 (1) and Sec 40 A.A.	90 days detention forfeiture of 63 days pay and stoppage of £1-12-2 of published in 1-CORU D.O.169 dated the 9 July 1943	Granted 26 days remission of sentence

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of May 44

Oh Rodon Jr. Capt & Adj
4 Can Armd Regt Sub-Park
RCAC

13. The accused has served as a non-commissioned officer continuously without reduction, to the present date,

In the rank of , Date of Promotion.

In the rank of N/A years, years

In the rank of years,

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

II·78 (case #1)

PTE TILLEY E.

See II. 79 for 2nd case.

Correspondence to be PINNED here.

305/1 C600/4
B535/8 Pte. Earl TILLEY
I.C.E.C.M.

II-78

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FOURTEENTH day of JUNE, 19[illegible].

Whereas it appears to me, the undersigned, an officer in Command of "F" GROUP, CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint:

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)]

for the following reasons, namely:—]

14 Jul 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.Col.	D.L. Radman, V.D.	N.S.,C.A.R.U.

Members.

Rank.	Name.	Regiment.
Capt.	F.V. Pengelly	C.I.S.
Lieut.	E.H. Hayward	C.P.S.
Capt.	WAITING MEMBER H. Richards	R.C.C.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Lt.-Col.
(LOUIS KEENE) Colonel
Commanding "F" GROUP, C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B53548 Pte. Earl TILLEY 1 C.B.O.M.	CHARGE Sect 15(1) Army Act (See charge sheet attached)	Guilty	Guilty Sentence To undergo detention for a period of Forty Five (45) days and to be put under stoppages of pay until he has made good £1-10-0 to the express as his current address 15 June 1943	Confirmed L. de Reeve Col.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) L. de Reeve Col. (Signed)
(LOUIS KEENE) Colonel
Commanding 91st GROUP, C.B.O.
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 15th day of June 1943

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 796 M.M.L. 1929 — I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 15th day of June 1943.

L. de Reeve Col.
Confirming Officer.

Promulgated and extracts taken in the case of B53548. Pte. Tilley. E

(a) (Dated) 16 Jun 43 (Signed) R.K. Franks. Capt, Adjt - 91 C.B.O.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21573) Wt.44178/880 50,000 2-43 A.& E.W.Ltd. Gp.696

CHARGE SHEET

The accused, B-53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of 1 Canadian Ordnance Reinforcement Unit and attached to 1st. Canadian Base Ordnance Workshop, a soldier of the Canadian Army Overseas is charged with, while on active service:-

First Charge - Sec.15(1) Army Act. ABSENTING HIMSELF WITHOUT LEAVE - in that he

at Guadaloupe Barracks, Bordon, Hants, at 0600 hours the 31st day of May, 1943, while undergoing Field Punishment, absented himself without leave until he was apprehended at Withington, Manchester, England, at 1600 hours on the 4th day of June, 1943, thereby incurring expenses to the amount of £1/10/8 for his return.

Total absence 4 days 10 hours.

Lt/Colonel
A/Commanding Officer,
1st. Cdn. Base Ordnance Workshop, RCOC.

Bordon, Hants.
12 Jun 43.

To be tried by Field General Court Martial

Col.
(LOUIS KEANE) Colonel
Commander
Base Group, C.A.N.

Bordon, Hants.
14th June 1943

MEDICAL OFFICER'S CERTIFICATE

I hereby declare that I have to-day examined:

NO. B-53541 Pte, Libby E.

UNIT 1st. Can. Base Ord. Wks.

and certify that I found him Medically fit/~~unfit~~ to undergo trial by Court-Martial.

15 June, 194-3

Bordon, Hants.

A. E. Orr Hill Capt.
R.C.A.M.C.
A.D.M.S. C.B.C.W./R.C.O.C.

CDOW 82

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Roy. Martinique Barracks, Bordon
ON THE 11th DAY OF June 1943

The accused B33548 Lt. Earl Telly ....Unit.... 1 C.B.O.W. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt. Col D.L. Redman, V.D. Unit.... A.G., C.R.U.

Members. Capt. F.V. Longley ....Unit.... C.I.S. .....

Lieut. W.T. Hayward Unit.... C.I.S. .....

The officers under instruction are duly sworn:-

Nine Officers .....Unit.....

.....Unit.....

Prosecutor. Capt. L.R. Brooks ....Unit.... 1.C.B.O.W.

Defending Officer. Lt. A.J. Greatbed. Unit.... 1.C.B.O.W.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 276~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by accused in mitigation
I will be 19 in August. I got to grade 10 in school. I worked about 9 mos with International Metals, making about $30.00 per week. I volunteered to join the Army. My mother is alive. I assume $20 per mo to her

OVER

My mother gets mothers allowance (Promised)
I have 4 younger brothers and sisters. I
wanted to be a nurse. I took basic training
and 5½ mos at trade school 2 wks training
5 mos washing dishes. I arrived in England
in Dec 1942. I escaped with Pte Lott. I
had been drinking. It was Lotts idea to
go to Nuthingdon. He had a girl there
Witness as to character
Capt J. D. Ferguson 1 C.B.O.W. Sworn duly
Status
The accused has been working for
1 C B O W for about 3 months - while
working he performs his duties
well and does anything he is told to do.
He was working on motors, not skilled work.

I am in mitigation by deputy appeal
is attached

Wm Wm W.

Statement by Defaulter's Officer in the case of

B53548 Pte Ewd Tiller,

The conduct of the accused whose that he volunteered for service which works of est which carries a good wage in civilian life.

Since joining the Army he has been given work which was unsuitable for him. He was sent to Trade School where his conduct and his record of A.W.L. dates from this time. He made repeated efforts to transfer to an infantry unit without success.

He arrived in England in Dec 1942 and until April was not in any trouble. His company commander states that he was a good worker.

The present offence arose from an irregular absence in the second month and it can be stated that he was to some extent led away.

I submit that this case calls for

extreme leniency not that a recommendation be made for a transfer of this soldier to a more suitable unit

A.J. GREATHED
LIEUT.

Exhibit A.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr. 42

I CERTIFY that No. B-53548 . Rank Pte . . . Name Tilley, E. . . . . .

Unit . No. 1 B.C.W.S. . R.C.C.C. . was arrested at . . . . . Withington . . (place)

at . 1600 hrs. (hour) on 4 June 43 . (date) and that at the time of his arrest he was wearing (Military Uniform) or ~~(Civilian Clothing)~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

. . . . . Capt.

(Signature) D. A. P. M.,
London Area.

9 Jun 43

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B2356 Rank Pte. Name Lilley, C. Unit 1 C.B.O.M. R.C.O.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars ½ Portion	Amount £	s	d
9 June 41	Escorts return fare from LONDON To Manchester		12	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		4	6
	Total £	1	10	8

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

Lieut. CAPT.

Officer Issuing Railway Warrant and Expense mon[illegible]
No. 6 Provost Company, Canadian Provost Corps, London.

68 FERN D.A.P.M.
LONDON AREA.

C.M.H.Q. 7000-55
40/P & S/483

Exhibit B

SUMMARY OF EVIDENCE

in the case of B-53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of No.1 Canadian Ordnance Reinforcement Unit and attached for all purposes to the 1st. Canadian Base Ordnance Workshop, a soldier ofthe Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness: Prosecution — B-57526, Pte. COOMBS, A.C., 1st. Cdn. Base Ordnance Workshop, RCOC., having been duly sworn, states:

I was Guard Commander of the 1st. C.B.O.W., Guadaloupe Guard, on 30 May 43. My tour of duty was from 1630 hours, 30 May 43, to 1630 hours, 31 May 43.

When I took over the Guard Room from the old Guard Commander there were five (5) prisoners in the cells. No. B-53548, Pte. TILLEY, E., was one of the prisoners.

At about 0430 hours, 31 May 43, Pte. TILLEY asked to go to the lavatory. I accompanied him to the lavatory and went back to the cell with him, saw him enter the cell and then I bolted the door.

At about 0545 hours when I went to awaken the prisoners, I discovered the door on Pte. Tilley's cell was open. I went into the cell and found it empty. I searched the Guard Room and the area surrounding it but couldn't find any trace of the missing prisoner.

I immediately reported Pte. Tilley's escape to the Regimental Police.

The accused declines to cross-examine the witness.

(SGD) Pte. A.C. Coombs

Second Witness: Prosecution — B-37670, R.S.M. DAVIS, 1st. Cdn. Base Ordnance Workshop, R.C.O.C., having been duly sworn, states:

At about 0600 hours, 31 May 43, the Regimental Police reported to me that B-53548, Pte. TILLEY, E., had escaped from the Guard Room. I inspected his cell and the guard room and found this report to be true. I then made arrangements to have the proper persons notified.

Pte. TILLEY was not reported in nor did I have any record of him from that date until the evening of the 9th June, 1943.

The accused declines to cross-examine the witness.

(SGD) H.B. Davis

Third Witness: Prosecution — Capt. D.D. CAMPBELL, Personnel Officer, 1st. Cdn. Base Ordnance Workshop, R.C.O.C., having been duly sworn, states:

I am the personnel officer of the 1st. Cdn. Base Ordnance Workshop and I produce:

(A) A certificate of the apprehension of the accused dated 9 Jun 43, and

(B) A certificate of expenses incurred in returning the accused to this Unit dated 9 Jun 43,

as Exhibits A & B for the prosecution and pertaining to the accused whom I now recognize. I have initialled the Exhibits for the purpose of identification.

The accused declines to cross-examine the witness.

(SGD) D.D. Campbell, Capt.

QUESTION TO THE ACCUSED

The accused having been duly cautioned as follows:-

Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED

I have nothing to say.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 (c), (d),(e),(f) and (g) have been complied with.

R.N. Brooks

(R.N. Brooks) Capt. & Adjt.
Officer detailed to take down
Summary of Evidence.

Bordon, Hants.
12 Jun 43.

Summary of Evidence

in the case of

D5355-8 Pte. Earl Tilley, R.C.O.C. on strength of No 1 Canadian Ordnance Reinforcement Unit & attached for all purposes to the 1st Canadian Base Ordnance Workshop, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness. Prosecution. D57526, Pte. A.C. Coombs, 1st C.I.S.O.W. having been duly sworn states:

I was guard Commander of the 1st C.I.S.O.W. Guadalcanal Guard. on 30 May 43. My tour of duty was from 1630 hours 30 May 43 to 1630 hours, 31 May 43.

When I took over the Guard Room from the old Guard Commander there were five prisoners in the cells. No D5355-8 Pte. Tilley, E. was one of the prisoners.

At about 0430 hours, 31 May 43 Pte Tilley asked to go to the Latrine. I accompanied him to the latrine & went back to the cell with him - saw him enter the cells & then I bolted the door.

At about 0545 hours when I went to awaken the prisoners I observed that the door on Pte Tilley's cell was open. I went into the cell & found it empty. I searched the guard room & the area surrounding it but could not find any trace of the [redacted] missing prisoner.

I immediately reported Pte Tilley's escape to the Regimental Police.

The accused declines to cross-examine the witness.

Pte. A.C. Coombs

MM

Second Witness Prosecution

B37670, R.S.M. H.B. Davis 1st C.B.O.W. having been duly sworn states:

At about 0600 hours, 31 May 43 the Regimental Police reported to me the No B53-49, Pte Tilly, E. had escaped from the Guard Room. I then inspected his cell & the guard & found this report to be true. I made arrangements to have the proper persons notified.

Pte Tilly was not reported in nor did I have any record of him from the date of his escaping up to & including the 2nd June, 1943.

The accused declines to cross-examine the witness.

H.B. Davis

Third Witness Prosecution

Capt. W.B. Campbell, Personnel Officer 1st C.B.O.W. having been duly sworn states:

I am the Personnel Officer of the 1st C.B.O.W. & I produce:

(A) A certificate of the apprehension of the accused dated 9 June 43.

(B) A certificate of expenses incurred in returning the accused to this Unit dated 9 June 43.

as Exhibits A & B for the Prosecution & pertaining to the accused whom I now recognize. I have initialled the Exhibits for the purpose of identification.

The accused declines to cross-examine the witness

[illegible] Capt.

The accused having been duly cautioned as follows:

Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing & may be given in evidence.

Answered by the accused: I have nothing to say.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence & hearing of the accused & that rules of Procedure 4 (a) (d) (e) (f) & (g) have been complied with.

R. H. Brooks Capt.
Officer detailed to take down Summary of Evidence.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	1942 14 Sept	Pte.		AWL 0600 hrs 14 Sep 42 until 0915 hrs. 17 Sep 42 (TA:3 days 3 hrs 15 min)	Documentary	Awd. summary forf.7 days' pay.A.A.46 2(d) Placed under stoppages $11.10 cost of apprehension	1942 22 Sept	Major F.A. Landriau	Forf 4 days' pay under F.R. & I.149
Barriefield	12 Oct 42	Pte		AWL in that he at Barriefield C Camp,Ont. did absent himself without leave from 0800 hrs the 12 Oct 42 to 1430 hrs the 20 Oct 42 (T.A.:8 days 6 hrs. 30 min.) Apprehended at Toronto by No.31 Provost Corps.	Documentary	28 days detention.	26 Oct 42	Lt-Col. F.A. Steer	Forf. 9 days' pay Cost of App. $12.36
Bordon	1 May 43	Pte.		AWL WCAB. AWL 8 days 20 hrs. 15 min.	Documentary	28 days F.P. 28 days Pay	11 May 43	Major A.T. Field	9 days Forf.

Certified true copy

ORIGINAL SHEET DESTROYED AFTER SIX MONTHS' SERVICE

M.F.M. 6
A.F.B. 122
(7TM—7-41 (1213-36)
H.Q. 1772-39-1652

No. B53548 Name TILLEY, Earl Sqn., Battery, or Company } Corps R.C.O.C. Date of enlistment } 21 NOV. 1941 G.C. Badges } NIL Service or Proficiency Pay } N/A

Date of last entry in Company Conduct Sheet } 15 May 1942 No. and date of last drunk } I 12 Feb 42 Period not reckoning towards freedom from extra fine } N/A Sheet No. 1 Signature O.C. Company, etc. } (SGD) Lt-Col. J.H.B. Orsett. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	1942 29 June	Pte		AWL 2359 hrs. 29 June 42 until 0445 hrs. 4 July 42 (TA: 4 days 4 hrs. 46 minutes.)	Documentary	Awarded cost of apprehension $11.10 14 days C.B.	1942 7 July	Major F.A. Landriau	Forf. 5 days pay under FR & I 149
London	1942 27 July	Pte		AWL 0600 hrs. 27 July 42 until 2215 hrs. 28 July 42 (TA: 1 day 16 hrs. 15 min.)	Documentary	7 days C.B. Awd. cost of apprehension $11.10	1942 30 July	Capt. W.A. Clark	Forf. 2 days' pay under FR & I 149
London	1942 2 Sept	Pte		Conduct to the prejudice, etc. Overstayed leave 1 hr. 31 min.	Documentary	5 days C.B.	1942 3 Sept	Lt. H.G. Cafley	

(P.T.O.)

M.F.B. 358

22M—3-41 (372-3)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-53548	Pte.	Earl TILLEY	No.1CORU att'd 1st. CBOW.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	5 times	A.W.L.	13 times
For	Conduct to prejudice,etc.	1 times	Conduct to prejudice,etc.	4 tinfes
For		times	Breaking out of Brks.	1 times
For		times	Drunkenness	1 times

or,

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and Nil days in military custody, making a total of Nil days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 19 years 10 months

6. The date of his attestation specified in his attestation paper 21 Nov 41

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank .....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [redacted] 15th day of June 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(R.N. Brooks) Capt. & Adjt.
for C.O., 1st C.B.O.W./RCOC.

I, B-53548, Private Earl TILLEY, desire to have an Officer assigned to represent me at my trial by Court-Martial.

I desire the services of LIEUT. A.J. GREATHED, I CBOW. if he is available.

E. Tilley
(B-53548 Pte. Tilley, E)

Bordon, Hants.
12 Jun 43

Concur:
Colonel
Commanding Officer
1st. Cdn. Base Ordnance Workshop, RCOC.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Bordon preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

E. Tilley.
(B-53548, Pte. Tilley, E.)

Bordon, Hants.
12 Jun 43

LIST OF WITNESSES

In the case of B-53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of No. 1 Cdn. Ordnance Reinforcement Unit and attached for all purposes to 1st. Cdn. Base Ordnance Workshop, a soldier of the Canadian Army Overseas.

(For the Prosecution)

1. B-57526, Pte. COOMBS, A.C. - 1st. Cdn. Base Ordnance Workshop, R.C.O.C.

2. B-37670, RSM. DAVIS, H.B. - 1st. Cdn. Base Ordnance Workshop, R.C.O.C.

3. Capt. D.D. CAMPBELL - 1st. Cdn. Base Ordnance Workshop, R.C.O.C.

(For the Defence)

None

PROSECUTOR

Capt. R.N. BROOKS - 1st. Cdn. Base Ordnance Workshop, R.C.O.C.

Dated this 12th day of June 1943, Guadaloupe Barracks, Bordon Camp, England.

R.N. Brooks Capt.
(R.N. Brooks) Capt. & Adjt.
1st. C.B.O.W./RCOC.

LIST OF EXHIBITS

in the case of B-53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of No. 1 Cdn. Ordnance Reinforcement Unit and attached for all purposes to 1st. Cdn. Base Ordnance Workshop, a soldier of the Canadian Army Overseas.

(For the Prosecution)

1. EXHIBIT "A" - A certificate of the apprehension of the accused dated 9 Jun 43.

2. EXHIBIT "B" - A certificate of expenses incurred in returning the accused to this Unit dated 9 Jun 43.

OFFICERS TO ATTEND UNDER INSTRUCTION

NIL

OFFICERS QUALIFIED TO SIT AS MEMBERS

Vide-A.A. 48-(4)
" -R.P. 19-(B)i;(B)ii;(B)iii;(B)iv;(B)v
" -A.A. 50-(2)-(3)

MAJOR C.W. KING	-1st. Cdn. Base Ordnance Workshop, RCOC.
MAJOR R.A. MITCHELL	-1st. Cdn. Base Ordnance Workshop, RCOC.
CAPT. N.D. KING	-1st. Cdn. Base Ordnance Workshop, RCOC.
CAPT. R.H. BECK	-7 C.I.R.U.(West Nova Scotia Regiment) attached 1st. Cdn. Base Ordnance Workshop, RCOC.
LIEUT. G.H. ROBERTS	-1st. Cdn. Base Ordnance Workshop, RCOC.

Bordon, Hants.
12 Jun 43

R.N. Brooks
(R.N. Brooks) Capt. & Adjt.
1st. C.B.C.W./RCOC.

I.L. 79 (Card #2)

PTE TILLEY E.

See I.L. 78 for 1st card

Correspondence to be PINNED here.

80/1CBOW/4
B53548 Pte. Earl RAMEY
1C.B.O.W.

II 79

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this SECOND day of JULY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "F" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~I am unable to appoint~~
*(~~Three Officers~~ to form the Court.)
*(~~A Field Officer~~ as President)
~~for the following reasons, namely~~

*Omit if not applicable.

17 July 43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.Col.	D.L. Redman, V.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A Major	from	2 C.I.R.U.
A Captain	from	2 C.I.R.U.
A Lieutenant	from WAITING MEMBER	2 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Louis Keene Col.
(LOUIS KEENE) Colonel
Commanding "F" GROUP, C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B53548 Pte Earl TILLEY 1 C.B.O.W.	FIRST CHARGE Sect 15(1) Army Act	Guilty	Guilty	
	SECOND CHARGE Sect.40 Army Act	Guilty	Guilty	
			Sentence To undergo detention for a period of Ninety (90) days: and to be put under stoppages of pay until the has made good £1-12-2 the expenses of his arrest - returns 3rd July 1943 WM	Confirmed Louis Keene Col.
	(See charge sheet attached)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Louis Keene Col. (Signed) [illegible]
(LOUIS KEENE) Colonel
Commanding "F" GROUP, C.R.U.
Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
3. The Interpreter)
4. The officers under instruction)

were duly sworn.

Signed this 3rd day of July 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (3) on page 762 M.M.L. 1939

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 3 day of July 1943

Louis Keene Col
Confirming Officer.

Promulgated and extracts taken in the case of B53548 Pte Tilley E.

(a) (Dated) 3/7/43 (Signed) F.H. Brooks Capt. 1 C.B.O.W.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23570) Wt.48178-850 30,000 2/42 A.& E.W.Ltd. Op.498

CHARGE SHEET

The accused, R.53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of 1 Canadian Ordnance Reinforcement Unit and attached to 1st Canadian Base Ordnance Workshop, a soldier of the Canadian Army Overseas is charged with, while on active service:-

First Charge - ABSENTING HIMSELF WITHOUT LEAVE - in that he
Sec.15(1) Army Act

at Guadaloupe Barracks, Bordon, Hants., at 1015 hours the 20th June 1943, while undergoing Detention, absented himself without leave until he was apprehended at Manchester, at 0540 hours on the 27th June 1943, thereby incurring expenses to the amount of £1-12-2 for his return.

Total absence 6 days, 19 hours, 25 mins.

Second Charge - AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY
Sec. 40 Army Act DISCIPLINE - In that he

at Manchester, on 27 June 1943 made use of a document purporting to be a genuine pass, well knowing that it was not genuine.

H.J. Lyle Lieut.-Col.
A/Commanding Officer
1st C.B.O.W./R.O.O.C.

Bordon, Hants.
29 June 1943

To be tried by Field General Court Martial

Louis Keene Col.
(LOUIS KEENE) Colonel
Commander
"F" Group, C.R.U.

Bordon Hants
2 July 1943

CBOW 82

MEDICAL OFFICER'S CERTIFICATE

I hereby declare that I have to-day examined:

NO. B 53548 Pte. Tilley, E.

UNIT 1st C.B.O.W. R.C.O.C.

and certify that I found him Medically fit/unfit to undergo trial by Court-Martial.

July 3. , 1943

Bordon, Hants.

W. M. P. Siffer, Capt.
R.C.A.M.C.
Att. 1st. C.B.O.W./R.C.O.C.

CBOW 82

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT
B535448 ON THE 3rd DAY OF July 1943
The accused. Pte. Gilley E. .....Unit. 1 C.B.O.W. R.C.O.C.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt Col D.L. Redman V.D. Unit. H.Q. C.R.U.

Members. Maj. J.V. Love .....Unit. 2.C.1.R.U.

Capt. B.J. Brown ....Unit. 2.C.1.R.U.

The officers under instruction are duly sworn:-

.....Unit.....

.....Unit.....

Prosecutor. Lieut J.T. Smith .Unit. 1.C.B.O.W. R.C.O.C.

Defending Officer. Maj. C.W. King...Unit. 1.C.B.O.W. R.C.O.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to charecter.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

The Plea in mitigation is attached.

3rd July

Plea in mitigation

v. PC 53548 Pte. Tedley E.

For

May it please the court I have to ask to bring the following points before the court.

Pte. Tedley is a late recruit, a very young soldier, in fact younger than the age of 19 years. He joined at the age of barely seventeen. There is no doubt that he did not intend to desert. He was working under the impression that he had permission from the authorities of the Item of his absence. Nothing has been proved, to show that he did not intend to return. He was at all times during his absence, perfectly dressed and offered no resistance on apprehension by the Military Police. In short, I submit that he is a very typical case of a very young soldier, thoughtless at the time and acting on the spur of the moment. Nothing has been proved to the contrary. He was of a very good character. Under the circumstances I ask that these points be taken into consideration in awarding the sentence.

[illegible]
1.C. R.O.C.

CERTIFICATE TO ACCOMPANY PRISONER [illegible]

I certify that No. [illegible] Private [illegible] ELLAM. E. ... Kay Street,
of Royal Canadian Ordnance Corps ..... Unit, was arrested at Ardwick Green, Manchester.
at 05.40 ... hours, on the Twenty-seventh day of JUNE 1943
Was wearing uniform at the time of arrest.
Signature of Provost Marshal, A.P.M. ..... Major.
or other officer into whose custody } A.P.M. Lancashire and
the above named person was taken on } Border District.
arrest.
Date 27th June 1943.

A. 01.741

B/A14

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B53548 Rank Pte. Name Tilley, E Unit 1 C BOW RCOC

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Manchester

Date	Particulars (½ portion)	Amount		
28 June 43	Escorts return fare from LONDON To Manchester		14	1
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		4	0
	Total £	1	12	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. Thew Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

C. A.T.H.

(To be handed to the man proceeding on Pass)

PASS

Place Guild

Date 25/6/43.

Unit 1st C.B.O.W. R.C.O.C

No. Pte C. Tilley B53518

has permission to be absent from his Quarters from 0600 hours Friday the 25th until 0200 hours Thursday the 1st July for the purpose of going Manchester.

(STAMP)

J.E. Nebbett Lieut

Lt.-Col. Commanding

Mil. Book 63

B.H.Q. 1772-63-32

Army Form B 252
(See King's Regulations)

CHARGE

9766.

R. C. O. C.

1 at C. B. O. W.

Regiment / Battery / Squadron / Troop or / Company

CHARGE against No. B. 53548 Rank PTE.

Name TILLEY. E.

Place Date of Offence

OFFENCE W. O. A. S.

(1) Absent from until apprehended by the MILITARY POLICE in HAY STREET ARDWICK GREEN MANCHESTER. (2) Stating a falsehood to an N.C.O. of the MILITARY POLICE. (3) Being in possession of a document purporting it to be genuine and knowing it not to be. on the 17th JUNE. 1943. at about 0540 hrs

Names of Witnesses

783994 L/Cpl. GREENSLADE. V. C. M. POLICE.

7688708 L/Cpl. PHINN. G. C. M. POLICE.

Signature of O.C. Battery, Squadron, Troop or Company: A. Rowley Major A.P.M. Lancs. & Border District

Punishment Awarded

By whom Awarded: Adjutant.

P.T.O.

21104 Wt. W2344/1818. 2,000,000. 2/41 S. & S. Ltd. 0452/42

Statement of EVIDENCE in the case of.

No. B.53548 PTE. TILLEY. E.
1ST C.B.O.W.
R.C.O.C.
BORDEN CAMP
BORDEN.

Sir,

at MANCHESTER on the 27th JUNE 1943 at about 0540 hrs I was on duty in HAY STREET ARDWICH GREEN accompanied by Sgt. PHINN. G. C.M. POLICE. where I saw the above named soldier. I asked him if he was on pass, he replied "Yes" and produced the attached document. Not being satisfied that the document was genuine I conveyed him to the DRILL HALL ARDWICH GREEN, where he admitted being un absentie. I arrested and handed him over to the N.C.O. I/c. Guard to be detained. He was sober and dressed in military Uniform.

MANCHESTER
27th JUNE-1943

V. Greenslade Sgt.
C. M. POLICE.

Sir,

I have read over and corroborate the above statement.

MANCHESTER
27th JUNE. 1943

G. Phinn Sgt
C. M. POLICE.

REMARKS

Summary of Evidence

in the case of B57544, Private Earl Tilley, Royal Canadian Ordnance Corps, on strength of No 1 Canadian Ordnance Reinforcement Unit & attached for all purposes to the 1st Canadian Base Ordnance Workshop, a Soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

Prosecution Witness - No B57544, Pte Morgan, R.A., 1st Can. Base Ordnance Workshop RCOC, having been duly sworn states:

I am employed in the Regt'l Police at the 1st CBOW. On the morning of 20 Jan 43 I was detailed along with Pte McSkimming to escort the personnel undergoing detention & field punishment over to the Mess Hall in Canada Hut number 6 to do fatigue duties. I was particularly responsible for the custody of Pte Lott & Pte Tilley.

At about 1015 hours (20 Jan 43) Pte Lott & Pte Tilley finished their job of cleaning pots & pans. I was about six feet away from them & turned to ask the NCO in charge of kitchen fatigues if there were any other jobs he wanted done. When I turned back again both Pte Tilley & Pte Lott were missing. I searched the Mess Hall & covered the surrounding area but could find no trace of either of them. I immediately notified Sgt. Semple of the Regt'l Police.

Pte R.A. Morgan

The accused declines to cross examine the witness.

Second Witness - Prosecution - B37670, A.S.M. Davis, H.B. 1st Cdn. Base Ordnance Workshop, R.C.O.C. having been duly sworn, states,

At about 1050 hours, 20 Jan 43 the Regimental Police reported to me that B535548, Pte Tilley, E. (the Right Hon.) had escaped from [redacted] custody, they also reported that the proper persons & authorities had been notified.

Pte Tilley was not reported in sick and I have any record of him from that date until the morning of 29 Jan 43 when I was informed that Pte Tilley had been apprehended. At about 1830 hours, 29 Jan 43 I had occasion to visit the Guard Room & I saw Pte Tilley there at that time.

A.S.M. Davis

The accused declines to cross examine the witness.

Third Witness - Prosecution - Major A. T. Field, Senior Regimental Officer 1st Cdn Base Ordnance Workshop, R.C.O.C. having been duly sworn, states.

I am the Senior Regimental Officer of the 1st Cdn. Base Ordnance Workshop & I produce:-

(A) A certificate of apprehension of the accused dated 29 Jan 43

(B) A certificate of expenses incurred in returning the accused to this Unit dated 28 Jan 43

(C) A pass bearing the 1st CBOW stamp purporting to be signed by a Lt. Nesbitt - there is no such officer on the strength of the 1st Cdn. Base Ordnance Workshop.

as exhibits A, B, & C for the prosecution & pertaining to the accused whom I now recognize. I have initialled the exhibits for the purpose of identification.

On 15 Jan 43 Pte Tilley was sentenced to undergo 45 days detention by F.S.C.M. He was in the Unit Guard Room awaiting admittance to the detention Barracks - during part of this period he was employed on fatigue duties.

A T Field Major

The accused declines to cross examine the witness.

Fourth Witness - [redacted] 783994 L/Cpl Greenslade, V., R.M. Police
Prosecution

A statement of this witnesses evidence purporting to be signed by him has been read to the accused & is included in this summary of evidence: Having regard to the expense & loss of time involved the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

W.M. Brooks Capt.
1st CBOW.

Question to the Accused

Do you wish to make any statement or to give any evidence upon Oath. You are not obliged to say anything to give evidence unless you wish to do so. But whatever you say, or any evidence you give will be taken down in writing & may be given in evidence against you.

Answered by Accused

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E) & (F) & (G) have been complied with.

Taken down by me in the presence of the accused this 29th day of June, 1943 at Gordon, Kent, England.

W.M. Brooks Capt.
1st Adm. Base Ordnance Workshop

SUMMARY OF EVIDENCE

In the case of B.53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of No.1 Canadian Ordnance Reinforcement Unit and attached for all purposes to the 1st Canadian Base Ordnance Workshop, a soldier of the Canadian Army Overseas.
By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness - Mo. B.57544, Pte. MORGAN, R.A., 1st Canadian Base Ordnance Workshop, R.C.O.C., having been duly sworn, states:-

"I am employed in the Regimental Police at the 1st C.B.O.W. On the morning of 20 Jun 43, I was detailed along with Pte. McGillivray to escort the personnel undergoing detention and field punishment over to the Tent's Mess Hall in Canada Butments to do fatigue duties. I was particularly responsible for the custody of Pte. Lott and Pte. Tilley.

At about 1015 hours (20 Jun 43), Pte. Lott and Pte. Tilley finished their job of cleaning pots and pans. I was about six feet away from them and turned to ask the N.C.O. in charge of kitchen fatigues if there were any other jobs he wanted done. When I turned back again both Pte. Tilley and Pte. Lott were missing. I searched the Mess Hall and covered the surrounding area, but could find no trace of either of them. I immediately notified Cpl. Sproule of the Regimental Police."

The accused declines to cross examine the witness.

SGD: (Pte. R.A. Morgan)

Second Witness - Mo. B.57570, R.S.M. DAVIS, W.D., 1st Canadian Base Ordnance Workshop, R.C.O.C., having been duly sworn, states:-

"At about 1050 hours, 20 Jun 43, the Regimental Police reported to me that B.53548, Pte. Tilley, E. had escaped from custody, they (the Regt'l Police) also reported that the proper persons and authorities had been notified.

Pte. Tilley was not reported in nor did I have any report of him from that date until the morning of 22 Jun 43 when I was informed that Pte. Tilley had been apprehended. At about 1830 hours, 22 June 43, I had occasion to visit the Guard Room and I saw Pte. Tilley there at that time.

The accused declines to cross examine the witness.

SGD: (R.D. Davis)

Third Witness - Major A.T. Field, Senior Regimental Officer 1st Canadian Prosecution Base Ordnance Workshop, R.E.M.E., having been duly sworn, states:-

"I am the Senior Regimental Officer of the 1st Cdn Base Ordnance Workshop and I produce:-

(A) A certificate of apprehension of the accused dated 27 Jun 43.

(B) A certificate of expenses incurred in returning the accused to this Unit dated 28 Jun 43.

(C) A pass bearing the 1st C.B.O.W. stamp purporting to be signed by a Lieut. Mobitt - there is no such Officer of the strength of the 1st Canadian Base Ordnance Workshop

as exhibits A, B, and C for the prosecution and pertaining to the accused whom I now recognize. I have initialled the exhibits for the purpose of identification.

On 15 Jun 43 Pte. Tilley was sentenced to undergo 45 days detention by F.O.C.L. He was in the Unit Guard Room awaiting admittance to the Detention Barracks - during part of this period he was employed on fatigue duties."

The accused declines to cross-examine the witness.

Sgd: (A.T. Field)

Fourth Witness - 783394 L/Cpl. GREENSLADE, V., C.M. Police.
Prosecution

A statement of this witnesses evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence. Having regard to the expense and loss of time involved the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Sgd: (R.N. Brooks) Capt.
1st C.B.O.W.

Question to the Accused

Do you wish to make any statement or to give any evidence upon Oath. You are not obliged to say anything or give evidence unless you wish to do so. But what ever you say, or any evidence you give will be taken down in writing and may be given in evidence against you.

Answered by Accused

"I have nothing to say."

I certify that Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

Taken down by me in the presence of the accused, this 29th day of June, 1943, at Bordon, Hants., England.

Sgd: (R.N. Brooks) Capt.
1st C.B.O.W.

COPY

ORIGINAL SHEET DESTROYED AFTER SIX MONTHS SERVICE

M.F.M. 6
(A.F. B.122)
20/P & S/5186 (2965)

No. S.53548 Name TILLEY, Earl Sqn., Battery, or Company Corps R.C.O.C. Date of enlistment 21 Nov 1941 G.C. Badges Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet 15 May 1942 No. and date of last drunk 1 12 Feb 42 Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. (Sgd) Lt-Col. G.H.B. Bryant Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London	1942 23 Jun	Pte.		AWL 2359 hrs. 29 Jun 43 until 0445 hrs. 4 Jul 42 (TA: 4 days 4 hours. 46 mins.)	Documentary	Awarded cost of apprehension £11.10 14 days C.B.	1942 7 July	Major F.A. Torf.	5 days Landriap pay under FR& K 149.
London	1942 27 July	Pte.		AWL 0600 hrs. 27 Jul 42 until 2215 hrs. 28 Jul 42 (TA: 1 day 16 hours. 15 mins.)	Documentary	7 days C.B. Awd. Cost of apprehension £11.10	1942 30 July	Capt. A. Torf.	2 days Clark pay under FR& K 149.
London	1942 2 Sep	Pte.		Conduct to the Prejudice, etc., Overstayed leave 1 hr. 31 min.	Documentary	5 days C.B. Awd Summary	1942 3 Sept.	Lt. H.C Carley 1942	Major A. Torf 4 days
London	1942 14 Sept	Pte.		AWL 0600 hrs. 14 Sep 42 until 0915 hrs. 17 Sep 42 (TA: 3 days 3 hrs. 15 mins.)	Documentary	Torf. 7 days pay A.A.43 2(4) placed under stoppages £11.10 Cost of apprehension	22 Sept.	Landria pay under FR& K 149.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield	12 Oct 42	Pte.		AWL in that he at Barriefield C.D., Ont. did absent himself without leave from 0800 hrs. the 12 Oct 42 to 1430 hrs. the 30 Oct 42 (2A: 3 days 6 hours 30 mins.) Apprehended at Toronto by No.31 Provost Corps	Documentary	28 days Detention	26 Oct 42	Lt-Col. E.A.Steer	Forf. 2 days pay Cost of Appn. $12.36
Bordon	1 May 43	Pte.		A/L WOA1 AWL 5 days 2 hrs. 15 mins.	Documentary	28 days F.P. 28 days Pay	11 May 43	Major A.T. Field	3 dys forf PURSUANT 147(1)(a) Total forf. 37 days pay.
Field U.K.	31 May 43	Pte.		WOA1 AWL 0600 hrs. 31 May 43 to 1630 hrs. 4 Jun 43 (Absent 4 days 10 hrs.) Tried by F.G.C.C.	Documentary	45 days Detention & Stoppages of pay in the amount of £1-10-8	15 Jun 43	F.G.C.C. R.T. Brooks Capt.	Total forf. 52 days pay plus stoppages of £1-10-8

R.T. Brooks Capt.
30 Jun 43. 1st C Bon

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R.52548	Pte.	Earl TILLEY	#1 CCRU att'd 1st CRCW

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery, Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	5 times	A.W.L.	17 times
For	Conduct to the Prejudice	1 times	Conduct to the Prejudice	4 times
For		times	Breaking out of Barracks	1 times
For		times	Drunkenness	1 times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 and dispensations with trial under Section 47 of the Army Act A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for A.W.L. beginning on the 15th day of June, 1943

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in Air Force civil custody, and Nil days in military custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 19 years, 10 months, 18 days

6. The date of his commission specified in his record of service is attestation attestation paper 21 Nov 41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, air force reward for is in military military possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force (his regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of [illegible] Permanent Force, unit [illegible] dated [illegible], and in his regiment (or corps), the rank of [illegible] dated [illegible].

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion

In the rank of [illegible] years [illegible]

In the rank of [illegible] years [illegible]

In the rank of [illegible] years [illegible]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with, of accused, Number R.53549 Rank Pte. Unit [illegible]

Name Earl TILLEY of #1 CORU attd 1st CBOW Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	15 Jun 43 Bordon, Hants.	A.W.L. (A.A. 15(1))	45 days Detention and placed under stoppages of pay in the amount of £1-10-0	N I L

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of [illegible] 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

(R.N. Brooks) Capt. & Adjt.
1st C.B.O.W./R.C.A.C.

LIST OF EXHIBITS

in the case of B-53548, Private Earl TILLEY, Royal Canadian Ordnance Corps, on strength of No.1 Cdn. Ordnance Reinforcement Unit and attached for all purposes to 1st. Cdn. Base Ordnance Workshop, a soldier of the Canadian Army Overseas.

(For the Prosecution)

1. EXHIBIT "A" - A certificate of the apprehension of the accused dated 27 June 43.

2. EXHIBIT "B" - A certificate of the expenses incurred in returning the accused to this Unit, dated 28 June 43.

3. EXHIBIT "C" - A certified true copy of the PAGE which is mentioned in the evidence of 783994 L/Cpl. Greenslade, W.

(For the Defence)

N I L

TTT-242

Pte. Tomchuk, M J

RECORDED AT CMHQ IN AB 160 TTT-242

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) 40-P & S-1698 (2864)

Convened by Order of Brig T E Snow Comd 11 Can Inf Bde dated 27 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 127875	Pte		Michael James	TIMCHUCK	Irish Regiment of Canada

PROCEEDINGS REVIEWED

J.A.G. K. Macaulay Capt. for

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

CANADIAN ARMY 5 MAY 1944 G.H.Q. 2nd ECHELON

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 28 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans —

The Interpreter is sworn.(1) Do you object to Sgt J.J. Landreville as shorthand writer? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Maj	J.B. Snyder	Lord R
Member	Capt	D.S. Williamson	Lord R
Member	Lieut	J.A. Dent	Lord R
Judge-Advocate	Maj	M.W. Andrew	Lord R
Prosecutor	Maj	W.W. Reid	Lord Strathcona's Horse
Defending Offr	Capt	A.J. Andrew	11 Can Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused B127875 Pte M.J. Timchuk before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused, B127875 Private Michael James TIMCHUCK, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec 5 (7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH A MANNER AS TO SHOW COWARDICE,

in that he,

In the Field, on 21st April 1944, at approximately 2130 hrs, whilst his company was marching into the line, fell out of the ranks without authority to do so, and failed to rejoin his company.

SECOND CHARGE
Sec 9 (1)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING IN SUCH A MANNER AS TO SHOW A WILFUL DEFIANCE OF AUTHORITY A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,

in that he,

In the Field, on 23rd April 1944, when ordered by A/Capt F C Whyte to rejoin his company, refused to do so.

THIRD CHARGE
(Alternative)
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, on 23rd April 1944, at approximately 1830 hrs, when ordered by A/Captain F C Whyte to rejoin his company in the line, failed to do so.

R C Clark, Lt-Col
In the Field.
25 April 1944 Comd The Irish Regiment of Canada.

To be tried by Field General Court-Martial

In the Field
27 Apr 44

(T E Snow) Brig
Comd 11 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 83)
60/PAM/1047 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B 145512	Pte		Ralph Maxwell	BAIN	Irish Regiment of Canada
B 78801	Sgt		Francis Reginald	HARVEY	Irish Regiment of Canada
B 127875	Pte		Michael James	TIMCHUCK	Irish Regiment of Canada

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Apr 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint a Judge-Advocate to attend the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.E.Tippler (Must be named. RP 106.)		Perth R (Unit.)

MEMBERS.

Capt (Rank.)	L.F.Wettlaufer (Named or detailed. RP 106.)		Perth R (Unit.)
Lt (Rank.)	J.Den (Named or detailed. RP 106.)		Perth R (Unit.)

WAITING MEMBER.

Capt (Rank.)	J.S.Whyte (Named or detailed, if any. RP 106.)		Perth R (Unit.)

JUDGE-ADVOCATE.

Maj (Rank.)	M.W.Andrews (Must be named, if any. RP 106.)		Cadet (Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 27 Apr 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CANADA

IN REPLY PLEASE QUOTE
No.

DEPARTMENT OF NATIONAL DEFENCE
ARMY

27 April 194 4

B127875 Pte Timchuck M J

Irish Regt of Canada

" I certify that I have this morning examined B127875 Pte Timchuck M J , The Irish Regiment of Canada and in my opinion he his fit/~~unfit~~ to undergo a trial by court-martial.

W.D.S.

Station-In the Field

Date 24.4.44.

28.4.44
fit
Silverberg Pte

J. Vukanovic Lt.
Medical Officer

(K R (CAN) 577)

N.D. 22
1500M-2-42 (3466)
H.Q. 1772-161-23

FIRST WITNESS FOR THE PROSECUTION

B.78797 C.S.M. Foden, Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.1 "On the evening your Coy moved forward to take over the positions vacated by the Perth Regiment, did you see the accused, Pte Timchuk, and if so, will you tell the Court under what circumstances?"

A.1 "Previous to moving off from our reserve area to the forward area, I made a check of my Coy area for atricles that are generally left behind and to look to see if everyone had equipment and gear ready to move forward, and I saw Pte Timchuk with his Platoon, with his equipment on, ready to move forward. On reaching the forward area, it was reported to me that he was absent or missing from his Section. I later got a phone call from the Adjutant, who said that he had reported to 'A' Echelon the same night."

Q.2 "Has Pte Timchuk since reported in the lines as far as you know?"

A.2 "No, Sir."

Q.3 "When you returned to 'A' Echelon three days after entering the line, did you find Pte Timchuk here?"

A.3 "Yes, under close arrest, Sir."

CROSS-EXAMINED BY DEFENCE

Q.4 "Did you see Pte Timchuk personally?"

A.4 "Yes, Sir. I didn't speak to him, except that I had reason to get him. He had applied to the 2 i/c of the Coy that afternoon for permission to see the Major, that he was in a nervous condition, and would like to stay behind, Sir."

Q.5 "Did you check all personnel on arrival at the forward area?"

A.5 "No, Sir, it was impossible."

Q.6 "Who reported that Pte Timchuk was absent?"

A.6 "The Platoon Sergeant."

Q.7 "Did you receive the phone call from the Adjutant personally?"
A.7 "Yes, Sir."

Q.8 "Was there any shell fire at the time of the alleged offence?"
A.8 "As we hit the South ford, the North ford was being shelled in the distance.

Q.9 "Approximately how far distant was the shell fire?"
A.9 "About a mile, Sir. It looked closer at night."

Q.10 "That was the closest shell fire?"
A.10 "Yes, Sir."

Q.11 "Were you going into an attack or being attacked at the time?"
A.11 "We were proceeding into the line to take over from another unit."

RE-EXAMINED BY THE PROSECUTION

Q.12 "Would you have known if the enemy were about to put in an attack?"
A.12 "I think we would, Sir."

Q.13 "Had your Coy been under shell fire that day?"
A.13 "Yes, Sir, in the morning."

Q.14 "You knew the enemy were in front of you as you advanced?"
A.14 "Yes, Sir."

QUESTIONED BY THE COURT

Q.15 "Pte Timchuk made application to be paraded to the Major during the day. Was he paraded?"
A.15 "He was, to the 2 i/c of the Coy, and asked to speak to the Major.

Q.16 "Do you know why Pte Timchuk dropped out of the line of march?"
A.16 "No, Sir. He had no permission from the Coy Comd or myself to doso.

Q.17 "Was there a Coy order calling the parade preparatory to moving into the line?"
A.17 "Yes, it was given verbally to Platoons."

SECOND WITNESS FOR THE PROSECUTION

B.78873 Sergeant Guillaumier, V.J., Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.18 "On the night of 21st April what was your official job in 'A' Echelon?"
A.18 "On the night of 21st I was disciplinarian in 'A' Echelon, and had been ordered by Capt Whyte, the Adjutant, to make sure a convoy would not leave before midnight. Therefore I remained to make sure of that job."

Q.19 "Did you see the accused on the night in question, the 21st April?"
A.19 "Yes, Sir."

Q.20 "Would you explain to the Court under what circumstances you saw him?"
A.20 "On the 21st, at 2300 hours, I was waiting at the B.O.R. to make sure the convoy would not go out too early. Pte Timchuk came into the Orderly Room and reported to the effect that while on his way out to the front with his Coy his pack became undone and he foll out to fix it up. In the meantime his Coy moved forward and he lost them.

He said he considered it wiser to make for 'A' Echelon rather than go on alone."

Q.21 "Do you know the order in which the Coys were proceeding to the front that night?"
A.21 "No, Sir."

The Defence declined to cross-examine the witness.

QUESTIONED BY A.D.J.A.

Q.22 "What was your Unit doing the night of the 21st?"
A.22 "Moving up to the lines from our reserve position."

Q.23 "From the Hove area?"
A.23 "Just pass the Hove area, Sir."

QUESTIONED BY THE COURT

Q.24 "Do you know whether Pte Timchuk dropped out of the line?"
A.24 "I cannot say, Sir.".

Q.25 "Was it you he reported to in the B.O.R.?"
A.25 "It was me, Sir.".

Q.26 "Were you alone in the Orderly Room at the time?"
A.26 "No, Sir, Sgt Jeffries was there."

Q.27 "What happened to Pte Timchuk after that?"
A.27 "I brought him blankets and put him up for the night and reported to the Adjutant the first thing in the morning."

Q.28 "Were you present when he was paraded to Capt Whyte?"
A.28 "I paraded him to Capt Whyte, Sir."

Q.29 "As a result of being paraded to Capt Whyte then what happened?"
A.29 "I warned him for close arrest after seeing Capt Whyte and later on Capt Whyte told me to put him under open arrest, and then later still, close arrest again."

Q.30 "Do you know what subsequently happened to him?"
A.30 "He remained in this area, Sir."

Q.31 "What condition was Pte Timchuk in when he returned?"
A.31 "Just normal as far as I know, Sir."

THIRD WITNESS FOR THE PROSECUTION

A/Captain F.C. Whyte, Adjutant, Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.32 "On the night of 21/22 April can you recall any special job the Bn was called upon to do?"
A.32 "The night of the 21/22 April the Bn was ordered to relieve the Perth Regiment in the front line."

Q.33 "In the course of this relief can you recall for the Court in what order the Coys moved into the line?"
A.33 "Not the exact order, but to my knowledge it was 'D' and 'C' Coys, 'B' and 'A' Coys, in that order."

Q.34 "In that case, the accused man's Coy moved well forward in the column and numerous personnel should have seen him had he fallen out by the wayside?"
A.34 "Yes, Sir."

Q.35 "Will you tell the Court where the Padre's Jeep proceeded in the column, and for what purpose?"
A.35 "It was the last vehicle in the line, behind all marching

troops, for the purpose of picking up stragglers."

Q.36 "Were any stragglers picked up by this vehicle?"
A.36 "None were reported to this HQ."

Q.37 "Did you see the accused after the Bn moved into the line?"
A.37 "Yes, Sir."

Q.38 "Will you tell the Court under what circumstances you saw the accusedd?"
A.38 "On the morning of 22nd April at approximately 0900 hours the the accused was paraded to me by Sgt Guillaumiere. Pte Timchuk stated that he had fallen out of the line of march the previous night to adjust his pack and having done so, found himself so far behind his Coy that he had lost contact with them and could not find his way to the place where his Coy was going. He therefore returned to the unit 'A' Echelon. I placed him under open arrest and told him that he would go forward to join his Coy later. The evening of the 23rd April at approximately 1600 hrs I warned Pte Timchuk that he would go forward to rejoin his Coy on the Jeeptrain that same night. He refused the order point-blank and subsequently did not, as ordered, go forward to rejoin his Coy."

CROSS-EXAMINED BY THE DEFENCE

Q.39 "In this conversation with Pte Timchuk was the man warned that anything he said might be used in evidence against him?"
A.39 "No, he was not, Sir."

Q.40 "Regarding this Jeep that was travelling behind the column, in the normal course of events would you have been notified of any stragglers picked up?"
A.40 "It is possible, but it is not necessary that they would be reported at onec, but it is possible that they would."

Q.41 "When Pte Timchuk said that his nerves would not take it, was his manner defiant?"
A.41 "No, not defiant. He refused the order on the grounds that his nerves would not take the strain of war."

Q.42 "In other words you would say that the terminology of the second Charge is not accurate - that he was not defiant?"
A.42 "He used defiance in his words, but I do not think that his attitude was defiant."

Q.43 "Had you ever heard of Pte Timchuk before?"
A.43 "No."

QUESTIONED BY THE COURT

Q.44 "On Pte Timchuk's first being paraded to you what was his attitude at that time?"
A.44 "Very much the same as the second time, Sir, in that he said that his nerves wouldn't take the strain and that he was of no use to himself being there, nor to anyone else."

QUESTIONED BY A.D.J.A.

Q.45 "You placed Pte Timchuk under open arrest?"
A.45 "Yes, Sir."

Q.46 "Did he remain under open arrest until the 23rd?"
A.46 "Yes, he had to go forward, and as we were short staffed, I couldn't provide an escort for him."

Q.47 " At the time you gave him the order to go forward, the 23rd, he was under open arrest?"
A.47 "Yes."

QUESTIONED BY THE COURT

Q.48 "Do you remember in what manner Pte Timchuk refused, th

is what words he used?"
A. 48 "I cannot quite recall the exact words. It wasn't a case of 'go to hell, I won't take the order' - he refused the order and then explained why he refused the order."

QUESTIONED BY A.D.J.A.

Q. 49 "Can you remember the approximate words he used?"
A. 49 "I am sorry, Sir, I cannot."

SUBMISSION BY THE DEFENCE

"As in the previous case, I contend that the Evidence given fails to establish a case of Misbehaving Before the Enemy, on the grounds that all references I have been able to find in the Manual of Military Law indicate that the term 'before the enemy' means actually under shell fire, or during an attack. It is when the actual advance takes place and not an anticipated one. The accused, according to the Evidence, was not under shell fire, nor was there an attack going in at the time. On the strength of that, I would move that the First Charge be dismissed and I will make my statements later on regarding the other Charges."

The Court intervened and requested that the aforementioned statements be made at this time, rather than later.

The Defence continued

"Regarding the Second Charge: The man's attitude was described as reasonable. He was not emphatic. He tried to persuade the Adjutant to accept his point of view, and there was nothing indicative of wilful disobedience of authority."

The Court adjourned to consider the submission.

The Court re-opened.

The Submission was disallowed and the Court requested further Evidence. The Defence is ordered to proceed.

THE COURT QUESTIONED THE DEFENCE

Q. 50 "Do you wish to call witnesses on your behalf, witnesses as to character only?"
A. 50 "We wish to call witnesses, but not as to character only."

FIRST WITNESS FOR THE DEFENCE

B.127875, Pte Timchuk M.J., the accused, Irish Regiment of Canada 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q. 51 "Had you ever been in action before the 21st April?"
A. 51 "Yes, Sir."

Q. 52 "Where was your last action?"
A. 52 "The Orsogna Front, Sir."

Q. 53 "Was there any incident at Orsogna that particularly sticks in your mind?"
A. 53 "There was an incident at Orsogna Front, Sir. The last day before we moved out of that area we were mortared and shelled and one of my partners got killed-at the same time, I was knicked in the neck by shrapnel. Ever since then I have been shaky."

Q. 54 "I understand that it was a reserve position that the Irish were occupying at the time of your alleged offence?"
A. 54 "It was, Sir."

Q. 55 "Where were you at the time?"
A. 55 "I was on top of the hill on the far side, and when Jerry started to shell our position, one lit not far from where I was, killing one of our lads, and after that my mind went back to the Orsogna Front where my partn

was killed. My nerves went bad then, Sir."

Q.56 "Your Regiment was engaged in river crossing scheme one time recently?"

A.56 " Yes, Sir."

Q.57 "Is there any incident that comes to your mind?"
A.57 "There is one, Sir. We were crossing the river and one boat got away from the ropes in the swift current, and the boat tipped. We rushed to help out, as we were on the land by that time. There was a lad in the middle of the stream and he was yelling for help. As I didn't have a rope to throw, when I saw him go under and come up again, I jumped in and pulled him out."

(Aside to the Court) The Defence stated that all witnesses to this incident were in the line, and were therefore not available.

Q. 58 "Was there any recognition made of what you did?"
A. 58 "I believe it was a Sergeant of the Intelligence that came up to me and asked if I was the one that pulled him out. I said that it was me and he said that he asked because of a Merit that would be given."

Q. 59 "Back to the 23rd of April. When Captain Whyte told you to rejoin your Coy and ordered you to get on the Jeep train, what did you say to him?"
A. 59 "I told him that the way I was feeling that I couldn't go on, and said it would be all right for him to put me under close arrest."

Q.60 "What were your exact words?"
A.60 "I was notified that I was to go on the Jeeptrain that night, and I said I wished to speak to the Captain and seeing him, told him that I just couldn't go on with the Jeeptrain in the condition I was in. He tried to persuade me and I said that I just couldn't do it."

CROSS-EXAMINED BY THE PROSECUTION

Q. 61 "You actually saw shells land the day in question in your area?"
A. 61 "Yes, Sir."

Q. 62 "You did move off with your Coy to go into the line that night, but you stopped off?"
A. 62 "Yes, Sir, I stopped to adjust my pack.

Q. 63 "But you didn't go into the line?"
A. 63 "No, Sir."

Q. 64 "Did you notice any shelling or bombing when you went to go forward that night?"
A. 64 "No, Sir, I didn't."

Q. 65 "Were you ever bothered with that funny feeling previously to the time in question? Did your nerves ever trouble you previous to this incident?"
A. 65 "Yes, Sir, my nerves gave me trouble before, at Orsogna."

Q. 66 "Why did you not report to the Medical Officer about your nerves?"
A. 66 "We moved out of the line that night and I was glad to get out of that spot and we have never been in the line since, until going to this front here, Sir."

Q. 67 "When you were in forward positions, were you subjected to shelling and mortaring?"
A. 67 "One day we were mortared on the front there, and I dropped even though the bomb fell 500 yards to my left. I said to the others that they didn't know the effects of being hit.

Q.68 "Do you feel better in this area?"
A.68 "I do not, Sir."

Q.69 "Does the shelling still affect you?"
A.69 "It does, Sir."

Q.70 "After you could not proceed forward, how is it that you can stay around here, where there is shelling at times?"
A.70 "I can't get away, Sir. I have asked to get sent back."

Q.71 "Captain Whyte ordered you into the line the second time?"
A.71 "Yes, Sir."

Q.72 "And you refused?"
A.72 "Yes, Sir, I refused."

Q.73 "You were insolent then?"
A.73 "I just told him to place me under arrest, Sir."

QUESTIONED BY THE COURT

Q.74 "How old are you?"
A.74 "Twenty-eight, Sir."

Q.75 "How long have you been in the Army?"
A.75 "Two years this coming May, Sir."

Q.76 "When did you come to the Irish Regiment?"
A.76 "Last July, I think, Sir."

Q.77 "Have you ever been paraded to an M.O. for this nervous condition?"
A.77 "No, Sir. I paraded to the M.O. but it was not for nerves then, after I was hit on the Orsona Front."

Q.78 "At that time did you complain to any Officer of your condition?"
A.78 "I couldn't, Sir, we were just coming out of the line, and that was satisfactory to me at the time."

Q.79 "It was just that one time you were troubled with your nerves, then?"
A.79 "I was nervous before but it didn't amount to much until I was hit..The other bad shelling finished it off."

Q.80 "Were you evacuated at that time?"
A.80 "No, Sir."

Q.81 "The afternoon of the 21st when shells fell in your Coy area, how far away did these shells fall from where you were?"
A.81 "I would say between 75 and 100 yards, Sir.

Q.82 "You were on the road?"
A.82 "No, Sir, I was not on the road, I was in my trench."

Q.83 "How far away from you were the casualties?"
A.83 "Approximately 75 yards, Sir."

Q.84 "Did you help evacuate these casualties?"
A.84 "No, Sir."

Q.85 "Did you remain in your trench?"
A.85 "I remained for some time and then came down to look at the casualty, but he was covered with a blanket."

Q.86 "You didn't see the casualties occur, then?"
A.86 "I saw the bomb hit and saw the flash, Sir."

Q.87 "In this area where you are now shells fall from time to time, do they not?"
A.87 "Yes, Sir."

Q. 88 "And shells fall within a reasonable distance of where you are, do they not?"
A. 88 "Yes, Sir."

Q. 89 "Since the 21st of April have you had any attacks of nerves?"
A. 89 "Yes, Sir."

Q. 90 "Have you complained to any Officers about your nerves since the 21st?"
A. 90 "No, Sir."

SECOND WITNESS FOR THE DEFENCE

Captain Page Statten, R.C.A.M.C., attached to the Perth Regiment, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q. 91 "You are a Medical Officer?"
A. 91 "Yes."

Q. 92 "Have you had any experience with personnel who have, through nervous disability and other causes, been unable to perform their duties?"
A. 92 "Yes, Sir."

Q. 93 "In the case of a man who does an act of courage one day and an act of apparent cowardice sometime later, would you say that it was possible that this inconsistency could be explained in terms of a mental disorder, if the individual had a severe shock in the meantime?"
A. 93 "Yes, I think it could be."

CROSS-EXAMINED BY THE PROSECUTION

Q. 94 "Do you know the accused, Pte Timchuk?"
A. 94 "No, Sir."

Q. 95 "Have you examined Pte Timchuk medically?"
A. 95 "Yes, to find if he were fit or unfit to undergo Trial by Court Martial. I found him fit."

Q. 96 "As far as you know, there is no mental disorder in Pte Timchuk?"
A. 96 "No, Sir."

RE-EXAMINED BY THE DEFENCE

Q. 97 "In this normal check for fitness to undergo Trial, do you make any sort of psychopathic examination at all as a rule?"
A. 97 "Very roughly, yes. I make myself certain that they are of sound mind so that they can fully understand the Proceedings."

Q. 98 "But nothing in detail?"
A. 98 "No, just a rough check."

QUESTIONED BY THE COURT

Q. 99 "Do you remember this man complaining of any nervous disability when you were examining him prior to the Court-Martial?"
A. 99 "He did mention nervousness at the time, but my rough examination would put it down to the usual nervousness that accompanies men that are up for Court-Martial. Most men I have examined have been in that condition before the Court-Martial."

Q. 100 "How closely related are a state of nervousness and a state of cowardice?"

A. 100 "It is my opinion that cowardice is not a state of nervousness, Sir."

CLOSING ADDRESS BY THE DEFENCE

"Gentlemen, in this case I have endeavoured to show that any misbehaviour on the part of Pte Timchuk was not before the enemy. In regard to the Second Charge, that such disobedience to order as there may have been, was nothing wilfully defiant. The man's attitude was described as reasonable and his intention was not to disobey the order, but to try to convince the Officer in question that he was unable to carry out that order. You have heard the evidence of the experiences that this man has undergone, and to a man who may be of nervous temperament, such experiences would be sufficient, and according to medical opinion, could have caused the unbalancing of his mind where he was likely to encounter any similar incident, and that there was evidence where the man has behaved in not only a normal manner, but in a manner that was to a certain extent courageous. I therefore submit that the First Charge, inasmuch as it does not meet the circumstances given in the evidence, should be dismissed; that the Second Charge has been eliminated on the evidence of the Prosecuting Witness, and the Prosecution. Finally, that his failure to carry out the order given him was not an act of disobedience, but rather a statement on the part of the accused that he was at that time physically and mentally incapable of carrying it out."

CLOSING ADDRESS OF THE PROSECUTION

"If it please the Court, I have a few points I would like to bring out in closing. The Prosecution feels, setting aside all personal feeling, that the First and Second Charges have been amply proven. With regard to the First Charge: Witnesses, backed up by the admission of the accused, have definitely proven that fire was brought to bear by the enemy on positions occupied by the Irish Regiment on the day in question, and that the Regiment was advancing toward the enemy when the accused failed to show up. The Defence points out an act of bravery on the part of the accused. It hurts me in any way to take away from this act, but as I said before, personal feelings have to be set aside when justice is to be done, at times, and the Prosecution must submit to the Court that there is absolutely no proof or evidence submitted to substantiate this claim of bravery. I would also like to point out to the Court, as in the previous case, the Medical Officer who gave evidence, has stated not evidence, but personal opinion, in that he stated to the Court that he did not know the accused, and that his casual examination had revealed no serious nervous condition. It is pointed out respectfully to the Court that each and every one of us has, at one time or another been afraid, but it is our duty to overcome these fears and carry on. Evidence in this case definitely proves the accused was unable to do this. Regarding the Second Charge: The Witness for the Prosecution, A/Captain Whyte, on re-examination, stated the man's attitude was not insolent. - Quite true - The accused is not charged with insolence. He is Charged with wilfull disobedience of an order, and I think the Court will agree that when a man is given a direct order, and says, I will not do it, nothing could be more wilfull. His mind was made up, it could not be changed. I ask the Court to consider the fact that this lad was given a second change, but he still could not make it. In conclusion then, Gentlemen, the Prosecution feels that all the points stressed in the Charges have been covered and verified by reliable Witnesses, backed up by the voluntary evidence, in some evidence of the accused

The Court adjourns whilst the evidence is considered.

The Court re-opened and stated that the accused was found 'not guilty' of the Third Charge. The Findings of the Court on the First and Sechond Charges to be promulgated later.

THE COURT QUESTIONED THE DEFENCE

Q. 101 "Do you wish to give Evidence or to call Witnesses as to character?"

A. 101 "No, Sir.

Documentary Evidence is produced.

THE COURT QUESTIONED THE DEFENCE

Q. 102 "Do you wish to address the Court on the Statement and Conduct Sheet?"
A. 102 "Yes, Sir."

"Sir, you will notice that this man has a clean conduct sheet, that he has been in the Army for over two years and has apparently been an exemplary soldier. Although it has not been inscribed in his Conduct Sheet, there is an entry for gallantry. The Court's attention has already been drawn to an act of bravery that the accused performed. Further, I would only say that this man volunteered to come Overseas and put himself in a position where such a thing as did happen to him, could happen to him. The choice was freely made, and he made an attempt, where many others have not seen fit to make the same attempt.

The Court was declared closed.

THE A.D.J.A'S SUMMING-UP ADDRESS AND EXPLANATION OF THE POINTS OF LAW INVOLVED.

"As A.D.J.A., it is my duty to assist the Court in questions of Law and Procedure. In this present Trial, and in the First Charge, it is encumbent upon the Court to consider first, whether or not, upon the evidence submitted, the Charge is properly laid, and secondly, if the Charge is properly laid, whether or not the accused is guilty or not guilty. If, in the minds of the Court, there is any doubt whatever as to the guilt of the accused upon the Evidence submitted, then the accused is entitled to the benefit of that doubt, and the Finding of the Court must be 'not guilty'. If, however, the Evidence on both Charges, upon consideration by the Court, leaves no doubt whatever in the minds of the Court, as to the guilt of the accused, then the verdict must be 'guilty'. I wish to draw, in the First Charge, the attention of the Court to the fact that the substance of the Charge 'Misbehaving in the Face of the Enemy in Such a Manner as to Show Cowardice', forces the Court to decide if the accused was before the enemy in the true sense of the phrase, or, if not before the enemy, then the Charge must be dismissed. There is not one explanation, either in the Army Act or in the Manual as to what is meant by the phrase 'before the enemy' but I turn to Chapter 3, Section 20 of the Manual of Military Law and I read in toto. (Section 20 is read to the Court). The examples given in the Section are to be taken as examples, and I feel that the Court can justly consider whether the Evidence upon which the First Charge is laid is analogous to the examples given, and if so, then the Charge should have been one of Desertion, and as it stands now, should be dismissed. I feel that on the Second Charge it is a question of fact and that I need not labour it now."

The Court was declared closed, the Findings to be divulged at a later date.

I, B127975 Pte Michael James TIMCHUCK, The Irish Regiment of Canada, desire to have an Officer assigned to represent me at my trial by Court-Martial.

I desire the services of Captain N H SHAW, if he is available.

Signature

SUMMARY OF EVIDENCE

in the case of

B127875 Private Michael James TIMCHUCK, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service.

Charges:

1. When on Active Service, misbehaving before the enemy in such a manner as to show cowardice.

2. Disobeying a lawful command given by his superior officer.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS B 78797 CSM Foden, S R, The Irish Regiment of Canada, having been duly sworn, states:

"At about 2010 hrs 21st April 1944, on checking the Company area, I saw Pte Timchuck in his equipment, ready to move off with the Company. Upon arriving at the forward area it was reported to me that Pte Timchuck was absent. Later on we received a phone call from the Adjutant, stating that Pte Timchuck had reported at "A" Echelon."

The accused declined to cross-examine the witness. S R Foden CSM

SECOND WITNESS B 78873 Sgt Guillaumier, V J, The Irish Regiment of Canada, having been duly sworn, states:

"On the night of 21st April, 1944, Pte Timchuck reported to me at about 2200 hrs. He stated that he had been with his Company proceeding to the front line when his equipment came loose, and he stopped to fix it. He lost his company and returned to "A" Echelon. The following morning I paraded him to the Adjutant."

V Guillaumier Sgt

The accused declined to cross-examine the witness.

THIRD WITNESS A/Capt F C Whyte, Adjutant, The Irish Regiment of Canada, having been duly sworn, states:

"On the morning of April 22nd, 1944, Pte Timchuck was paraded to me by Sgt Guillaumier. He told me his story, how he had fallen out of the line of march to adjust his equipment while his company was moving to the front, and that having fallen out, his nerves got the better of him, and he did not return to his Company but made his way back to the Unit's "A" Echelon.

I placed him under arrest at the time, and contacted his Company Commander as to his disposal.

The following night at approximately 1800 hrs, having been advised that Pte Timchuck was to rejoin his Company, I personally told him that he would go forward with the jeep train that night. He refused, stating his nerves would not take it, and he did not go forward on the jeep train as ordered."

The accused declined to cross-examine the witness.

F C Whyte Capt

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may ge given in evidence.

ANSWER BY THE ACCUSED

I wish to make a statement.

The accused, B127875 Pte Timchuck, M J, having been duly sworn, states:

"I wanted to see Major LaPrairie on the afternoon of April 21st. He was out on a burial ceremony at the time. I spoke to Captain Southby to ask Major LaPrairie if he could possibly send me back to "B" Echelon on account of my nerves being pretty well upset. After seeing Capt Southby later that evening, he told me that Major LaPrairie said that I would have to go into the front line. I felt pretty bad about it, seeing he wouldn't consider my feelings. I packed up and tried to make the trip to the front line.

When we started out about a mile down the road my coat came undone from my pack. I stopped to fix it, and then, hearing a few more booms of the guns, my nerves started to give way again.

I saw that my platoon was away some distance from where I was, and made up my mind to return to "A" Echelon to tell them that I returned back on account of my nervous condition.

I reported to Sgt Guillaumier some time after 2100 hrs, and on the following morning he paraded me to the Adjutant. The Adjutant placed me under arrest, and later warned me to go forward, but I knew my nerves would not stand it, so refused."

Timchuk M.J.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused in the Field, this 24th day of April, 1944.

George R Duncan

G R Duncan, Captain
The Irish Regiment of Canada

M.F.M. 6
(A.F.B.127)
40/P.S./8136 (2983)

No. B127875 Name Timchuck M J | Sqn., Battery, or Company | Corps CIC | Date of enlistment 21 May 42 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. N Hickling, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Sheet destroyed 21 Nov 42 - Last entry - Nil No cases of drunkenness (N. Hickling)

Dated in the Field this
25th day of April 1944

Certified true copy from
the Regimental books in
my custody.

F C Whyte, A/Capt
Adjutant

(P.T.O.)

No. B127875 ....Rank. Pte ..... Name TIMCHUCK M J ..... Unit The Irish Regiment of Canada

Age 28 ..Married or Single Single ..... Dne .....

Date of Attestation 5 ~~December~~ May 1942.

Number of Days in Close ..... five days

Civil Nil ..... Military One ..... Nil ..... Total One .....

Dates of appointment, promotions etc. of officers N/A

Decorations ..... Nil

In the Field
25 April 1944
Date

F C Whyte, A/Captain
The Irish Regiment of Canada

Note: Certified true copy of AFW 6 must accompany this form.

The following is the concise form of medical certificate to be used for trial. The accused must be examined on the morning of each day he is on trial and a certificate obtained on each occasion.

"I certify that I have this morning examined No. B 127875

Rank ...Pte .... Name Timchuck, M J The Irish Regiment of Canada

and in my opinion he is fit/unfit to undergo trial by court martial.

Station ....In the Field

Date .....

Medical Officer

(M R (C.M) 577)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 5(1)	Not Guilty	Guilty	
2nd AA Sec 9(1) (alternative)	Not Guilty	Guilty	
3rd AA Sec 9(2)	Not Guilty	Not Guilty	
4th			
5th			

Dated 25 Jul 44
In the Field

GOC, 5 Cdn Armd Div

Promulgated and Extracts taken in the case of B-127875 Pte TIMCHUK M J
Ir R [redacted]ADA

(Dated) 1 Aug 44 (Signed)

Commandant 56 Mil Prison & Detn Barracks.

FGCM - 28 Apr 44

" The Judge-Advocate-General, Canadian Army Overseas, having advised that the conviction upon the first charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said charge be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

Dated 23 Jul 44
In the Field

~~Comd II Cdn Armd Bde~~ "
"Comd 11 Cdn Inf Bde

" Upon it appearing to me, an authority having the power to mitigate, remit or cummute the punishment awarded by the sentence herein that the finding on the first charge is invalid and has been set aside, I, having regard to the finding on the second charge, ~~do mitigate the punishment as awarded by the Court and confirmed by the confirming officer~~ (or do not mitigate the punishment awarded by the court and confirmed by the confirming officer) ~~as~~

Dated 25 Jul 44
In the Field

GOC, 5 Cdn Armd Div "

Promulgated and Extracts taken in the case of B-127875 Pte TIMCHUK M J
Ir R [redacted]ADA

(Dated) 1 Aug 44 (Signed)

Commandant 56 Mil Prison & Detn Barracks.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which 1 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for one (1) year

(Sgd) [signature] Judge-Advocate, if any. 28 Apr 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the Finding and Sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] A/Brig

Date 9 May 44 Commanding 11 CIB Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B127875 Pte Timchuck, M J	12 May 44	F C Whyte, A/Capt & Adjt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first and second charge(s), and allowed on the ~~charge(s)~~; and that, accordingly, the trial will proceed on the former, but the accused is (are) found ~~Not Guilty~~ on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give evidence under oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court in (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and second charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 1, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P 2 and Ex P 3 respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Plea by my defending officer.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 66-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 5(7)	Not Guilty	Guilty	
2nd AA Sec 9(1) (Alternative)	Not Guilty	Guilty	
3rd AA Sec 9(2)	Not Guilty	Not Guilty	
4th			
5th "JET"			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

XXXXXXXXXXXXXXXXXXXX Remaining Accused "JET" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for one (1) year.

(Sgd) "MW Andrew" Major — Judge-Advocate, if any.
28 Apr 44 — Date awarded.
(Sgd) "JE Tipler" Maj. — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the Finding and Sentence of the Court

"ES" XXXXXXXXXXXXXXXXXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3, para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No. (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~no~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first and second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first and second charge(s). ~~XXXXXXXXXX~~ "JET" and that, accordingly, the trial will proceed on the former, ~~XXXXXXXXX

COPY

1 Cdn Corps (Legal)

5-20-3/A
HQ 5 Cdn Armd Div
21 May 44

Field General Court Martial
B127875 Pte Michael James TIMCHUK
Ir R C

1 Herewith proceedings in the m/n case for review and custody.

2 This unit and bde have been advised that in future it would be preferable on the facts of the first charge to lay a charge of desertion. However in the present instance, the Bde were not under comd at the time of trial. They did consult a member of the JAG staff of the NZ Div, and the court's attention was brought to the question of fact as to what was actually meant by "before the enemy". Having considered this fact and having found that the accused was actually before the enemy, it is submitted that the charge has been substantiated.

3 It will also be noted that the convening authority appointed a Judge advocate who is not a member of the JAG Branch. Nevertheless under the circumstances, it was considered necessary by the convening authority, and quite properly so, that a Judge advocate should sit on this court. He therefore appointed a qualified barrister who has had considerable experience in courts martial in this capacity.

"WMW Shaw" Capt
for (B M Hoffmeister) Maj Gen
GOC 5 Cdn Armd Div

FGCM - 28 Apr 44

" The Judge-Advocate-General, Canadian Army Overseas, having advised that the conviction upon the first charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said charge be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

Dated 23 Jul 44
In the Field

~~Comd 11 Cdn Armd Bde~~ "
Comd 11 Cdn Inf Bde

" Upon it appearing to me, an authority having the power to mitigate, remit or commute the punishment awarded by the sentence herein that the finding on the first charge is invalid and has been set aside, I, having regard to the finding on the second charge, ~~do mitigate the punishment as awarded by the Court and confirmed by the confirming officer (or~~ do not mitigate the punishment awarded by the court and confirmed by the confirming officer) ~~as~~

Dated 25 Jul 44
In the Field

GOC, 5 Cdn Armd Div "

Promulgated and Extracts taken in the case of B-127875 Pte TIMCHUK M J
Ir R CANADA

(Dated) 1 Aug 44 (Signed)

Commandant 56 Mil Prison & Detn Barracks.

48/CMHQ/Mat/8

CMHQ
10/Timchuk MJ/1 (JAG)
29/Quash/1/2

8 Jul 44

OIC,
Cdn Sec GHQ 2 Ech,
AAI

FGCM - 28 Apr 44
B-127875 Pte Timchuk M J
Ir RC



1. Reference letter Comd 1 CBRGp (8002/1/2) dated 6 Jun 44 and this Headquarters J 349 of to-days date.

2. The m/n proceedings have been reviewed at this Headquarters at the same time as the proceedings in the case of B-78801 Sgt Harvey F R, Ir RC, and for the reasons given for my decision upon the petition of the last mentioned soldier, the finding of the court on the first charge in the m/n proceedings cannot stand. (See 10/Harvey FR/1 dated 8 Jul 44).

3. I must, therefore, advise the confirming officer that the finding on the first charge should be set aside, the record of the conviction removed and the accused relieved from all consequences of his trial thereon. This direction should be effected by endorsing on the copy of the proceedings in your possession the following minute:

" The Judge-Advocate-General, Canadian Army Overseas, having advised that the conviction upon the first charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said charge be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

In the Field
(Date) _____ Comd 11 Cdn Armd Bde "

4. The proceedings should then be passed to the appropriate authority under RP 54(B), being GOC, 5 Cdn Armd Div, in order that he may deal with the sentence awarded to the accused having regard to the conviction upon the second charge. He may, if he considers it proper, mitigate, remit or commute the sentence but there is no obligation upon him to do so. In considering Harvey's case, as a superior military authority, I decided not to mitigate the sentence because I regarded the second offence in the circumstances as most grave. The direction of the GOC, 5 Cdn Armd Div should be effected by endorsing on the proceedings the following minute:

" Upon it appearing to me, an authority having the power to mitigate, remit or commute the punishment awarded by the sentence herein that the finding on the first charge is invalid and has been set aside, I, having regard to the finding on the second charge, do mitigate the punishment as awarded by the court and confirmed by the confirming officer (or do not mitigate the punishment awarded by the court and confirmed by the confirming officer) to

In the Field
(Date) _____ GOC, 5 Cdn Armd Div "

5. After the copy of the proceedings has been dealt with as aforesaid, the above directions must be promulgated to the accused; reflected in unit orders, the accused's records amended accordingly and a minute of promulgation endorsed on p 4 of CF A96. Duplicate original minutes with a full certificate of promulgation will be prepared and forwarded to this Headquarters to be attached to the original proceedings.

6. As in Harvey's case, the accused is subject to being tried again upon a properly worded charge for his conduct in leaving the line of march on 21 Apr 44

P. J. Montague

(P J Montague)
Major-General
Judge Advocate General
CANADIAN ARMY OVERSEAS

Copies to -

HQ 5 Cdn Armd Div
OC Ir RC
Cdn Sec GHQ 1 Ech AAI (DJA)
Cdn Sec GHQ 1 Ech 21 Army Gp (DJAG) 2

"JE Tipler Maj"
"Pres F.G.C.M"

CHARGE SHEET

The accused, B127875 Private Michael James TIMCHUCK, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec 5 (7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH A MANNER AS TO SHOW COWARDICE,

in that he,

In the Field, on 21st April 1944, at approximately 2130 hrs, whilst his company was marching into the line, fell out of the ranks without authority to do so, and failed to rejoin his company.

SECOND CHARGE
Sec 9 (1)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING IN SUCH A MANNER AS TO SHOW A WILFUL DEFIANCE OF AUTHORITY A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE,

in that he,

In the Field, on 23rd April 1944, when ordered by A/Capt F C Whyte to rejoin his company, refused to do so.

THIRD CHARGE
(Alternative)
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, on 23rd April 1944, at approximately 1830 hrs, when ordered by A/Captain F C Whyte to rejoin his company in the line, failed to do so.

"R.C. Clark"

In the Field.
25 Apr 1944

R C Clark, Lt-Col
Comd The Irish Regiment of Canada.

To be tried by Field General Court-Martial

In the Field
27 Apr 44

"E Snow"
(T E Snow) Brig
Comd 11 Cdn Inf Bde

"JE Tipler Maj
Pres F.G.C.M."

FIELD GENERAL COURT-MARTIAL

CFA36 (In lieu of AFA3)
40/P&IS/1697 (20068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B145512	Pte		Ralph Maxwell	BAIN	Irish Regiment of Canada
B78801	Sgt		Francis Reginald	HARVEY	Irish Regiment of Canada
B127875	Pte		Michael James	TIMCHUCK	Irish Regiment of Canada

CONVENING ORDER.

"ES"

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 Apr 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

"ES" 4. [illegible]
(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. [illegible] "ES"
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

Major (Rank.) J.E. Tipler (*Must be named. RP 106.*) Perth R (Unit.)

MEMBERS.

Capt L H. Wettlaufer Perth R

Lt (Rank.) J.Dent (*Named or detailed. RP 106.*) Perth R (Unit.)

WAITING MEMBER.

Capt (Rank.) J.S. Whyte (*Named or detailed, if any. RP 106.*) Perth R (Unit.)

JUDGE-ADVOCATE.

Maj. (Rank.) M.W. Andrew (*Must be named, if any. RP 106.*) Perth R. (Unit.)

On Active Service in the Fd

in Italy (Country.) "E Snow" (*Signed personally. RP 105 fn 2.*) Brig. (Rank.)

Date 27 Apr 44 Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

"JE Tipler Maj
Pres F.G.C.M."

27 APR 44.

B127875 Pte Timchuck M J

Irish Regt of Canada

" I certify that I have this morning examined B127875 Pte Timchuck M J, The Irish Regiment of Canada and in my opinion he is fit/~~unfit~~ to undergo a trial by court-martial.

"M.D.S."
Station-In the Field

Date 27-4-44

28.4.44

"Undercipherable" Lt.
Medical Officer

- fit -

(K R (CAN) 577)

"Undecipherable"

FIRST WITNESS FOR THE PROSECUTION

B.78797 C.S.M. Foden, Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.1 "On the evening your Coy moved forward to take over the positions vacated by the Perth Regiment, did you see the accused, Pte Timchuk, and if so, will you tell the Court under what circumstances?"

A.1 "Previous to moving off from our reserve area to the forward area, I made a check of my Coy area for articles that are generally left behind and to look to see if everyone had equipment and gear ready to move forward, and I saw Pte Timchuk with his Platoon, with his equipment on, ready to move forward. On reaching the forward area, it was reported to me that he was absent or missing from his Section. I later got a phone call from the Adjutant, who said that he had reported to 'A' Echelon the same night."

Q.2 "Has Pte Timchuk since reported in the lines as far as you know?"
A.2 "No, Sir."

Q.3 "When you returned to 'A' Echelon three days after entering the line, did you find Pte Timchuk here?"
A.3 "Yes, under close arrest, Sir."

CROSS-EXAMINED BY DEFENCE

Q.4 "Did you see Pte Timchuk personally?"
A.4 "Yes, Sir. I didn't speak to him, except that I had reason to get him. He had applied to the 2 i/c of the Coy that afternoon for permission to see the Major, that he was in a nervous condition, and would like to stay behind, Sir."

Q.5 "Did you check all personnel on arrival at the forward area?"
A.5 "No, Sir, it was impossible."

Q.6 "Who reported that Pte Timchuk was absent?"
A.6 "The Platoon Sergeant."

Q.7 "Did you receive the phone call from the Adjutant personally?"
A.7 "Yes, Sir."

Q.8 "Was there any shell fire at the time of the alleged offence?"
A.8 "As we hit the South ford, the North ford was being shelled in the distance.

Q.9 "Approximately how far distant was the shell fire?"
A.9 "About a mile, Sir. It looked closer at night."

Q.10 "That was the closest shell fire?"
A.10 "Yes, Sir."

Q.11 "Were you going into an attack or being attacked at the time?"
A.11 "We were proceeding into the line to take over from another unit."

RE-EXAMINED BY THE PROSECUTION

Q.12 "Would you have known if the enemy were about to put in an attack?"
A.12 "I think we would, Sir."

Q.13 "Had your Coy been under shell fire that day?"
A.13 "Yes, Sir, in the morning."

Q.14 "You knew the enemy were in front of you as you advanced?"
A.14 "Yes, Sir."

QUESTIONED BY THE COURT

Q.16 "Pte Timchuk made application to be paraded to the Major during the day. Was he paraded?"
A.15 ""He was, to the 2 i/c of the Coy, and asked to speak to the Major.

Q.16 "Do you know why Pte Timchuk dropped out of the line of march?"
A.16 "No, Sir. He had no permission from the Coy Comd or myself to do so.

Q.17 "Was there a Coy order calling the parade preparatory to moving into the line?"
A.17 "Yes, it was given verbally to Platoons."

SECOND WITNESS FOR THE PROSECUTION

B.78873 Sergeant Guillaumier, V.J., Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.18 "On the night of 21st April what was your official job in 'A' Echelon?"
A.18 "On the night of 21st I was disciplinarian in 'A' Echelon, and had been ordered by Capt Whyte, the Adjutant, to make sure a convoy would not leave before midnight. Therefore I remained to make sure of that job."

Q.19 "Did you see the accused on the night in question, the 21st April?"
A.19 "Yes, Sir."

Q.20 "Would you explain to the Court under what circumstances you saw him?"
A.20 "On the 21st, at 2300 hours, I was waiting at the B.O.R. to make sure the convoy would not go out too early. Pte Timchuk came into the Orderly Room and reported to the effect that while on his way out to the front with his Coy his pack became undone and he fell out to fix it up. In the meantime his Coy moved forward and he lost them.

He said he considered it wiser to make for 'A' Echelon rather to go on alone."

Q.21 "Do you know the order in which the Coys were proceeding to the front that night?"
A.21 "No, Sir."

The Defence declined to cross-examine the witness.

QUESTIONED BY A.D.J.A.
Q.22 "What was your Unit doing the night of the 21st"?
A.22 "Moving up to the lines from our reserve position."

Q.23 "From the Hove area?"
A.23 "Just pass the Hove area, Sir."

QUESTIONED BY THE COURT
Q.24 "Do you know whether Pte Timchuk dropped out of the line?"
A.24 "I cannot say, Sir.".

Q.25 "Was it you he reported to in the B.O.R.?"
A.25 "It was me, Sir.".

Q.26 "Were you alone in the Orderly Room at the time?"
A.26 "No, Sir, Sgt Jeffries was there."

Q.27 "What happened to Pte Timchuk after that?"
A.27 "I brought him blankets and put him up for the night and reported to the Adjutant the first thing in the morning."

Q.28 "Were you present when he was paraded to Capt Whyte?"
A.28 "I paraded him to Capt Whyte, Sir."

Q.29 "As a result of being paraded to Capt Whyte then what happened?"
A.29 "I warned him for close arrest after seeing Capt Whyte and later on Capt Whyte told me to put him under open arrest, and then later still, close arrest again."

Q.30 "Do you know what subsequently happened to him?"
A.30 "He remained in this area, Sir."

Q.31 "What condition was Pte Timchuk in when he returned?"
A.31 "Just normal as far as I know, Sir."

THIRD WITNESS FOR THE PROSECUTION
A/Captain F.C. Whyte, Adjutant, Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.32 "On the night of 21/22 April can you recall any special job the Bn was called upon to do?"
A.32 "The night of the 21/22 April the Bn was ordered to relieve the Perth Regiment in the front line."

Q.33 "In the course of this relief can you recall for the Court in what order the Coys moved into the line?"
A.33 "Not the exact order, but to my knowledge it was 'D' and 'B' Coys, 'B' and 'A' Coys in that order."

Q.34 "In that case, the accused man's Coy moved well forward in the column and numerous personnel should have seen him had he fallen out by the wayside?"
A.34 "Yes, Sir."

Q.35 "Will you tell the Court where the Padre's Jeep proceeded in the column, and for what purpose?"
A.35 "It was the last vehicle in the line, behind all marching

tropps, for the purpose of picking up stragglers."

Q.36 "Were any stragglers picked up by this vehicle?"
A.36 "None were reported to this HQ."

Q.37 "Did you see the accused after the Bn moved into the line?"
A.37 "Yes, Sir."

Q.38 "Will you tell the Court under what circumstances you saw the accused?"
A.38 "On the morning of 22nd April at approximately 0900 hours the accused was paraded to me by Sgt Guillaumiere. Pte Timchuk stated that he had fallen out of the line of march the previous night to adjust his pack and having done so, foundxm himself so far behind his Coy that he had lost contact with them and could not find his way to the place where his Coy was going. He therefore returned to the unit 'A' Echelon. I placed him under open arrest and told him that he would go forward to join his Coy later. The evening of the 23rd April at approximately 1800 hrs I warned Pte Timchuk that he would go forward to rejoin his Coy on the Jeep train that same night. He refused the order point-blank and subsequently did not, as ordered, go forward to rejoin his Coy."

CROSS-EXAMINED BY THE DEFENCE

Q.39 "In this conversation with Pte Timchuk was the man warned that anything he said might be used in evidence against him?"
A.39 "No, he was not, Sir."

Q.40 "Regarding this Jeep that was travelling behind the column, in the normal course of events would you have been notified of any stragglers picked up?"
A.40 "It is possible, but it is not necessary that they would be reported at once, but it is possible that they would."

Q.41 "When Pte Timchuk said that his nerves would not take it, was his manner defiant?"
A.41 "No, not defiant. He refused the order on the grounds that his nerves would not take the strain of war."

Q.42 "In other words you would say that the terminology of the second Charge is not accurate - that he was not defiant?"
A.42 "He used defiance in his words, but I do not think that his attitude was defiant.".

Q.43 "Had you ever heard of Pte Timchuk before?"
A.43 "No."

QUESTIONED BY THE COURT

Q.44 "On Pte Timchuk's first being paraded to you what was his attitude at that time?"
A.44 "Very much the same as the second time, Sir, in that he said that his nerves wouldn't take the strain and that he was of no use to himself being there, nor to anyone else."

QUESTIONED BY A.D.J.A.

Q.45 "You placed Pte Timchuk under open arrest?"
A.45 "Yes Sir."

Q.46 "Did he remain under open arrest until the 23rd?"
A.46 "Yes, he had to go forward, and as we were short staffed, I couldn't provide an escort for him."

Q.47 "At the time you gave him the order to go forward, the 23rd, he was under open arrest?"
A.47 "Yes."

QUESTIONED BY THE COURT

Q.48 "Do you remember in what manner Pte Timchuk refused, that

is, what words he used?"
A.48 "I cannot quite recall the exact words. It wasn't a case of 'go to hell, I won't take the order' - he refused the order and then explained why he refused the order."

QUESTIONED BY A.D.J.A.

Q.49 "Can you remember the approximate words he used?"
A.49 "I am sorry, Sir, I cannot."

SUBMISSION BY THE DEFENCE
"As in the previous case, I contend that the Evidence given fails to establish a case of Misbehaving Before the Enemy, on the grounds that all references I have been able to find in the Manual of Military Law indicate that the term 'before the enemy' means actually under shell fire, or during an attack. It is when the actual advance takes place and not an anticipated one. The accused, according to the Evidence, was not under shell fire, nor was there an attack going in at the time. On the strength of that, I would move that the First Charge be dismissed and I will make my statements later on regarding the other Charges."

The Court intervened and requested that the aforementioned statements be made at this time, rather than later.

The Defence continued
"Regarding the Second Charge: The man's attitude was described as reasonable. He was not emphatic. He tried to persuade the Adjutant to accept his point of view, and there was nothing indicative of wilful disobedience of authority."

The Court adjourned to consider the submission.

The Court re-opened.

The Submission was disallowed and the Court requested further Evidence. The Defence is ordered to proceed.

THE COURT QUESTIONED THE DEFENCE
Q.50 "Do you wish to call witnesses on your behalf, witnesses as to character only?"
A.50 "We wish to call witnesses, but not as to character only."

FIRST WITNESS FOR THE DEFENCE
B.127875, Pte Timchuk M.J., the accused, Irish Regiment of Canada, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.51 "Had you ever been in action before the 21st April?"
A.51 "Yes, Sir."

Q.52 "Where was your last action?"
A.52 "The Orsogna Front, Sir."

Q.53 "Was there any incident at Orsogna that particularly sticks in your mind?"
A.53 "There was an incident at Orsogna Front, Sir. The last day before we moved out of that area we were mortared and shelled and one of my partners got killed-at the same time, I was knicked in the neck by shrapnel. Ever since then I have been shaky."

Q.54 "I understand that it was a reserve position that the Irish were occupying at the time of your alleged offence?
A.54 "It was, Sir."

Q.55 "Where were you at the time?"
A.55 "I was on top of the hill on the far side, and when Jerry started to shell our position, one lit not far from where I was, killing one of our lads, and after that my mind went back to the Orsogna Front where my partner

was killed. My nerves went bad then, Sir."
Q.56 "Your Regiment was engaged in river crossing scheme one time recently?"
A.56 "Yes, Sir."

Q.57 "Is there any incident that comes to your mind?"
A.57 "There is one, Sir. We were crossing the river and one boat got away from the ropes in the swift current, and the boat tipped. We rushed to help out, as we were on the land by that time. There was a lad in the middle of the stream and he was yelling for help. As I didn't have a rope to throw, when I saw him go under and come up again, I jumped in and pulled him out."

(Aside to the Court) The Defence stated that all witness to this incident were in the line, and were therefore not available.

Q.58 "Was there any recognition made of what you did?"
A.58 "I believe it was a Sergeant of the Intelligence that came up to me and asked if I was the one that pulled him out. I said that it was me and he said that he asked because of a Merit that would be given.

Q.59 "Back to the 23rd of April. When Captain Whyte told you to rejoin your Coy and ordered you to get on the Jeep train, what did you say to him?"
A.59 "I told him that the way I was feeling that I couldn't go on, and said it would be all right for him to put me under close arrest."

Q.60 "What were your exact words?"
A.60 "I was notified that I was to go on the Jeeptrain that night, and I said I wished to speak to the Captain and seeing him, told him that I just couldn't go on with the Jeeptrain in the condition I was in. He tried to persuade me and I said that I just couldn't do it."

CROSS-EXAMINED BY THE PROSECUTION
Q.61 "You actually saw shells land the day in question in your area?"
A.61 "Yes, Sir."

Q.62 "You did move off with your Coy to go into the line that night, but you stopped off?"
A.62 "Yes, Sir, I stopped to adjust my pack.

Q.63 "But you didn't go into the line?"
A.63 "No, Sir."

Q.64 "Did you notice any shelling or bombing when you went to go forward that night?"
A.64 "No, Sir, I didn't."

Q.65 "Were you ever bothered with that funny feeling previously to the time in question? Did your nerves ever trouble you previous to this incident?"
A.65 "Yes, Sir, my nerves gave me trouble before, at Orsogna."

Q.66 "Why did you not report to the Medical Officer about your nerves?"
A.66 "We moved out of the line that night and I was glad to get out of that spot and we have never been in the line since, until going to this front here, Sir."

Q.67 "When you were in forward positions, were you subjected to shelling and mortaring?
A.67 "One day we were mortared on the front there, and I dropped even though the bomb fell 500 ywards to my left. I said to the others that they didn't know the effects of being hit.

Q.68 "Do you feel better in this area?"
A.68 "I do not, Sir."

Q.69 "Does the shelling still affect you?"
A.69 "It does, Sir."

Q.70 "After you could not proceed forward, how is it that you can stay around here, where there is shelling at times?
A.70 "I can't get away, Sir. I have asked to get sent back."

Q.71 "Captain Whyte ordered you into the line the second time?"
A.71 "Yes, Sir."

Q.72 "And you refused?"
A.72 "Yes, Sir, I refused."

Q.73 "You were insolent then?"
A.73 "I just told him to place me under arrest, Sir."

QUESTIONED BY THE COURT
Q.74 "How old are you?"
A.74 "Twenty-eight, Sir."

Q.75 "How long have you been in the Army?"
A.75 "Two years this coming May, Sir."

Q.76 "When did you come to the Irish Regiment?"
A.76 "Last July, I think, Sir."

Q.77 "Have you ever been paraded to an M.O. for this nervous condition?"
A.77 "No, Sir. I paraded to the M.O. but it was not for nerves then, after I was hit on the Orsona Front."

Q.78 "At that time did you complain to any Officer of your condition?"
A.78 "[illegible] I couldn't, Sir, we were just coming out of the line, and that was satisfactory to me at the time."

A.79 "It was just that one time you were troubled with your nerves, then?"
A.79 "I was nervous before but it didn't amount to much until I was hit..The other bad shelling finished it off."

Q.80 "Were you evacuated at that time?"
A.80 "No, Sir."

Q.81 "The afternoon of the 21st when shells fell in your Coy area, how far away did these shells fall from where you were?"
A.81 "I would say between 75 and 100 yards, Sir.

Q.82 "You were on the road?"
A.82 "No, Sir, I was not on the road, I was in my trench."

Q.83 "How far away from you were the casualties?"
A.83 "Approximately 75 yards, Sir,"

Q.84 "Did you help evacuate these casualties?"
A.84 "No, Sir."

Q.85 "Did you remain in your trench?"
A.85 "I remained for some time and then came down to look at the casualty, but he was covered with a blanket."

Q.86 "You didn't see the casualties occur, then?"
A.86 " I saw the bomb hit and saw the flash, Sir."

Q.87 "In this area where you are now shells fall from time to time, do they not?"
A.87 "Yes, Sir."

Q.88 "And shells fall within a reasonable distance of where you are, do they not?"
A.88 "Yes, Sir."

Q.89 "Since the 21st of April have you had any attacks of nerves?"
A.89 "Yes, Sir."

Q.90 "Have you complained to any Officers about your nerves since the 21st?"
A.90 "No, Sir."

SECOND WITNESS FOR THE DEFENCE

Captain Page Statten, R.C.A.M.C., attached to the Perth Regiment, 11 Canadian Infantry Brigade, having been duly sworn, is interrogated as follows:

Q.91 "You are a Medical Officer?"
A.91 "Yes."

Q.92 "Have you had any experience with personnel who have, through nervous disability and other causes, been unable to perform their duties?"
A.92 "Yes, Sir."

Q.93 "In the case of a man who does an act of courage one day and an act of apparent cowardice sometime later, would you say that it was possible that this inconsistency could be explained in terms of a mental disorder, if the individual had a severe shock in the meantime?"
A.93 "Yes, I think it could be."

CROSS-EXAMINED BY THE PROSECUTION

Q.94 "Do you know the accused, Pte Timchuk?"
A.94 "No, Sir."

Q.95 "Have you examined Pte Timchuk medically?"
A.95 "Yes, to find if he were fit or unfit to undergo Trial by Court Martial. I found him fit."

Q.96 "As far as you know, there is no mental disorder in Pte Timchuk?"
A.96 "No, Sir."

RE-EXAMINED BY THE DEFENCE

Q.97 "In this normal check for fitness to undergo Trial, do you make any sort of psychopathic examination at all as a rule?"
A.97 "Very roughly, yes. I make myself certain that they are of sound mind so that they can fully understand the Proceedings."

Q.98 "But nothing in detail?"
A.98 "No, just a rough check."

QUESTIONED BY THE COURT

Q.99 "Do you remember this man complaining of any nervous disability when you were examining him prior to the Court-Martial?"
A.99 "He did mention nervousness at the time, but my rough examination would put it down to the usual nervousness that accompanies men that are up for Court-Martial. Most men I have examined have been in that condition before the Court/Martial."

Q.100 "How closely related are a state of nervousness and a state of cowardice?"
A.100 "It is my opinion that cowardice is not a state of nervousness, Sir."

CLOSING ADDRESS BY THE DEFENCE

"Gentlemen, in this case I have endeavoured to show that any misbehaviour on the part of Pte Timchuk was not before the enemy. In regard to the Second Charge, that such disobedience to order as there may have been, was nothing wilfully defiant, The man's attitude was described as reasonable and his intention was not to disobey the order, but to try to convince the Officer in question that he was unable to carry out that order. You have heard the evidence of the experiences that this man has undergone, and to a man who may be of nervous temperament, such experiences would be sufficient and according to medical opinion, could have caused the unbalancing of his mind where he was likely to encounter any similar incident, and that there was evidence where the man has behaved in not only a normal manner, but in a manner that was to a certain extent courageous. I therefore submit that the First Charge, inasmuch as it does not meet the circumstances given in the evidence, should be dismissed; that the Second Charge has been eliminated on the evidence of the Prosecuting Witness, and the Prosecution. Finally that his failure to carry out the order given him was not an act of disobedience, but rather a statemet on the part of the accused that he was at that time physically and mentally incapable of carrying it out."

CLOSING ADDRESS OF THE PROSECUTION

"If it please the Court, I have a few points I would like to bring out in closing. The Prosecution feels, setting aside all personal feeling, that the First and Second Charges have been amply proven. With regard to the First Charge: Witnesses, backed up by the admission of the accused, have definitely proven that fire was brought to bear by the enemy on positions occupied by the Irish Regiment on the day in question, and that the Regiment was advancing toward the enemy when the accused failed to show up. The Defence points out an act of bravery on the part of the accused. It hurts me in any way to take away from this act, but as I said before, personal feelings have to be set aside when justice is to be done, at times, and the Prosecution must submit to the Court that there is absolutely no proof or evidence submitted to substantiate this claim of bravery. I would also like to point out to the Court, as in the previous case, the Medical Officer who gave evidence, has stated not evidence, but personal opinion, in that he stated to the Court that he did not know the accused, and that his casual examination has revealed no serious nervous condition. It is pointed out respectfully to the Court that each and every one of us [redacted], at one time or another been afraid, but it is our duty to overcome these fears and carry on. Evidence in this case definitely proves the accused was unable to do this. Regarding the Second Charge: The Witness for the Prosecution, A/Captain Whyte, on re-examination, stated the man's attitude was not insolent. - Quite true- [redacted] the accused is not charged with insolence. He is Charged with wilfull disobedience of an order, and I think the Court will agree that when a man is given a direct order, and says, I will not do it, nothing could be more wilfull. His mind was made up, it could not be changed. I ask the Court to consider the fact that this lad was given a second change, but he still could not make it. In conclusion then, Gentlemen, the Prosecution feels that all the points stressed in the Charges have been covered and verified by reliable Witnesses, backed up by the voluntary evidence, in some evidence of the accused

The Court adjourns whilst the evidence is considered.

The Court re-opened and stated that the accused was found 'not guilty' of the Third Charge. The Findings of the Court on the First and Second Charges to be promulgated later.

THE COURT QUESTIONED THE DEFENCE

Q.101 "Do you wish to give Evidence or to call Witnesses as to character?"

A.101 "No, Sir.

(Page nine cont'd)

Documentary Evidence is produced.

THE COURT QUESTIONED THE DEFENCE (Page Ten)

Q.102"Do you wish to address the Court on the Statementand Conduct Sheet?"
A.102"Yes, Sir."

"Sir, you will notice that this man has a clean conduct sheet, that he has been in the Army for over two years and has apparently been an exemplary soldier. Although it has not been inscribed in His Conduct Sheet, there is an entry for gallantry. The Court's attention has already been drawn to an act of bravery that the accused performed. Further, I would only say that this man volunteered to come Overseas and put himself in a position where such a thing as did happen to him could happen to him, The choice was freely made, and he made an attempt, where many others have not seen fit to make the same attempt.

THE AD.J.A.'S SUMMING-UP ADDRESS AND EXPLANATION OF THE POINTS OF LAW INVOLVED.

"As A.D.J.A. it is my duty to assist the Court in questions of Law and Procedure. In this present Trial, and in the First Charge, it is encumbent upon the Court to consider first, whether or not, upon the evidence submitted, the Charge is properly laid, and secondly, if the Charge is properly laid, whether or not the accused is guilty or not guilty. If, in the minds of the Court, there is any doubt whatever as to the guilt of the accused upon the Evidence submitted, then the accused is entitled to the benefit of that doubt, and the Finding of the Court must be 'not guilty'. If, however, the Evidence on both Charges, upon consideration by the Court, leaves no doubt whatever in the minds of the Court, as to the guilt of the accused, then the verdict must be 'guilty'. I wish to draw, in the First Charge, the attention of the Court to the fact that the substance of the Charge 'Misbehaving in the Face of the Enemy in Such a Manner as to Show Cowardice', forces the Court to decide if the accused was before the enemy in the true sense of the phrase, or, if not before the enemy, then the Charge must be dismissed. There is not one explanation, either in the Army Act or in the Manual as to what is meant by the phrase 'before the enemy' but I turn to Chapter 3, Section 20 of the Manual of Military Law and I read in toto.(Section 20 is read to the Court). The examples given in the Section are to be taken as examples, and I feel that the Court can justly consider whether the Evidence upon which the First Charge is laid is analogous to the examples given, and if so, then the Charge should have been one of Desertion, and as it stands now, should be dismissed. I feel that on the Second Charge it is a question of fact and that I need not labour it now."

The Court was declared closed, the Findings to be divulged at a later date.

51-23

Cpl. Timlick, L. J.

COUNTER NUMBER 59111

HOUR 2240

OPERATOR'S INITIALS

RELIEVING OPERATOR

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 61523 Tpr Laurie James TIMLECK - 4 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st (A) Sec 8(2)	NOT GUILTY	NOT GUILTY	
2nd (A) Sec 8(2)	NOT GUILTY	NOT GUILTY	
3rd (A) Sec 10(2)	NOT GUILTY	NOT GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Ninety (90) days

(Sgd) ..... Judge-Advocate, if any. 1 NOV/45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding ..... Confirming Officer.

Date 6 Nov 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B61523 TPR. TIMLECK L.S.	7 NOV. 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AE 160

5-V-23

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAA5) 40/1 & B/1698 (1944)

4/388

Convened by Order of Col J A Wilson A/ Comd "W" Repat CRU dated 31 Oct 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 61523	Tpr	Laurie James	TIMLECK	4 Cdn Repat Dep

PROCEEDINGS REVIEWED 10 Nov 1945

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Nov 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (or attached thereto.)(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans~~ ~~The Interpreter is sworn.~~(1) Do you object to CPL LAVOIE, G. as shorthand writer? Ans NO The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D L REDMAN	HQ CRU
Member	MAJ	J I JOHNSTON	4 REPAT
Member	CAPT	R E DEMPSTER	4 REPAT
~~Judge-Advocate~~			
Prosecutor	CAPT	J D CORLESS	4 REPAT
Defending Offr	LIEUT	R F CROSSMAN	4 REPAT

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans No(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO - SIR .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE - ATT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Give Evidence. Do you intend to call witnesses on your behalf ? Ans. NO - SIR. ~~Are they witnesses as to character only ?~~ Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd and 3rd charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~ and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Long Will Offr's (NOTED ATT)(2)
(*1. RP 37(C), 45(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which should affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the 3rd of May~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 86-90, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

B.61523 Trooper Laurie James TIMLECK, C.D.551, of "B" Wing, No 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
A.A SEC 9(1)

WHILE ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at Guildford, Surrey, on 21st October, 1945, at 2130 hours, refused to produce his identification when requested to do so by F.88024 Cpl. Blunden, R.J.

SECOND CHARGE
A.A SEC 9(1)

WHILE ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER

in that he

at Guildford, Surry, at approximately 2130 hrs, 21st October, 1945, when checked by F.88204 Cpl. Blunden, R.J. and H.9500 L/Cpl. Payette, M. of No 9 Coy, Canadian Provost Corps, struck H.9500 L/Cpl Payette, M. in the mouth.

THIRD CHARGE
A A SEC 10(3)

WHILE ON ACTIVE SERVICE, RESISTING AN ESCORT WHOSE DUTY IT WAS TO HAVE HIM IN CHARGE

in that he

at Guildford, Surrey, at approximately 2130 hrs, 21st October, 1945, when apprehended by F.88204 Cpl. Blunden, R.J. and H.9500 L/Cpl. Payette, M. of No 9 Coy, Canadian Provost Corps, did resist arrest by struggling.

(R.E.A. Morton) Colonel
Officer Commanding
4 Can Repat Depot

In the Field

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.A. Wilson) Colonel
A/Cond
"B" GP CRU

In the Fd
31 Oct 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 61503	Tpr	Laurie James	TIMLOCK	4 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Oct 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	HQ CDU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	To be detailed by CO 4 Cdn Repat Dep	4 Cdn Repat Dep
Capt	To be detailed by CO 4 Cdn Repat Dep	4 Cdn Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally RP 105 fn 2)

Colonel
(Rank.)

Date 31 Oct 45

A/ Commanding 2 Gp CDU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA98 (In lieu of AFA2) 40/P & S/1897 (4451)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined B/61523 T.P.R.
(No) (Rank)
TIMLECK L.J. of #4 C.D.N. REPAT. DEPOT "B" WING
(Unit)
and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station FIELD

Date 1 NOV 43

Sgd. (Medical Officer)

TRIAL OF

B-61523 TPR TIMLECK LJ 4 CDN REPAT DEPOT

PROSECUTION

FIRST WITNESS

F-68024 CPL BLUNDEN RJ, No 9 Coy Cdn Prov Corprs, sworn, states:-

Q. Will you show the Court your paybook and show us when you were promoted to the rank of Cpl?
A. (The witness shows his paybook to the Court and says:-) I am on the strength of No Cdn Prov Coy, stationed at Milford Station; this is my paybook; the Court will note that I was promoted to the rank of Acting Corporal on 14 Sep 44, which rank was confirmed on 14 Dec 44; since then at all times I have been a Corporal.

Q. Tell us what happened on the evening of 21 Oct 45?
A. On 21 Oct 45, at approximately 2130 hours, I was proceeding up High Street in Guildford, accompanied by L/Cpl Payette when I noticed two Canadian soldiers. I stopped the jeep and got out and checked the two Canadian soldiers; I checked Timleck the accused whom I recognize in this Court for a pass; he refused to show his pass; I also asked him for his service book and he refused to show it also; the accused then told me that it would take a bigger man than me to make him produce his identification/or pass. I then told Timleck that he was under close ar-)card rest and to get into the jeep; Tpr Smith and Tpr Timleck then started to walk away; Smith pushed me about a bit with his hands; I took hold of Smith and I noticed that Timleck was pushing L/Cpl Payette and I also seen him hit Payette in the mouth, that's Tpr Timleck, Sir. I also noticed that Timleck was on top of L/Cpl Payette in the centre of the road; I gave Payette a hand by pulling Timleck off the top of Payette; we then put Timleck under close arrest and put him in the jeep.

Q. Had you previously told Timleck that he was under close arrest?
A. Yes, I ordered him into the jeep and I said consider yourself under close arrest and get into the jeep.

Q. Where were you standing in relation to Cpl Payette and the accused?
A. Three or four feet away, Sir; High Street goes up a hill and we were just at the bottom of the hill.

Q. Did you think that Tpr Timleck was drunk at the time?
A. No, Sir; he had been drinking but looked quite capable of handling himself standing at the side of the road.

Q. What was Timleck doing when he was on top of Payette?
A. He was trying to hit, whether he was hitting him at that time I don't know but his arms were swinging.

CROSS-EXAMINED

Q. Did you ask the accused to show you his book?
A. Yes, Sir.

Q. Did you order him to show you his book?
A. No, Sir, I told him I was an NCO in the Provost Corps and to produce his paybook and identification card.

CROSS-EXAMINATION CONTINUED

Q. You didn't give him a direct order?
A. No, Sir, I didn't say, "I order you." or/words to that effect used like, "This is an order."

Q. I notice that on the summary of evidence you didn't mention anything about the accused saying that it would take a bigger a man than you to make him show you his paybook or identification card, is that correct?
A. No, I didn't

Q. Is it true?
A. Yes, Sir.

Q. Was Timleck improperly dressed?
A. I cannot recall, Sir.

Q. Tpr Timleck and L/Cpl Payette were together?
A. Yes, Sir.

Q. Did you see Timleck strike Payette?
A. Yes, before Smith and myself fell to the pavement.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH KR 83 (B)

SECOND WITNESS

H-9500 L/CPL PAYETTE M, No 9 Coy Cdn Prov Corps, sworn, states:-

Q. Have you got your paybook on you?
A. Yes, Sir.

Q. Show the Court when you were made a Lance/Corporal?
A. (The witness shows the Court his paybook and says:-) I was promoted to the rank of L/Cpl since 4 Mar 45; I have been a L/Cpl since that date.

Q. Will you tell the Court what happened on 21 Oct 45?
A. I was detailed for a patrol in Guildford to accompany Cpl Blunden on 21 Oct 45; at 2130 that evening while proceeding on High Street, I noticed two Canadian soldiers; Cpl Blunden stopped the jeep and got out while I remained in the jeep; I saw that they wouldn't cooperate with Cpl Blunden and I got out of the jeep and I then overheard Timleck say, "It would take a bigger man than you to put me in the jeep."

Q. Is Timleck in the room?
A. Yes, Sir. (pointing to the accused) One of them, I forget which one, said, "I'll give you two second to get out of our road!" I grabbed Timleck and he struck me with his fist in the mouth. We both tumbled to the ground and wrestled around and Cpl Blunden came around and gave me a hand and we put Timleck in the jeep.

Q. Had Timleck been drinking?
A. Yes but he was not drunk.

CROSS-EXAMINED

Q. When you fell to the ground with Timleck, I noticed that you grabbed him, were you trying to put him in the jeep?
A. Yes, I was trying to overpower him.

Q. Had ~~xxix~~ anybody told the accused that he was under arrest?
A. Maybe Cpl Blunden did, I didn't.

Q. You gave no order for Timleck to show you his pass or paybook?
A. No, I never at any time.

Q. When did you say you first made L/Cpl?
A. On 4 Mar 45, Sir.

Q. You have not been in the Provost Corps very long then?
A. No, Sir.

Q. Can you truthfully say that he was not drunk?
A. I can't say.

Q. Tpr Timleck struck you in the mouth, were you on the ground at the time?
A. I was standing up.

Q. You don't know if it is Tpr Timleck who said, "I will give you two seconds to get out of my road", or words to that effect?
A. I don't know who said that. I just heard it.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

-- DEFENCE --

FIRST WITNESS

The accused, sworn, states:-

Q. Did you report to 4 Repat for Canada Draft 551 at 2 o'clock in the morning of 21 Oct 45?
A. Yes, Sir.

Q. You got a meal when you came in at that time?
A. Yes, Sir.

Q. Did you have your breakfast at 8 o'clock that day?
A. No, Sir.

Q. Were you out for dinner that day?
A. No, Sir, I went down town.

Q. At what time did you go down town?
A. At 1130 hours that day, Sir.

Q. Where did you go?
A. To Milford in a pub where we drank gin and bitters.

Q. At what time did you leave the pub?
A. At 1400 hours that day, Sir.

Q. Did you come back to camp?
A. Yes, Sir.

Q. Did you have your supper around 5 o'clock that afternoon?
A. No, Sir, we went back to the pub; we left here at about 5:30 PM and went to the pub where we still drank bitters and gin there.

Q. What happened after that?
A. I don't know, Sir.

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Q. You blacked out more or less?
A. Yes.

Q. What do you remember last?
A. I was in jail at Guildford, kicking on the door at 1130 PM the same day.

Q. Where did the Provost bring you?
A. Here to camp.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH KO 83 (B).

THE PROSECUTION IS CLOSED

STATEMENT BY THE PROSECUTOR ON THE FINDINGS

Here again Cpl Blunden, an NCO in the Provost Corps, asked the accused to produce his paybook and identification card and he in turn refused to show it. As for the second charge, you have heard L/Cpl Payette say that one of the two men said, "I will give you two seconds to get out of my road." They tried to pass on. Payette attempting to arrest Timleck was struck in the mouth. Blunden was standing only four feet away from Timleck and Payette and he described very well what happened and he was in a very good position to see what was happening. He said that he saw Timleck strike Payette in the mouth. As for the third charge, the evidence brought out that Blunden put them under arrest and they were going to pass on and Payette admitted that he was trying to apprehend and overpower Timleck whereupon he was struck in themouth and to the ground and Timleck was on top of him and attempted to him again. Because he is on a Canada draft, I mean the accused, he is still subject to Army regulations and military discipline; it is quite obvious that just because he was on draft and had been drinking a bit, he felt justified in doing that; it still does not justify his antagonism against the Provost; he received no cooperation from the Provost who were willing to cooperate. I think that Timleck should be found guilty of all the charges.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

As regards to the first charge, I think there is quite a bit of doubt there as towhether a command was given or not; in any event the charge sheet itself says "when REQUESTED" not "when ordered". With regard to the second charge, striking a superior officer and third, resisting an escort, I am convinced that if a man goes to a pub for 3½ hours and has not eaten for some time, it is possible that he got drunk in that period. From the accused story, I am fully convinced that they were blacked out and I ask the Court to take all this in consideration before passing sentence on Tpr Timleck.

"B" WING NO. 4 CANADIAN REPATRIATION DEPOT

SUMMARY OF EVIDENCE

IN THE CASE OF

B-61523 Trooper TIMLECK, Laurie James,
C.D. 551, on strength of "B" Wing, No. 4
Canadian Repatriation Depot,
A soldier of the Canadian Army Overseas,
Taken at "B" Wing, 4 Canadian Repatriation Depot,
25th October, 1945.

By direction of the Commanding Officer, all evidence is taken on Oath.

FIRST WITNESS: For the Prosecution

F-88204 Cpl BLUNDEN, R.J. on strength of 9 Coy, Canadian Provost Corps, having been duly sworn states:

I am F-88204 Cpl BLUNDEN, R.J. on strength of 9 Coy, Canadian Provost Corps. On 21st October, 1945 at approximately 2130 hours, I was proceeding up HIGH STREET in GUILDFORD accompanied by H-9500 L/Cpl PAYETTE, M..

I noticed two Canadian soldiers and so stopped my jeep and walked over to them and asked them (B-46140 Tpr Smith and B-61523 Tpr Timleck, L.J.) for their passes. They refused to show them. I then asked them for their Service Books Part I. They refused to show their Service Books. At this point H-9500 L/Cpl PAYETTE got out of the jeep and came over to help me. I grabbed B-46140 Tpr SMITH, and fell to the pavement with him, he dazing himself probably from striking his head on the pavement. When I got up I noticed B-61523 Tpr TIMLECK, L.J. on top of H-9500 L/Cpl PAYETTE, M. Just previous to my fall with Tpr SMITH, I had seen B-61523 Tpr TIMLECK, L.J. strike L/Cpl PAYETTE in the mouth.

I left Tpr SMITH and went over to Tpr TIMLECK and pulled him off L/Cpl Payette and put him into the jeep. L/Cpl PAYETTE and I then put Tpr SMITH in to the jeep and took them both to the Civil Police Station in GUILDFORD. At approximately 2330 hours they were taken to "B" Wing, 4 Canadian Repatriation Depot Guard Room and a receipt obtained. I returned to my unit and in normal course made out Army Form "B" - 252 and forwarded it to "B" Wing, 4 Canadian Repatriation Depot

Question by accused to witness:

Q 1. Were Tpr SMITH and myself drunk?

A 1. No, not drunk but you were under the influence of liquor.

F-88204(R.J. Blunden) Cpl

The Army Form B-252 referred to by this witness is shown to the accused, marked by me Exhibit "A" for the prosecution and attached to the SUMMARY.

J.D. Corless Capt
(J.D. Corless) Capt
Offr taking down Summary

The witness withdraws

SECOND WITNESS For the Prosecution: H-9500 L/Cpl PAYETTE on strength No 9 Coy, Canadian Provost Corps, having been duly sworn states:

I am H-9500 L/Cpl PAYETTE, R. on strength of No 9 Coy, Canadian Provost Corps. I accompanied F-88204 Cpl BLUNDEN, R.J. on patrol in GUILDFORD, 21 Oct 45. At approximately 2130 hours while proceeding up HIGH STREET in GUILDFORD, we noticed two Canadian soldiers. Cpl BLUNDEN stopped the jeep and got out and went over to the accused soldiers, B-46140 Tpr SMITH, J.G. and B-61523 Tpr TIMLECK, L.J. I remained in the jeep until I noticed that they were not going to co-operate with Cpl BLUNDEN. I then got out of the jeep and went over to help Cpl BLUNDEN, B-46140 Tpr SMITH and B-61523 Tpr TIMLECK were trying to pass on. When I arrived I overheard Tpr TIMLECK say it would take bigger men than us to stop them. One of the mentioned soldiers, I can't remember which one said, "We'll give you two seconds to get out of the road". They tried to get by and I grabbed B-61523 Tpr TIMLECK, L.J. He struck me in the mouth with his fist and then we both fell to the pavement and wrestled there when Cpl BLUNDEN came over and pulled Tpr TIMLECK off and put him in the jeep. We then put Tpr SMITH in the jeep and took them to the Civil Police Station at GUILDFORD.

At 2330 hours they were taken to "B" Wing, 4 Canadian Repatriation Depot and a receipt obtained.

Question by the accused to witness

Q 1. Were Tpr SMITH and myself drunk?

A 1. No, you stood very well on the sidewalk.

Q 2. Were we under the influence of liquor?

A 2. Yes.

M Payette
H-9500 (M. Payette) L/Cpl

The witness withdraws

M

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to give evidence on Oath or make a statement.

The accused does not wish to call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in writing in the presence of the accused and that Rules of Procedure 4 (c), (d) (e), (f) and (g) were complied with.

J.D. Corless Capt.
(J.D. Corless) Capt
Officer detailed to take
down the Summary of Evidence

In the Field
25 Oct 45

EXHIBIT A
To proceedings of 54 H.Q.

CHARGE 10-1590

No. 4 CDN REPAT DEPOT 4 CDN REPAT DEPOT
File 22
Army Form B 252
(See King's Regulations)
Canadian Army Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. B-61523 Rank Tpr.

Name TIMLICK T.J.

Place GUILDFORD Date of Offence 21 Oct 45

OFFENCE WOAS

(1) REFUSING TO PRODUCE IDENTIFICATION
(2) STRIKING A MILITARY POLICEMAN
(3) RESISTING ARREST.

J.P. Oliver Capt

ORDERLY ROOM 45
OCT 22
HQ. 4 PROVOST

Names of Witnesses:—

F-88204 Cpl BLUNDEN R.
H-9500 L/Cpl PAYETTE M.

Squadron, Troop or Company
Signature of O.C. Battery,

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

3 3/44 G.H.Q.F.P. 2000

Statement of **EVIDENCE** in the case of

TPR TIMLICK T.J.

No. 4 CDN REPAT DEPOT.

Whilst on Guildford Patrol, at approximately 2130 hrs, 21 Oct 45, accompanied by L/Cpl Payette, I was proceeding up High St., Guildford in the jeep. I noticed two Canadian soldiers and stopped the jeep. I asked the a/m soldier for his pass and he refused to show it to me. I then asked him for his service book. He refused to produce it. I ordered him to get into the jeep; he refused and started to walk away. He shoved L/Cpl Payette, and hit him in the mouth. After I had put Tpr Timlick's friend in the jeep, I gave L/Cpl Payette a hand. We put Tpr Timlick in the jeep, placed him under close arrest and escorted him to the Guildford Civil Police station and locked him up. At approx. 2330 hrs [redacted] reported him to the guard room at No. 4 Repat Depot and obtained a live body receipt.

.....
(F-88204 Cpl BLUNDEN RJ)

I have read over the above evidence and corroborate same.

REMARKS .....
(H-9500 L/Cpl PAYETTE M)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-61523	Tpr	TIMLICK, I.J.	"B" Wing 4 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15 (1)	7 times.
For	A.A. Sec 11	1 times.
For	A.A. Sec 40	1 times.
For		times.

Date of first entry in Field Conduct Sheet 5th July, 1941

Date of last entry in Field Conduct Sheet 28th July, 1945

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. If the accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 10 days in military custody, *i.e.*, Nil days in open arrest, 10 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 25 yrs, 1 month, 18 days

6. The date of his ~~attesting up for military service~~ attestation is 27th May, 1941

~~7. The service which the accused is allowed to reckon is~~

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ Canadian Volunteer Service Medal and Clasp

~~9. If the accused is a warrant officer or N.C.O. The accused has served continuously in which rank, on the present date~~ Date of Promotion

~~In the substantive rank of~~

~~In the next subordinate rank of~~

~~In the corps rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

EXB

(21153) Wt.8870/669 100,000 4/42 A. & E.W.Ltd. Gp.698
(27468) Wt.29058/1878 60,000 9/42 " " Forms B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
D.C.M.	Camp Borden, Ontario, 27 Apr 42	Sec 12 (1) A.A. DESERTING HIS MAJESTY'S SERVICE	Imprisoned with hard labor for one (1) year	6 months Imprisonment with hard labor remitted by DOC DO 109 d/12/6/42 Gr 3 months remission of sent by DOC DO 169 d/28 7/42 Auth T20-T-160 (AJAG) d/20-7-42
D.C.M.	Camp Borden 22 Aug 42	Sec 15 (1) A.S. ABSENT WITHOUT LEAVE	75 days Detention	
F.C.C.M.	Field 19-11-44	Sec 15 (1) and Sec 40 A.A.	90 days F.P.	Released fr 25 F.P.C. at 1200 hrs on 17/8/44. 10 days remission earned signed D.V. Austin, Capt, D.A.P.M. of 25 F.P.C.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of ~~October~~ NOVEMBER 1945

(J.C. Dunn) Capt & A/Adjt
"B" Wing, 4 Cdn Repat Depot

No. B-6152 Name TIDLOCK, Laurie James | Sqn, Battery, or Company B | Corps C.A.C. | Date of enlistment 27-5-41 | Badges GC | Service or Proficiency Pay | 3/17 MFM 6 (AFB 1225) 40/PAM/136 (54133)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc K.B. Halleran Lieut | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	5 Jul 41	Tpr		AWOL fr 0545 hrs 2 Jul 41 to 0100 hrs 5 Jul 45	SSM Smith CA	3 days C.B. Forf 3 dayspay	5 Jul 41	E.M. Harding Capt	Forfs 3 days pay
Camp Borden	18 Aug 41	Tpr		AWOL fr 0545 hrs 18 Aug 45 to 1500 hrs 20 Aug 41 (2 dys 9 hrs 15 mins) Sgt Under Close Arrest fr 1830 hrs 20 Aug to 1155 hrs 21 Aug 41	A-305 Sgt Clement, J.	7 dys CB 4 dys with Pack Drill	1155 hrs 21Aug41	Major JW Graham	Forfs 3 dys pay FR&I
Camp Borden	1-12 41	Tpr		Sec 15 AA WOAS AWL fr 0100 hrs 1 Dec 41 until 2200 hrs 2-12-41 (Ab McNair sent 1 day 21 hrs)	Cpl AA Sec 46 (2)	2 dys pay under	2 Dec 41	Major A Childs	Forfs 2 dys pay under FR&I
Camp Borden	5 Dec 41	Tpr		Having been charged on the 13th Apr 42 with WOAS Deserting his Majesty Service in that he at 2200 hrs on 5 -12-41					

(FPG)

No B61523 Name TIDDLECK, Laurie James | Sqn, Battery, or Company | Corps Cdn Armd | Date of enlistment 27 May 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/128 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	3-8-42	Tpr		Sec 15(1) AA AWL fr 0600 hrs 3-Aug 42 until apprehended in Toronto Ont at 1140 hrs 1 Sep 42 by the Cdn Provost Corps Absent 28 dys 5 hrs 40 mins)	Documentary	75 dys Detn	22-8-42	D.C.M.	Forfs 29 d pay by FR
Camp Borden	9-1-43	Tpr		AWL fr 0600 hrs 9-1-43 until 1100 hrs 10-1-43 Absent 1 day 5 hrs	Sgt Cairns	2 days C.B.	11-1-43	Lieut FL Mallerah	Forfs 2 dy pay FR&I
Camp Borden	12-1-43	Tpr		Sec 15(1) AWL fr A8CACATC fr 2200 hrs 12 Jan 43 until apprehended in Toronto by Cdn Pro Corps at 1000 hrs 22 Feb 43(Absent 40 dys 12 hrs)	Documentary	28 days Detention	26-2-43	A McGoun Lt-Col	Forfs 41 d pay FR&I

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				after having been duly warned for special duty any day after 26-11-41 absented himself from Z A-8 CAC(A) TC until apprehended at 0645 hrs 27-3-42 by CPC (No cost of Apprehension and return) Absent 111 dys 8 hrs 45 mins He was tried by DCM at Camp Borden Ont on the 27-4-42. He was found guilty of the charge and was sentenced to be imprisoned with hard labour for 1 yr (6 months imprisionment with hard labour being remitted by DCO Dist # 2 MD. The sentence having been duly confirmed by the DCO M.D. 2 is herewith promulgated. [illegible] forfs 214 dys pay(SOS and forf'd 40 dys pay vide Part II # 8 d/12-1-42					6 months Imprisonment with hard labor being remitted by DCC (DO109 d/12-6-42 Granted 3 mths Remission of sent by DOC (DO169 d/28 7-42 Auth T20-T-160 (AWAG) d/20-7-42

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11Jun 44			AA Sec 15(1) AWL 1 dy 7 hrs 40mins	Cpl Lessard R.E.	14 dys CB	13Jun 44	FM Nash, Major.	
Field	21 Jul 44			AA Sec 11 Neglect to ~~xxxx~~ obey Part I Orders	SSM Mervin	7 days C.B.	13Jul 44	FM Nash, Major	
Field		Tpr		Sec 15(1) AA Sec 40 A.A.		90 dys F.P. Released fr 2 F.P.C. at 1200 hrs on 17/8/44 10 days remission earned (D.V. Austin Capt) D.A.F.M. 25 F.P.C.	19-11-44	F.C.C.M.	
Field	26-9-45	Tpr		AA 15(1) AWL fr 0900 hrs 26-7-45 to 0900 hrs 27 Jul 45 (Absent 24 hrs)	Deughan MG Sgt	14 dys CB & 14 days pay	28 Jul45	Lt-Col TW Eaton	1 dys pay RA&I 149(1)(a)

CERTIFIED TRUE COPY

(K. Smith) Lt-Col, Officer Commanding,
"B" Wing, 4 Canadian Repatriation Depot

A Edmondson Capt
Records Officer
4 Can Repat Depot
(R C Armd C)

LIST OF EXHIBITS

A.F.B. 252

EXHIBIT "A"

J.D. Corless Capt

(J.D. Corless) Capt
Offr Taking down Summary

LIST OF WITNESSES

For the Prosecution

FIRST WITNESS

F-88204 Cpl BLUNDEN, R.J. — 9 Coy, Canadian Provost Corps, Canadian Army Overseas

SECOND WITNESS

H-9500 L/Cpl PAYETTE, M. — 9 Coy, Canadian Provost Corps, Canadian Army Overseas

FOR THE DEFENCE

NIL

J.D. Corless Capt

(J.D. Corless) Capt
Officer Taking Down
Summary

LLL-113 TPR TIMLECK L.J.

LLL-114 TPR- BURTON DW

(C86) (1/44) 21

RECORDED AT CMHQ IN AB 160 222-113

Army Book, 160. Whether elected Trial Case No.

Regt.	No.	Rank and Name	Description of Court-Martial	Date and Place of Trial
1 Cdn Armd Car Regt(RCD)	B-61523	Tpr Timleck, L.J.	F.G.C.M.	Italy 19 Jan 1944

CHARGES

See also certified copy AB 160 kept by 1 CBRGp.-

(1) AA 18(4)
(2) AA 40(alt)
(3) AA 15(1) AWL from 0600 hrs 27 Dec 43 to 2015 hrs 27 Dec 43 (Absent 14 hrs 15 min)

President and Members of Court	Pleaded	Finding
Major D.R. Nairn Lieut J.A. Madill Lieut N.E. Thomas	(1) Not Guilty (2) Guilty (3) Guilty	(1) Not Guilty (2) Guilty (3) "

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

Character	Decorations, Honours and Rewards	Age	Service

SENTENCE AND MINUTE OF CONFIRMATION

120 days Det.
Finding confirmed but sentence commuted to read to suffer 90 days F.P. and a forf of 90 days pay. Sentence confirmed as so commuted - CRCASC 1 Cdn Corps Tpt Coln RCASC - 22 Jan 44

Transmitted for Promulgation	When and where Promulgated	23 Jan 44 1 Cdn Armd C Regt	Court dissolved	19

Date of Receipt	To whom sent	Date sent	Purport
28 Jan 44	Certified True Copy R Cordeau Capt (R. Cordeau)		

J.M.J.

22 (C87) RECORDED AT CMHQ IN AB 160 LL-114 (1/45)

Army Book, 160. Whether elected Trial Case No.

5238 PMEM—300 Bks.—5-43

Regt.	No.	Rank and Name	Description of Court-Martial	Date and Place of Trial
1 Cdn Armd Car Regt(RCD)	B-329	Tpr Burton, D.W.	F.G.C.M.	Italy 19 Jan 19 44

CHARGES See also certified copy AB 160 kept by 1 CBRGp.-

(1) AA 18(4)
(2) AA 40(alt)
(3) AA 15(1) AWL from 2130 hrs 26 Dec 43 to 2015 hrs 27 Dec 43 (23 hrs 15 min)

President and Members of Court	Pleaded	Finding
Major D.R. Nairn Lieut J.A. Madill Lieut N.E. Thomas	(1) Not Guilty (2) Guilty (3) G "	(1) Not Guilty (2) Guilty (3) "

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

Character	Decorations, Honours and Rewards	Age	Service

SENTENCE AND MINUTE OF CONFIRMATION

90 days F.P. & 90 days forf of pay
Confirmed by CRCASC 1 Cdn Corps Tpt Coln, RCASC - 22 Jan 44

Transmitted for Promulgation When and where Promulgated 23 Jan 44 1 Cdn Armd C Regt Court dissolved 19

Date of Receipt	To whom sent	Date sent	Purport
28 Jan 44	Certified true copy R. Cordeau capt R Cordeau		

g m j

RECORDED AT CMHQ IN AB 160 LLL-113

C 86

Regt	No	Rank and Name	Description of Court Martial	Date and Place of Trial
1 Cdn Armd C Regt RCD	B61523	Tpr Timleck, L.J.	FGCM	Field, Italy 19 Jan 44

CHARGES

(1) AA 18(4) WOAS, Stealing public property - 26 Dec 43 stole WD veh Dodge 15 cwt #4740993 property His Majesty's Government.

(2) AA 40 ALTERNATIVE WOAS Conduct ect 27 Dec 43 was improperly in possession of Dodge # 4740993 WD veh etc.

(3) AA 15(1) WOAS AWL 0600 hrs 27 Dec 43 until apprehended by Mil Police, Messina 2015 hrs 27 Dec 43

President and Members of Court	Plea	Finding
Maj D.R. Nairn G Den Tk Del Sqn (ElgR)	1. Not Guilty	1. Not Guilty R.P.37(A)
Lt J.A. Madill 1 Cdn AA Regt RCA	2. Guilty	2. Guilty
Lt N.E. Thomas 1 Cdn Armd C Regt(RCD)	3. Guilty	3. Guilty

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

SENTENCE AND MINUTE OF CONFIRMATION

120 days Detention.

Findings confirmed, sentence commuted as follows:

To suffer FP for 90 days and to forfeit all ordinary pay for a period of 90 days. Sentence confirmed as so commuted, by Lt-Col C.E. [illegible] CRASC 1 Cdn Corps Tpt Coln RCASC - 22 Jan 44

Transmitted for Promulgation	When and where Promulgated	Fd 23 Jan 44 Court dissolved	19

Forwarded to CMHQ 4 Feb 44

Date..4.Feb.44.....

Certified correct

Signature.....W.B.BATE.....
Capt ADJA 1 CBRGp

Rank and Appt.....

CERTIFIED TRUE COPY

W.B. Bate

(W.B. Bate) Capt
ADJA 1 CBRGp

RECORDED AT CMHQ IN AB 169 LL-114

C 87

Regt	No	Rank and Name	Description of Court Martial	Date and Place of Trial
1 Cdn Armd C Regt RCD	B320	Tpr Burton, D.W.	FGCM	Italy 19 Jan 44

CHARGES

(1) AA 18(4) WOAS Stealing public property 26 Dec 43 a WD veh Dodge 15 cwt #4740993, property of His Majesty's Government.

(2) AA 40 WOAS Conduct etc 27 Dec 43 was improperly in possession of WD veh (as above)

(3) AA 15(1) WOAS, AWL 2100 hrs 26 Dec 43 until apprehended by Mil Police, Messina at 2015 hrs 27 Dec 43

President and Members of Court	Plea	Finding
Major D.R. Nairn G Cdn Tk Del Sqn (Elg R)	1. Not Guilty	1. Not Guilty R.P.37(A)
Lt J.A. Madill 1 Cdn LAA Regt RCA	2. Guilty	2. Guilty
Lt N.E. Thomas 1 Cdn Armd C Regt (RCD)	3. Guilty	3. Guilty

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded

SENTENCE AND AMOUNT OF COMMUTATION

90 days FP and forfeiture of all ordinary pay for 90 days.

Confirmed by Lt-Col C.E. ~~Pattison~~ Palmer CRASC 1 Cdn Corps Tpt Coln - 22Jan 44

Transmitted for Promulgation	When and where Promulgated	Court Dissolved
	Fd 23 Jan 44	19

Forwarded to CMHQ 4 Feb 44

Certified correct

Date....4.Feb.44.....

Signature....W.B. Bate.....
Capt ADJA 1 CDNRCD

Rank and Appt.....

CERTIFIED TRUE COPY

W.B. Bate

(W.B. Bate) Capt
ADJA 1 CDNRCD

4h20.
Plé. Thion Th.

See S-25 for case.
" DD-78 " 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-93703 Private J L Timon, 1 Cdn FDS RCAMC.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Acquitted under sentence for beginning etc (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one hundred and twenty (120) days.

(Sgd) ..... Judge Advocate, if any. 26 Dec 44 Date awarded. (Sgd) W S Hunt Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(J). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 29 Dec 44. (Sgd) Gordon A Sinclair Commanding D.D.M.S., 1 Cdn Corps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-93703 Pte J.L. TIMON	31-Dec-44 1503 hours	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4L-20.

RECEIVED 16 JAN 1945 CMHQ

RECORDED AT CMHQ IN AB 160 [illegible] CASES (To top of page)

FIELD GENERAL COURT-MARTIAL

4/38B

1 Cdn Corps

Convened by Order of Lt-Col EW Whelpton Comd Adm Area. dated 8 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-93703	Private	John Lawrence	TIMON	1 Cdn FDS RCAMC

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

16 Jan 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 11 Dec 44 & 26 Dec 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by 4 Inf Div (1).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to -- as interpreter? Ans --

The Interpreter is sworn.(1) Do you object to L-22658 Cpl DF McLeod Hq1 Cdn Corps as shorthand writer? Ans No ~~The shorthand writer is sworn.(2)~~ The shorthand writer is duly sworn.

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W S Hunt	Hq 1 Cdn Corps
Member	Captain	M J Pratt	1 Cdn C Tps Wkshop RCEME
Member	Lieutenant	C W Seale	205 Cdn Armd Ord Sub Pk RCOC
Judge-Advocate		-------	
Prosecutor	Captain	J E Neele	1 Cdn FDS RCAMC
Defending Offr	Lieutenant	R H Porteous	1 Cdn FDS RCAMC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See D1 p 3.)

A8. The accused D-93703 Pte J L Timon before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C2/127

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) *; powers and duties of JA see RP* 103 *; duty of Prosecutor see RP* 60(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP* 81, 82 *; questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 *; calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 *; use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 *; and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes, sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides ~~(not)~~ to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on the charge(~~s~~). The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(~~s~~) his ~~(their)~~ plea(~~s~~) on the charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the schedule.(1)~~
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RF 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. Yes, I wish an adjournment to obtain a defence witness now in hospital.
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) Court adjourned until 1500 hours 26 Dec 44.
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. ~~The~~ Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~(2) The Court is closed, and considers the submission.(3) ~~The Court is opened~~, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is ~~(are)~~ found Not Guilty on ~~the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Give evidence as a witness. Do you intend to call witnesses on your behalf ? Ans. Yes. Are they witnesses as to character only ? Ans. No.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 (fns 2, 9.)*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(~~s~~).(1) The finding(~~s~~) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s) if any, of Not Guilty, and~~ states to the accused that the finding(~~s~~) of the Court on the charge(~~s~~) being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No, sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~), and in mitigation of punishment ?(1) Ans. Yes, through my defending offr.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 99, 118, 119(A), KR Can 308, 330, 563-566, Overseas KO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D.93703 Pte. John Lawrence TIMON, 1 Canadian Field Dressing Station, Royal Canadian Army Medical Corps, a soldier of the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

First Charge
Section 15(1)
Army Act

in the Field on 17 Nov 44 absented himself without leave from his unit, 1 Canadian Field Dressing Station, Royal Canadian Army Medical Corps, from 0900 hrs on said 17 Nov 44 until 1200 hrs 1 Dec 44. (Absent 14 days, 3 hours).

In the Field
3 Dec 44

A. Lucas Capt
T/Commanding
1 Canadian Field Dressing Station,
Royal Canadian Army Medical Corps.

To be tried by Field General Court Martial.

In the Field
8 Dec 44

(E W Whapton) Lt-Col.
Comd 1 Cdn Corps Adm Area.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-93703	Private	John Lawrence	TIMON	1 Cdn FDS RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) W S Hunt (Must be named. RP 106.) HQ 1 Cdn Corps (Unit.)

MEMBERS.

Capt To be detailed by OC 1 Cdn Corps Tps Wkshop RCEME

Capt or Lieut (Rank.) To be detailed by ADOS 1 Cdn Corps Tps (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.) To be detailed by Comd 1 Cdn Corps Adm Area. (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

(Rank.) (E W Whitton) (Signed personally. RP 105 fn 2) Lt-Col; (Rank.)

in ITALY (Country.)

Date 8 Dec 44

Commanding 1 Cdn Corps Adm Area. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFAOO (In lieu of AFA3) 40/T & S/1697 (4031)

PFX "G" MEDICAL OFFCER'S CERTIFICATE (KR(Can) para 557)

I certify that I have this morning examined No. D.93703 Pte.Timon J
of 1 Cdn. FDS RCAMC and in my opinion he is fit/~~unfit~~ to undergo
trail by Court-Martial.

Station In The Field

Date 11 Dec 44

J Hay Capt

(Signature of Medical Officer)

MEDICAL OFFICER'S CERTIFICATE (KR(Can) para 557)

I certify that I have this morning examined No. D. 91703 Pte. TIMON, J.L. of 1 Can. F.D.S. RCAMC. and in my opinion he is fit/~~unfit~~ to undergo trail by Court-Martial.

Station In The Field

Date 26 Dec 44.

(Signature of Medical Officer)

Statement with reference to charge by accused

When I was away from my unit I did not wilfuly go awl. I missed the unit truck at 0700 hours on the morning of the sixteenth as I was not wakened in time. I reported that day to the sgt of my unit with the detachment at the Canadian leave centre. I told him that I had missed the truck and asked him what I should do. He said that there was nothing he could do. He told me that if I couldn't find the officer that I would have to find my way back to the unit. I couldn't find the officer so I went down to the petrol points and other places where I thought I could get a ride but I couldn't get one. On the 23rd I ran into Cpl Davidson of 9 Cdn Fd Amb who said that I could go back with him. His truck was in the workshops and I waited for it to come out. When it came out on the 26th we could not go back till the 30th as the roads were out. We started back for Cattolico on the 30th. I returned to my unit from 9 Cdn Fd Amb.

FGCM proceedings in the case of D-93703 Pte J L Timon, 1 Can FDS RCAMC.

First Witness for the prosecution:- P-30240 S/Sgt C P Phillips, 1 Can FDS RCAMC, being duly sworn, is examined by the prosecution:-

Q-1 Will you identify yourself to the Court?
A-1 I am P-380240 S/Sgt C P Phillips, 1 Can FDS RCAMC, the senior NCO of 1 Can FDS RCAMC.

Q-2 Will you tell the court what you know about the accused?
A-2 Pte Timon was granted 7 days privilege leave on 9 Nov 44 to 16 Nov 44, 2359 hours. Pte Timon absented himself from the unit from 0900 hours 17 Nov 44 until 1200 hours, 1 Dec 44.

Q-3 Was there any extenuating circumstances why the charge reads 0900 hours 17 Nov 44 and not 2359 hours 16 Nov 44?
A-3 When another unit is supplying transport we allow the man the extra nine hours to get back to the unit.

X'd by the defence

Q-5 The accused did return voluntarily to his unit?
A-5 Yes, he reported in on 1 Dec 44 at 1200 hours.

No re-examination.

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

THE PROSECUTION IS CLOSED.

DEFENCE

First Witness for the Defence: The accused, being duly sworn, is examined by the defence:-

Q-6 Pte Timon, why were you in Rome?
A-6 I was granted leave from 9 Nov until 16 Nov 44.

Q-7 Was this the first privilege leave you have had in this theatre?
A-7 Yes.

Q-8 Where and when were you to meet transport to your unit?
A-8 I was to meet the unit transport on the morning of the 16th at 0700 hours, in front of the Canada Club. I got there about 0840 hours. I did not get there in time because they did not wake me up at the place I was staying. I tried to get lifts at the petrol points and so forth and I asked a few officers who were in charge of leave parties but they were not able to help me. They said they would like to help me but that they were all full up. There was no room to take me back. I went to the leave centre in the afternoon at approx 1400 hours. I tried to get a ride there. I reported to the sergeant who was in charge of the section of the FDS at the leave centre. The sergeant was there. I told him what happened and he said that there was nothing he could do about it and for me to make my way back as best I could.

Q-9 Did the sergeant say he would arrange a ride for you?
A-9 No, he did not.

Q-10 Was there an officer in charge of the section?
A-10 Yes, but he was not at the leave centre he was at the officer's club.

Q-11 Did you try to contact him?
A-11 I did but I could not find him.

Q-12 After you failed to contact the officer what did you do then?
A-12 I tried to get a ride. I met Cpl Davidson of 9 Cdn Fd Amb on the 23rd. I asked him to bring me back and he said he would.

Q-13 Did you try to get rides between the 17th and the 23rd?
A-13 Yes, I did. I tried every morning and every afternoon.

Q-14 Why did you not hitch-hike?
A-14 I figured it would take me four or five days to hitch-hike and I thought that if I got a ride I could make better time.

Q-15 Did you report to the MP's?
A-15 No, I did not want to have an AWL charge.

Q-16 Why did you not report again to the sergeant at the FDS section?
A-16 I asked him once and he told me he couldn't do anything for me so I did not want to bother him again.

Q-17 Did Cpl Davidson promise to give you a ride back?
A-17 Yes, I arranged to meet him later. We were both staying at the same place. We returned on the morning of the 1st of December at 0330 in the morning. We did not leave until the 1st as his truck had to go into workshops and when it was ready the bridges were out so we could not return on the 26th.

Q-18 Did you return with Cpl Davidson?
A-18 No, I returned in the other truck. We left about 5 o'clock in the morning.

Q-19 When did you return to the FDS?
A-19 The same day.

XX'd by the prosecution

Q-20 Pte Timon, you said that the truck was supposed to leave at 0700 hours and you did not report until after 0800 hours. The truck had left?
A-20 Yes.

Q-21 You were not staying at the leave centre?
A-21 No, we had permission to stay elsewhere.

Q-22 You reported on the afternoon of the 16th to the senior NCO of the detachment of 1 FDS who were working at the rest camp?
A-22 That is right, sir.

Q-23 Can you tell me just what the senior NCO said to you?
A-23 He said "There is nothing I can do about getting you transpo back home. You have to make your own way home".

Q-24 You did not try to contact Captain Luginsky?
A-24 Yes, I tried that morning and the next morning and afternoon.

Q-25 Did you see the senior NCO of the 1 FDS again?
A-25 No,

Q-26 Did you contact the orderly room at the rest camp?
A-26 No, sir. I was not booked there so I did not have any business there in the first place.

Q-27 Did you ever contact Captain Luginsky of 1 FDS detachment?
A-27 No, sir.

Q-28 You were in Rome from 16 Nov until 30 Nov and you never once after the first day contact the Sergeant or Captain Luginsky?
A-28 No, sir.

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

Second Witness for the Defence: D-91743 Cpl H. Davidson, 9 Cdn Fd Amb RCAMC, being duly sworn, is examined by the defence:

Q-29 Were you in rome between 16 and 23 Nov 44?
A-29 Yes, I was taking personel down to Rome on leave.

Q-30 Were you to remain in rome to bring these people back?
A-30 No, I was to return the next day.

Q-31 Did you meet Pte Timon in Rome?
A-31 Yes, I met him the same day I arrived. On the 23 Nov 44.

Q-32 Did he ask you for a ride?
A-32 He asked me how long I would be there. I said the vehicle would have to go to workshops. I told him I would take him back when I went back.

Q-33 When was your vehicle repaired?
A-33 On the twenty-eight. I went down to the provost when the vehicle was ready as I heard the roads were out. They siad the roads were out so I stayed that day. I left on the morning of the 30th.

Q-34 Did Timon leave with you?
A-34 No. I could not get in touch with my unit so they sent another vehicle down to pick up the leave personnel. Both vehicles left the same day. I was going to take Timon back on my truck but told him he had better go back on the other truck to protect himself in case my vehicle should break down again.

Q-35 Did you see Timon at 9 Fd Amb when you returned?
A-35 Yes.

XX'd by the Prosecution:

Q-36 You say you first saw Timon on the 23rd. Did he ask you for a left then?
A-36 He asked me if I was going back. I told him that the vehicle had broken down and I did not know how long it would be. I told him that when I was going back I would let him know and he could go back with me?

Q-37 That was on the 23rd?
A-37 That was on the night of the 23rd, and I got the vehicle back on the 28th. I had seen him around and as we always me he was in contact with me. I did not return on the 28th as the provosts told me the roads were out and could not take vehicles especially big vehicles were not allowed out. They were Okaying all passes.

No re-x'm

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Third Witness for the Defence: D-93599 Sgt T. Noon-Ward, 1 Cdn FDS RCAMC, being duly sworn, is examined by the defence:

Q-38 You were in Rome with a section of 1 FDS?
A-38 Yes. The section was there from 12 Nov 44 until 23 Nov 44. We returned to the unit on the 23rd.

Q-39 Did Pte Timon report to you on the afternoon of the 17th?
A-39 Pte Timon reported to me at approx 1455 hours on the afternoon of Nov 16.

Q-40 You knew he was on leave?
A-40 Yes.

Q-41 You did not think he was AWL?
A-41 At that time he was not AWL.

XX'd by the prosecution

Q-42 When Pte Timon reported to you did you know he had missed the lorry?
A-42 He told me he had missed his lorry at 0830 in the morning.

Q-43 You were senior NCO i/c this detachment.
A-43 Yes.

Q-44 Can you tell us just what you said to Pte Timon?
A-44 When he told me his case I told him there was not much I could do at the time as I was too busy but I told him to keep in touch with me.

Q-45 Did you see Pte Timon again in Rome?
A-45 No.

Q-46 As senior NCO of his unit did you make any arrangements to help him in the circumstances?
A-46 If he had returned to me in the morning I would have had transport back with the RCD regiment. I made arrangement with them to get him transported back but Pte Timon never reported to me?

No re'm

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Fourth Witness for the Defence: (Witness as to character)

P-30240 S/Sgt G P Phillips, 1 Cdn FDS RCAMC, is examined by the defence on his former oath:

Q-47 Will you tell the court as to the type of soldier you find Pte Simon to be?
A-47 I was an instructor at the training centre at Ottawa. Pte Timon was under me for four months. While in Ottawa he was a good soldier and his work was quite satisfactory. With this unit since coming to the 1 FDS Pte Timon has been with us for four months and has been very good both as a soldier and as a worker and there has been no complaint.

No xx'm

In the opinion of the Court ~~xxxxxxxxxxxx~~ it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

The defence declines to sum-up

Summing up by the Prosecution.

According to the Accused, Pte Timon, Sergeant Noon-Ward told him he had nothing to do with him and that he could do nothing for him. Sergeant Noon-Ward on the other hand states that he told the accused, Pte Timon, to keep in touch with him, that he could not do anything at the present moment, but he could help him in the future. Pte Timon never reported back to Sergeant Noon-Ward again. Sgt Noon-Ward states that he made arrangements to get transport for Pte Timon, but Timon did not report back. If Pte Timon had reported to Sgt Noon-Ward at any later time or to the officer in charge of the section I submit that they could have arranged transport for him and have got him back to the unit without him being considered AWL.

The unit transport left Rome on the 23rd of Nov to return the section that was on duty and he could have returned with them. He did not do so. The section was in Rome during the period 16 Nov 44 to 23 Nov 44 and I submit he could have reported there to them and have worked there and would not have been considered AWL from his unit.

Statement in Mitigation by the Defending Offr.

The accused joined the Army in Jan 23 1940. He volunteered for active service. In canada he was reallocated as a medical corps rft and was trained at the medical corps training centre. He arrived in England in Aug 1940. From the holding unit he was posted to 9 Can Fd Ambulance and from 1940 to 1942 he had a series of minor crimes and he had several privilege leaves cancelled. Like all soldiers he had made friends. He went AWL to visit his fiance. There was a FGCM at which he was found guilty and punished. After serving his punishment he returned to 9 CFA. After an escapade with other soldiers he was accused of stealing two chickens. Again he served detn. From detn he was sent to the HU and posted to 15 Gen Hosp. Sending a category "A" man to a base hosp is considered degrading by the grounds that the unit was moving to another theatre of war. 15 Gen Hosp arrived in Africa. After ariving in Africa he again asked for a transfer to 9 CFA. He had several crimes while in Africa. If you remember 15 Gen Hosp was located quite a distance from a leave centre and when a person went down there there was always tpt difficulty getting back. 15 Gen Hosp came to Italy last July and set up in Casserta. He asked at various times to get back to the 9 CFA and through a minor offence was brought before his CO and took this opportunity of asking to get back. He was posted to a HU at Avellino. From there be was posted to 1 FDS just before Can Corps went through the Hitler line. He remained with the FDS through the Hitler line and after that the unit went to rest. Privilege leaves were laid on and as there was a surplus of personnel they had to leave the unit before getting leave. The accused applied for leave at Avellino and as he could not get it he again went AWL. After returning to the HU he was posted to 24 Fd Ambulance before 5 Div went into the Gothic line. Through a minor injury he was evacuated and he come to the 1 FDS and he remained with them from that time. Privilige leaves were laid on and he was able to get away to rome on leave.

F.O.C.

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D. 93703	Private	TIMON, J.L.	1 Cdn. F.D.S. RCAMC

1. The following is a fair and true summary of the entries in the Regimental ~~Service and Casualty~~ Squadron, ~~Battery~~ Conduct sheets ~~Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec. 15 (1)	3 times	12 times
For A.A. Sec. 19 (Drunkenness)	2 times	5 times
For A.A. Sec. 40	1 times	times
For	times	

Number of instances of gallantry or distinguished conduct N.A.

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The Accused has not been previously convicted~~

~~XX~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~XX~~

~~The Accused at the present time is under sentence of~~

~~XXX~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 32 years

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 23 Jan 40

7. The service which the accused is allowed to reckon towards discharge is N.A.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~Air Force decoration, or Air force reward~~ military decoration, military reward ~~in possession of or entitled to~~. State any ~~Air Force~~ military decoration or reward. Nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

The defence declines to sum-up

Summing up by the Prosecution.

According to the Accused, Pte Timon, Sergeant Noon-Ward told him he had nothing to do with him and that he could do nothing for him. Sergeant Noon-Ward on the other hand states that he told th accused, Pte Timon, to keep in touch with him, that he could not do anything at the present moment, but he could help him in the futur Pte Timon never reported back to Sergeant Noon-Ward again. Sgt Noon-Ward states that he made arrangements to get transport for Pte Timon, but Timon did not report back. If Pte Timon had reported to Sgt Noon-Ward at any later time or to the officer in charge of the section I submit that they could have arranged transport for him and have got him back to the unit without him being considered AWL.

The unit transport left Rome on the 23rd of Nov to return the section that was on duty and he could have returned with them. He did not do so. The section was in Rome during the period 16 Nov 44 to 23 Nov 44 and I submit he could have reported there to them and have worked there and would not have been considered AWL from his unit.

Statement in Mitigation by the Defending Offr.

The accused joined the Army in Jan 23 1940. He volunteered for active service. In canada he was reallocated as a medical corps rft and was trained at the medical corps training centre. He arrived in England in Aug 1940. From the holding unit he was posted to 9 Can Fd Ambulance and from 1940 to 1942 he had a series of minor crimes and he had several privilege leaves cancelled. Like all soldiers he had made friends. He went AWL to visit his fiance. There was a FGCM at which he was found guilty and punished. After serving his punishment he returned to 9 CFA. After an escapade with other soldiers he was accused of stealing two chickens. Again he served detn. From detn he was sent to the HU and posted to 15 Gen Hosp. Sending a category "A" man to a base hosp is considered degrading by Category "A" soldiers. He was paraded for transfer but refused on the grounds that the unit was moving to another theatre of war. 15 Gen Hosp arrived in Africa. After ariving in Africa he again asked for a transfer to 9 CFA. He had several crimes while in Africa. If you remember 15 Gen Hosp was located quite a distance from a leave centre and when a person went down there there was always tpt difficulty getting back. 15 Gen Hosp came to Italy last July and set up in Caserta. He asked at various times to get back to the 9 CFA. and through a minor offence was brought before his CO and took this opportunity of asking to get back. He was posted to a HU at Avellino. From there he was posted to 1 FDS just before C,n Corps went through the Hitler line. He remained with the FDS through the Hitler line and after that the unit went to rest. Privilage leaves were laid on and as there was a surplus of personnel they had to leave the unit before getting leave. The accused applied for leave at Avellino and as he could not get it he again went AWL. After returning to the HU he was posted to 24 Fd Ambulance before 5 Div went into the Gothic line. Through a minor injury he was evacuated and he come to the 1 FDS and he remained with them from that time. Privilige leaves were laid on and he was able to get away to rome on leave.

D.J.A.G.

He was very happy in his unit and he is very happt to be in a field unit. He was trying for a year and a half to get back to the field His was not an intentional AWL. He reported to his section and through some misunderstanding he did not go back again. He finall contacted a solder he knew. Rome is a fairly large place and very difficult for a pte soldier to get around. In view of his previous punishments and AWLs he knows that he is guilty of a crime and did not want to contact the MPs. He had considered that he would be able to get back to his unit. While the accused was away the unit was in rest and when he returned they were still in rest.

M.F.B 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D. 93703	Private	TIMON, J.L.	1 Cdn. F.D.S. RCAMC

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.A. Sec. 15 (1)	3	times	A.A. Sec. 15 (1)	12 times
For		times	A.A. Sec. 19 (Drunkenness)	2 times
For A.A. Sec. 40	1	times	A.A. Sec. 40	5 times
For		times		times

Number of instances of gallantry or distinguished conduct N.A.

or,

There are no entries in the conduct sheets of the accused. N.A.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not previously been convicted by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 32 years

6. The date of his attestation specified in his attestation paper is 23 Jan 40

7. The service which the accused is allowed to reckon towards discharge is N.A.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration or military reward. State any military decoration or reward. Nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force, and in his unit ..... dated ..... N.A. .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years. N.A.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D93703 Rank Pte ..... Air Force

Name John Lawrence TIMON of 1 Cdn. F.D.S., RCAMC. Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.C.C.M.	5 Nov 42 In The Field	(1) AWL from 1400 hrs 11 Sep 42 to 2320 hrs 11 Sep 42. Absent 9 hrs 20 mins). (2) AWL while under open arrest from 0630 hrs 12 Sep 42 till 2245 hrs 1 Oct 42. Absent 19 days 16 hrs 15 mins). A.A. Sec. 15 (1)	90 days detention mitigated to 60 days	20 days rimitted
F.C.C.M.	26 Apr 43 In The Field	Conduct to the prejudice etc., being improperly in possession of 2 chickens. A.A. Sec. 40	3 Mos detention mitigated to 60 days	20 days remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of December 1944 Ab Jacobs Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1215-20)
H.Q. 1772-33-1652

No. D93703 Name Timon J L — Sqn., Battery, or Company — Corps RCAMC — Date of enlistment 23 Jan 40 — G.C. Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 4 Jul 40 — No. and date of last drunk 30 Mar 40 — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature O.C. Company, etc. R.T.Potter Major — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed				23 Jul 40. Last entry 4 Jul 40.					
Field	11 Dec 40		2	A.A. 19 Drunk while on guard.	Cpl MacLean	drunkenness 30 Mar 40. 21 days F.P. forf.21 days pay			to forf. 21 days pay on F.P.
Field	2 Mar 41	Pte	2	AA 15(1). A.W.L. from 2245 hrs 1 Mar 41 to 2110 hrs 2 Mar 41 (Absent 22 hrs 25 mins)	Sgt Wilson	7 days pay fined	3 Mar 41	Lt Col Elder	Auto forf 1 days pay
Field	27 Feb 42	Pte	2	A.A. 40 Cond to the prej etc. improperly in possession of an alarm clock, the property of CSM Law	S/S Maddocks Sgt Jones Pte Jones	27 days C.B. 27 Mar 42 Amended in E.D. 15 to 14 days		Lt Col Mader	Forf. 4 days pay
Field	27 Jun 42	Pte	2	A.A. 40 Cond to the prej etc. appeared on parade improperly dressed.	Pte Hutchison Sgt Heathcote	31 Mar 42 3 days CB	29 Jun 42	Capt. C.A. Midgley	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jul 42	Pte	2	A.A. 15 (1) A.W.L. from 2300 hrs 2 Jul 42 to 2230 hrs 7 Jul 42. A.A. 40 Cond to the prej etc.	L/Cpl Fox	10 days pay fined	10 Jul 42	Major GA Free	Auto forf. 5 days pay
Field	13 Aug 42	Pte	2	Failed to appear on 1330 parade	S/S Maddocks	5 days C.B.	14 Aug 42		
Field	15 Aug 42	Pte	2	A.A. 15 (1) A.W.L. from 1700 hrs 15 Aug to 1530 hrs 19 Aug 42.	L/C Collan Cpl Burkett	21 days F.P. with forf of pay	20 Aug 42	Lt. Col. Bourman	Auto. Forf 4 days pay. Total forf 25 days pay.
Field	12 Sep 42	Pte	2	(1) A.A. 15 (1) A.W.L. from 1400 hrs 11 Sep 42 to 2320 hrs 11 Sep 42 (Absent 9 hrs 20 mins) (2) A.A. 15 (1) A.W.L. while under open arrest from 0630 hrs 12 Sep 42 till 2245 hrs 1 Oct 42(Absent 19 days 16 hrs 15 mins).	Sgt.Heathcote L/Cpl Fox	90 days detention remitted to 60 days.	5 Nov 42	F.G.C.M.	Forf 60 days pay FRI(1)(a) Forf 32 days pay FRI 149 (1)(c).Forf 1 days FRI 149(a).Forf 20 days pay FRI 149(a)(b) (a).Total forf 113 days pay.
Field	26 Mar 43	Pte	2	WOAS AWL absent from billets from 2300 hrs 26 Mar 43 until 0945 hrs 27 Mar 43 (Absent 10 hrs 45 mins) A.A.Sec.15(1)	L/Cpl. Carey, R.A.	7 days C.B.	28 Mar 43	G. Baker Capt.	Forf 1 days pay FRI 149(1)(a)

No. D93703 Name Timon J L | Sqn., Battery, or Company | Corps RCAMC | Date of enlistment 23 Jan 40 | O.C. Badges | Service or Proficiency Pay | M.F.M. & (A.F.B. 122, 125M—7-41 (1215-30) H.Q. 1172-29-1412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk 2nd 11 Dec 40 | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Feb 43	Pte	2	Sec 15(1) AWL from 2000 hrs 25 Feb 43 to 2315 hrs 28 Feb 43(Absent 3 days 3 hrs 15 min).	L/Cpl Wilkinson	28 Feb 43 forf 8 days pay FRI 149(1)(b)		Lt Col Bowman	Aut for 4 days days FRI 149 (1)(a)
Field	-	Pte	2	1st charge sec 41 (5) A.A. Not Guilty 2nd charge Sec 40 A.A. Conduct to the prejudice etc. Being improperly in possession of 2 chickens. Guilty.		3 mos. detention mitigated to 60 days. Forf 4 days pay FR&I 149(1)(c)(i). Forfs 60 days pay FR&I 149(1)(b). Total forfeiture 64 days pay.			

(P.T.O.)

M.F.M. 6
(A.F.B. 122)
HAM.-7-41 (1215-20)
H.Q. 1772-39-1632

NX93703 Name TIMON J L | Sqn., Battery, or Company | Corps RCAMC | Date of enlistment 23 Jan 40 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk 2nd 11 Dec 40 | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Badges | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Jun 43	Pte	2	Sect. 15 (1) AA WOAS AWL in that he did absent himself from his quarters from 2300 hrs 19 June 43 to 2220 hrs 20 Jun 43. (absent 23 hrs. 20 min)	Sgt. Campbell	Admonished	21 June 43	Col.G.R.D. Farmer	Aut forf 1 days pay FR&I art 149 (1)(a)
Field	27 Jun 43	Pte	2	Sect. 15 (1) AA WOAS AWL in that he did absent himself without leave from 2300 hrs 27 Jun 43 to 0835 hrs 28 Jun 43. (absent 9 hrs 35 min)	RSM Surrage	28 days forf of pay	28 Jun 43	Col.G.R.D. Farmer	Aut forf of 1 days pay totd 29 days forf of pay

(OVER)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Aug 43	Pte	2	Sec 40 AA WOAS conduct to the prej etc in that at app. 2250 hrs 8 Aug 43 did enter camp by other than the main gate and did fail to sign himself out contrary to unit Part I Order No. 194 issued 28 July 43 for 29 Jul 43.	Sgt. Lupu Tpr. McBeth	7 days forf of pay & 7 days C.B.	10 Aug 43	Col. G.R.D. Farmer	
Field	31 Aug 43	Pte	2	Sec 15(1) AA WOAS AWL in that he did absent himself without leave from 0745 hrs 31 Aug 43 until his return at 2100 hrs 31 Aug 43 (absent 13 hrs 45 min)	S/Sgt Rhodes S/Sgt Cobban	7 days C.B. 7 days forf of pay.	1 Sep 43	Col GRD Farmer	Aut forf 1 days pay. Total forf 8 days pay.
Field	10 Sep 43	Pte	2	Sec 15(1) AA WOAS on absent without leave from 2100 hrs 10 Sep 43 until his return at 1430 hrs on 13 Sep 43. (Absent 2 days 17 hrs 30 mins).	S/SCobban RSM Surrage	Forf 3 days pay awarded 28 days fd punishment and forf 28 days pay. Total 31 days pay.	14 Sep 43	Col.GRD Farmer	

No. D93703 Name TIMON J L Sqn., Battery, or Company — Corps RCAMC — Date of enlistment 23 Jan 44 — G.C. Badges

Date of last entry in Company Conduct Sheet — No. and date of last drunk 2nd 11 Dec 44 — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Service or Proficiency Pay — Character

M.F.M. 6 (A.F.B. 122) 175M—7-41 (1219-26) H.Q. 1772-35-1612

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Jan 44	Pte	2	Sec 15 WOAS in that he did absent himself from duty from 1900 hrs 17 Jan 44 until 2350 hrs 18 Jan 44 (Absent 4 hrs 50 mins).	Documentary	14 days forf of pay	20 Jan 44	Col GRD Farmer	
Field	10 Feb 44	Pte	2	Sec 15 AA WOAS in that he at approx 1330 hrs 10 Feb 44 absent himself from place of duty fatigues in the MacFarlane Building. Absent until 0745 hrs 11 Feb 44. (Absent 18 hrs 15 mins).	Sgt Hornett Gnr Healy Cpl Lafontaine Rfn Surrage	Amt forf 1 days pay. Awarded 28 days pay. Total forf 29 days pay.	11 Feb 44	Col GRD Farmer	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Jul 44	Pte	2	WOAS was AWL in that he, in the field, did absent himself from his quarters from 0600 hrs 10 Jul 44 until 2100 hrs 17 Jul 44. Total time absent 7 days 15 hrs. A.A. Sec. 15 (1).	Cpl Schedbur W.B.	28 days detention. Forf 28 days pay. FR&I 149 (1) (a)	19 Jul 44	Lt.Col. RE Conrad.	
Field	17 Oct 44	Pte	2	Sec 40 AA WOAS is charged with neglect to the prejudice etc. in that he on 17 Oct 44, after having been warned by his superior officer Sgt. Moon-Ward at 0645 hrs to report for duty, neglected to do so.	S/S Phillips Sgt Moon-Ward Cpl Spencer	21 days forf of pay. FR&I 149 (2)	17 Oct 44	Maj LER Luckey	

DATE. 26 Dec 44 - CERTIFIED TRUE COPY.

Al. Jacobs

(A.L. Jacobs)Capt., T/O.C. 1 Con. P.D.S. RCAFC

Summary of evidence in the case of D. 93703 Pte. John Lawrence Timon, 1 Canadian Field Dressing Station, Royal Canadian Army Medical Corps, Canadian Army Overseas, charged with absence without leave from 0900 [illegible] Nov 44 to 1200 hrs 1 Dec 44.

The Temporary Officer Commanding directs that the evidence be taken on oath.

First Witness.

P. 30240 S/Sgt PHILLIPS, G.P., R.C.A.M.C., having been duly sworn, states

I am P.30240 S/Sgt Phillips, G.P., Senior N.C.O. of the First Canadian F.D.S. Pte. Timon was granted seven days privilege leave from 0800 hrs 9 Nov 44 to 2359 hrs 16 Nov 44. Pte. Timon was absent from 0900 hrs 17 Nov 44 and reported at 1200 hrs 1 Dec 44.

Accused declines to cross-examine this witness.

P. 30240 S/Sgt. Phillips, G.P.

The accused was warned as follows: "Do you wish to make and statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Accused declines to make a statement or to give evidence upon oath.

J L Timon D. 93703 Pte. Timon, J.L.

I certify that RP 4 has been complied with.

Taken by me in the Field, in the presence and hearing of the accused, this 2nd day of December, 1944

S.M. Luginsky, Capt.

O. H. M. S.

25-S

Ile TIMON, J.L.

A. F. B. 270

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 29th day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A. 1 Cdn Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*~~I am unable to appoint~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

*~~(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely —~~]

Proceedings Reviewed
[illegible] Capt.
Reviewing Officer (A.C.) CMHQ
26 Nov 42.

President.

Rank.	Name.	Regiment.
Major ~~Major~~	R.B.L. Thomson ~~E.P. Hervey~~	Sask LI (MG) ~~1 Cdn Div Sigs~~

Members.

Rank.	Name.	Regiment.
~~Capt.~~	~~A.E. Lawson~~ ~~[illegible]~~	Sask LI (MG)
Capt.	A.H. Claxton	4 P.L.D.G.
Capt.	E.A. Rooke	HQ 3 Cdn Inf Bde

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Waiting

*Signed (A.E.D. Tremain) Brigadier
Commanding R.C.A. 1st Canadian Division
Convening Officer.

25.5.

(1)

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D.93703 Pte. TIMON, John Lawrence 9 Cdn Fd Amb	1st charge A.A. 15(1)	NOT GUILTY	GUILTY	I confirm
	2nd charge A.A. 15(1)	GUILTY	GUILTY 90 DYS. DETENTION A.P.L. from unit 3 NOV 42	The finding of the Court but reduce the sentence to 60 days detention [illegible] Brigadier

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):

(Signed) [illegible] (A.E.D. Tremain) Brigadier
Commanding R.C.A. 1 Cdn Div. *Convening Officer* (*e*)

(Signed) A.B.L. Thompson Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3RD day of NOVEMBER, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 3RD day of NOVEMBER 1942.

A.B.L. Thompson Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1939.

~~I certify that the terms of *A.C.I. 370 of 1918 have been~~ complied with.

~~Signed this~~ ~~day of~~ 19

~~*President of the Court Martial.~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 5 day of Nov. 1942.

[illegible] Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 6 Nov 42 (Signed) Douglas Spalding Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33739) WL. 40155—283 500,000 1/42 P. St. G. 540

2 VS Vol

BL

K.B.H.

9 CANADIAN FIELD AMBULANCE

CHARGE SHEET

THE ACCUSED D-93703 PTE. JOHN LAWRENCE TIMON "A" COY. 9 CDN. FD. AMB., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, CHARGED WITH, WHILE ON ACTIVE SERVICE,

ABSENTING HIMSELF WITHOUT LEAVE

1st. Charge Sec 15 (1) Army Act — in that he in the field absented himself without leave from 1400 hrs. 11 Sep 42 until 2320 hrs. 11 Sep 42. Time absent 9 hrs. 20 min.

ABSENTING HIMSELF WITHOUT LEAVE

2nd. CHARGE Sec 15 (1) Army Act. — in that he in the field while under open arrest broke out of barracks and absented himself without leave from 0630 hrs. 12 Sep 42 until 2245 hrs. 1 Oct 42. Time absent 19 days 16 hours 15 minutes.

22 Oct 42

F.B. Bowman

(F.B. Bowman) Lt. Col.
OC 9 Cdn. Fd. Amb. RCAMC

To be tried by Field General Court Martial.

A.E.D. Tremain

(A.E.D. Tremain)
Brigadier
C.R.A. 1 Cdn Div
Oct 42

MEDICAL OFFICER'S REPORT

I certify that No. D 93703 Pte Timon. J. L.
of A Coy 2 Fd Amb is in a fit state of health,
and able to undergo Trial by Court Martial.

J.B. Kennare Capt.
Medical Officer

Station
Date 3 Nov 42

M.F.B. 246

R.B.L.T.

Army Form A 9.

A Field

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held, should be struck out and initialled by the President.

Proceedings of a FIELD GEN. Court-Martial held at EASTBOURNE on the 3RD day of NOVEMBER 1942 by order of BRIGADIER A.E.D. TILLEMAN, Commanding R.C.A. 1 Cdn. Sig. Bde. dated the 29th day of OCTOBER 1942.

President. Major R.A.L. Thompson, SASK. L.I. (M.G.)

Members. Lieut. A. Finlayson, SASK. L.I. (M.G.)

CAPT. A.A. Clayton, 4 P.L.D.G.

R. B.L.T.

~~, Judge Advocate.~~

Trial of* D-93703 Pte. John Lawrence Tennyson. "A" Coy. 4 Cdn. Fd. Amb.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~ R. B.L.T ~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† CAPT. W.A. Mc Kinnon, 4 Cdn. Fd. Amb.

Counsel‡ or defending officer† CAPT. G.G. Ferguson, 4 Cdn. Fd. Amb.

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

9436. W.L.W.(2) 6/42. 40,000 sets. 2/42. E. & H. Ltd. G667/11. Forms A 9 (2).

R.B.L.T

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer. GUILTY.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer. GUILTY.

~~Are you guilty~~ or not guilty of the third charge against you, which ~~you have heard read?~~ *Question.* R.B.L.T

Answer

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.* R.B.L.T

Answer.

R.B.L.T

The accused having pleaded Guilty to ~~the~~ 2ND charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

R.B.L.I.

C

1ST CHARGE

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir.

~~The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]~~

The prosecutor proceeds to call witnesses. D43564 Sgt. Heathcote, F.C.,

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

Q1- "What were your duties on 11 Sept. 42?
A1- I was the Orderly N.C.O, Sir.
Q2- Do you recognize the accused?
A2 - I do Sir
Q3 - Will you tell the court anything of significance with regard to the accused that happened on 11 Sept. 42.
A3 - At approx. 1400 hrs. on 11 Sept. 42 I was reported to me that the accused had passed the R.P. at the gate. I was ordered the R.P. to place him under arrest upon his return - The accused reported to me upon his return at 2345 hrs, 11 Sept. 42.

CROSS EXAMINATION BY DEFENDING OFFICER

Q1- When the accused reported to you was he alone or was he accompanied?
A1- He reported to the door of the Regt. Room with the R.P.
Q2- Sgt. Heathcote did you receive the accused from the R.P.
A2- I did Sir

K.B.H.

Q3 - What did the C2 R.P. say to you when he came?
A3 - I do not recall.
Q4 - Did you see the R.P.
A4 - Yes, Sir.
Court -
Q1 - How did you know the R.P. was with the accused at the door of 3rd. Room.
A1 - I recognized his voice - the hallway was very dark, Sir.

2ND WITNESS - D43568 Pte. Smallbone, W. Rodentor
having been duly sworn -
Q1 - What were your duties on 11 Sept. 42.
A1 - I was on duty as Regt'l. Police.
Q2 - Do you recognize the accused
A2 - I do Sir.
Q3 - In course of duty did you see the accused on 11 Sept. 42. Tell the court the circumstances
A3 - At approx. 1400 hrs. the accused came to the front gate. I stopped him and told him that he should not be going out at that time But he continued and I reported to Sgt. Heathcote, who was the orderly N.C.O.
Q4 - What instructions did Sgt. Heathcote give you
A4 - Sgt. Heathcote instructed me to place the accused under close arrest upon his return.
Q5 - Did you do this
A5 - I was not on duty when Pte. Turner returned.
Q6 - Did you instruct your relief to do so
A6 - I did Sir.
CROSS EXAMINATION BY
Q1 - When you were on duty at which gate did the accused leave.
A1 - It was at the that I was on duty - the vehicles gate.
Q2 - Was the accused alone
A2 - Yes Sir he came alone.

Page 2

C2 B.L.T.

3RD WITNESS — D 93557 L/Cpl. Mooney, HQ,

Q1 - Do you recognise the accused?
A1 - I do Sir.
Q2 - What were your duties on 11 Sept 42?
A2 - I was acting as sentry on the gate.
- Tell the court of any incident that occurred with L/Cpl Heather C/S accused on 11 Sept. 42.
- "Well Sir while on duty on 11 Sept 42 at approx. 2345 hrs. Pte. Timon reported to me sober and properly dressed. I told him to report to Sgt Heathcote also that he was under arrest."
Q3 - Did you accompany the accused to Sgt. Heathcote.
A3 - Yes, I did.

CROSS EXAMINATION BY DEFENDING OFFICER

Q1 - When you placed the accused under arrest do you remember the words you used.
A1 - I just told the accused he was under arrest, Sir.
Q2 - By that do you mean you placed accused under arrest yourself.
A2 - Yes, under close arrest.
Q3 - Do you feel the accused understood you quite clearly.
A3 - Yes, Sir.

COURT -

Q1 - Did the accused have a pass to show you.
A1 - No, Sir.
Q2 - Up to what hour are men allowed out without Pass's.
A2 - Up to 2300 hrs. Sir.

D

R. B. L. T.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No.

Question. Do you intend to call any other witness in your defence?

Answer. YES.

Question. Is he a witness as to character only? *Answer.* No.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence? No.

Answer. ~~The accused in his defence says~~†

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

R. B. L. T.

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

K.B.L.

D2

1st WITNESS – D91778 Pte. WILSON, J.

having been duly sworn states

Q1 – Are you acquainted with the accused,

A1 – yes, Sir.

Q2 – On F.B.I.S. 11 Sept. 42 ~~did you accompany the accused~~ in the afternoon immediately after dinner were you with the accused.

A2 – Yes, Sir.

Q3 – Did you leave the barrack area.

A3 – Yes, Sir.

Q4 – Were you alone.

A4 – No, Sir I was with Pte Tenison.

Q5 – At which gate did you leave.

A5 – By the main gate, the whole gate.

CROSS EXAMINATION BY PROSECUTING OFFICER

Q1 – Were you challenged when you left the barrack area.

A1 – yes, Sir.

Q2 – Who challenged you.

A2 – The piquet on duty.

Q3 – Can you name the piquet

A3 – yes, Sir Pte. Maitland.

Q4 – What did he say, not to leave until

A4 – He said we were not to leave until after 1630 hrs.

Court.

Q1 – Did you have a pass.

A1 – No, Sir.

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

R. B. L.

ADDRESS DEFENDING OFFICER

Sir the witness is was brought in this afternoon to show certain discrepancies in evidence brought forward by the prosecution. It has been shown that the evidence of the witness Pte. Maitland was wrong when he stated that the accused was without doubt alone. It has also not been shown conclusively that the accused was placed under arrest properly and escorted to the orderly room at 2345 hrs on 11 Sept. 42. There appears to be some irregularity which raises the question that the accused might not have thought himself to be under arrest. The accused has made no statement Nothing has been said by the accused or on behalf of the accused that he did not leave the billet area at 1400 hrs but the witnesses produced by the prosecution have not upheld a very clear picture of everything that occurred on that day. I wish to draw attention to the Court that the charge as written varies in evidence regarding question of time. The accused is charged with being absent until 2230 hrs and the prosecution does not give any time between 1600 2345 hrs

REPLY BY PROSECUTING OFFICER

Sir, the slight discrepancy in the time as stated in the charge and referred to in the evidence is slight and quite within the limit of individual impressions. Whether the accused is not being tried as it has been established by the

R.B. Lot

Page 2 REPLY BY PROSECUTING OFFICER cont'd.

evidence of Sgt Heathcote, Pte Maitland and Pte Wilson that the accused left the barracks area at approx 1400 hrs on 11 Sept 42. Now L/Cpl Mooney at that time Pte Mooney states clearly and emphatically in the court that he told the accused he was under arrest and that he accompanied him to the Orderly N.C.O. I feel that the evidence is clear that the accused was under arrest and knew himself to be so, and that he left the billet area again at approx 0630 hrs 12 Sept 42.

A.B.L.T

CC

Proceedings on Plea of Guilty.

2ND CHARGE

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

The accused D 93703 Pte. TIMON, John Lawrence.
is found guilty of 2ND Charge A.A. 15(1)

†The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— "Due to the fact that I had no leave for seven months, ~~(or hands in a written statement, which is read, marked signed by the President, and attached to the proceedings)~~ and could see no leave coming to me for at least six months, and due to the fact that I had undergone 7 odd punishments per 21 days, I got fed up and ran away. With regards to first charge, I had a brawl & to blame equipment and after I got through Ballaarat & left Ballaarat at 10.0 I have had only three leaves since November 1940."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

No.

Evidence as to character.

K.B.L.T.

E

K.B.L.T.

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is ~~closed for~~ the consideration of the finding.

The Court find that the accused Guilty on 1st and 2ND Charges.

K.B.L.T.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Capt. G.G. Ferguson, 1st D. G. Gds. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* - YES.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "C", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES.

Question.

~~Have you compared the contents of the above statement with the regimental books? Answer~~ K.B.L.T.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES.

Cross-examined by the accused.

[Interpolation.—If, by reason of the nature of the service of the accused as a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment, or to punishment to which he is not ordinarily liable, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* NO.

The Court is closed for the consideration of the sentence.

R. B. L. 21.

F

Sentence.

The Court sentence the accused D93703 Pte. Tomlin, Sentence.
John, Lawrence to 90 DYS. DETENTION.

A. Coy. #9 Cdn Field Ambulance 2-10-42

Summary of Evidence in the case of D-93703 Pte. Timon J.L. of #9 Cdn Fld Ambulance.

1st Witness:- Sgt. Heathcote. F.L. of 9 Cdn. Fld Amb. being absent on course + S.O.S field unit left this statement written below and ~~copy~~ original is attached.

At 1400 hrs 11-Sept-42 it was reported to me that the accused had passed the R.P. on duty at the main entrance to the billets and notwithstanding the fact that he remonstrated with him the accused proceeded to leave the billet area. The R.P.'s were accordingly instructed to place him under open arrest upon his return.

At 2345 hrs 11-Sept-42 the accused reported to me sober + properly dressed but at 0630 hrs 12-Sept 42 he was absent from his quarters and did not return and was not found in the billet area during my tour of duty.

Having regard to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured the accused does not demand attendance of this witness for cross examination

Signed. F.L. Heathcote Sgt.
J.W. Benson Capt.

2nd Witness U1666 - L/Cpl Fox - G.F. of #9 Cdn Fld Amb.

States- On 1-Oct-42 while on duty as Orderly N.C.O. Pte. Timon J.L. reported to me at 2245 hrs sober and properly dressed. I placed Pte. Timon under close arrest. That is all, Sir.

~~George~~ Fox L/Cpl.

The accused declines to ~~[illegible]~~ cross examine the witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4.(E) reserves his defence.

Certified that Rules of Procedure 4 (C) (D) (E) & (F) have been complied with.

Taken down by me in the presence and hearing of The accused this 2nd day of October - 1942.
at - "In The Field"

G D Ingram. Capt.
Officer detailed by Commanding Officer to write this Summary of Evidence

EVIDENCE

At 1400 hrs 11 Sept 42, it was reported to me, that the accused had passed the R.P. on duty at the main entrance to the billets, and notwithstanding the fact that he remonstrated with him, the accused proceeded to leave the billet area.
The R.P.s., were accordingly instructed to place him under open arrest upon his ~~was~~ return.

At 2345 hrs. on 11 Sept 42. the accused reported ~~to me~~ [redacted] sober and properly dressed, but at 0630 hrs. on 12 Sept 42. he was absent from his quarters and did not return, and was not found in the billet area during my tour of duty.

Heathcote Sgt.

REMARKS

CHARGE

Army Form B 252
(See King's Regulations)

9 Cdn Fd Amb. ..... Regiment

"A" Coy. ..... Battery / Squadron / Troop or / Company

CHARGE against No. D-93703 Rank Pte.

Name Timon J.L.

Place In the Field Date of Offence 11 Sep 42

OFFENCE N.O.A.S. A.W.L.

Absenting himself without leave, in that he, In the Field, on 11 September 42, absenting himself without leave from 1400 hrs., 11 Sept 42 until 2245 hrs 1 Oct 42.

Total hours absent. 20 days 8 hrs 45 min.

Names of Witnesses :— Sec 15 (1) AA

Sgt. Heathcote, F.L.

L/Cpl. Fox, G.F.

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

EXHIBIT "B"

No. D-93703 Name TIMON J.L. Sqn. Battery or Company "A" Corps RCAMC

Date of enlistment 23 Jan 40 G.C. Badges: Service or Proficiency Pay:

Sheet No. 5 Signature O.C. Company, etc. [illegible] Capt

M.F.M. 6 (A.F.B. 133)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
OTTAWA	1 MAR 40	PTE		AWL 1700 HRS. 1/3/40 to 0143 HRS. 5/3/40	(Pte. MULLIGAN " JENNISON " PHILLIPS	14 DAYS DETENTION	5-3-40	Lieut. HARVEY	FINED 4 DAYS PAY (RA-1149(a))
OTTAWA	3 MAR 40	"		AWL on that he was absent from 2201 hrs 24/3/40 to 30/3/40 (6 HRS 59 MIN) Sec 15 (1) AA	Pte Murray F Cpl Ellis	14 days C.B.	30/3/40	Lieut Johnston	Made First 14 days pay forfeited
OTTAWA	30-3-40	"		Breaking out of Barracks in that he being a defaulter confined to Barracks at about 20 00 hrs 30/3/40 after being ordered not to do so. (Sec 104)	CSM Lawton Sgt. Richardson	14 days Detention	1/4/40	Lieut Herbert	
			1	Drunkenness in that he was found in Wet Canteen 2030 hrs. drunk (A9(2))	Cpl Conrad				
OTTAWA	6-5-40			AWL 0600 HRS. 6-5-40 to 2031 hrs 13-5-40 (7 days 14 hrs 30 mins) Sec 15 (1) AA	Cpl Richard Cpl Milburne	14 days detention	13/5/40	Lieut Johnston	8 days Pay FRA 149 (b)(ii)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
OTTAWA	31.5.40	Pte.		Breaking out &c. (AA Sec 10) Conduct to the (AA Sec 10) AHL (AA Sec 15 (5))	Sgt Todd Cpl Fuller Sgt Johnson	7 days detention		D.O.C. Hubbell.	
Ottawa	31.5.40			Insubordination (AA Sec 8 (5))	Cpl Conrad Pte Cooke	3 days detention		D.O.C. Hubbell.	
OTTAWA	4.7.40			(L.W.) R AA Sec 15 (5)	Cpl Malpass Cpl Johnson	14 days detention 21 days F.P. No 1 (AA Sec 28 (1))		D.O.C. Hubbell	Suite Staff 5 days Pay & Allowances
Shilo	11/12/40		2	W.O.R.S. In that he was drunk in Lute on board. AA Sec 14.	Cpl McLean	remit 21 days Pay F.P. No 1 (AA Sec 28 (1)) (c)	13/12/40	Winnipeg M.D.	
Suffield Primary	2/3/41			W.O.R.S. L.W.I. 1 issue 2245 has 1 Mar 41 to 2 Mar 41 AH	Sgt Wilson	7 days F.P. No 1 AA Sec 28 (1) (a) (ii) remit 7 days Pay & Allowances (A) (c)	20 Mar 41	O/C No 1 Coy D.C.L.I.	
Yuba	24/2/41			W.O.H.S. Conduct to the Prejudice of Good Order, the Property of C.S.M. Davis. C.A. Sec 40.	C/S Maddocks Sgt Jones C.I. Pte Jones C.I. Sgt Hutchinson C.I. Pte Ryan C.	14 days C.B. Ref. 4 days Pay & Allowances (A)	2 Mar 41	O.C. Det.	

Sheet 2 Section H

No. Name Sqn., Battery, or Company Corps Date of enlistment Sheet No. G.C. Badges Service or Proficiency Pay Character

Signature O.C. Company, etc. [illegible] Capt.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Yeld	27 Jun 42	PTE		SEC. 40 AA:- WOAS. Neglect to the prejudice etc., Improperly dressed on Parade	Sgt. Heathcock F.S.	3 days. C/B	29 Jun 42	Lt H Midgley Capt.	
						FORF 10 days pay & FR 1 (a) (i) (a).	10 Jul 42	Lt Col Mayd.	AUTO FORF 5 DAYS PAY (FR 1 (a) (i) (a))
FIELD	2 Jul 42	"		Sec 15 (1) AA:- AWL FROM 2300 hrs. 2 Jul 42 TO. 2230 hrs. 7 Jul 42					
FIELD	13 Aug 42	"		Sec 40 AA WOAS. Failing to appear on 1330 hr. Parade.	S/16 Maddocks F/C Holland	5 days C/B	14 Aug 42	Lt Col Mayd.	
					(Lt Bucknall J.G.	21 Days. FP (RA Sec 46 (6)) with Drift in Pay FR 1 (a) (i) (a)			Above Forf. 4 days of pay FR 1 (a) (i) (a).
FIELD	15 Aug 42			Sec 15 (1) AA. WOAS (L.W.I. FROM 1410 hrs 15 Aug 42 TO. 1330 hrs. 19 Aug 42					

Ratified June Pay. [illegible] Capt.

EXHIBIT "C" to Bk. T.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

(a) The accused has been in confinement awaiting trial on the present charges for ..~~52~~ 53 days in civil custody and ...24... days in military custody making a total of 34.. days of which ..1.... days were spent in hospital.

(b) The present age of the accused according to his attestation paper is ..29.. years.

(c) The date of his attestation specified in his attestation paper is 28 Jan 1940

(d) The accused is in possession of, or entitled to no military decoration of military reward, ~~(or is in possession of or entitled to~~

Dated — 3 Nov 42

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

(Signature) [illegible]
O.C. A Coy. 1 Can Fd Coy

REVIEW SHEET

F.G.C.M. - Trial: D.93703 Pte. Timon, J.L., 9 Cdn Fd Amb

Date of Trial: 3 Nov 42

President of Court: Major R.B.L. Thompson, Sask LI (MG)

1. For the information of the officers asked to sign below, the following irregularities are noted :

1. Deletions in conveningorder and changes in personnel of Court not initialled by convening officer.

2. Minute of promulgation omits number, name and unit of accused.

3. M.F.M. 6 not properly certified (A.A. 163(1)(h).

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters.

C.C. 9 Cdn Fd Amb

Adjt 9 Cdn Fd Amb

President

A.D.J.A. 1 Cdn Div

Staff Offr for Convening Offr

Staff Offr for Confirming Offr

Gm Graham

(E[redacted] Captain
A.D.J.A. 1 Cdn Div

52-77.

Pte. Timm, F. M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 30130 PRIVATE FRASER MACDONALD TIMM.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 19	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo a period of sixty (days) detention.

(Sgd) ..... Judge-Advocate, if any. 24 May 45 Date awarded. (Sgd) L.C. Richardson President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) J.M. Rockingham Brig

Date 25 May 45 Commanding 9 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C30130 Pte Timm F.M. SDG Highrs	27 May 45	J.M. Rockingham Brig SDG Highrs

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CPA96 (In lieu of A.F.W. 3121) 40-P & S. Tcda 16144

FIELD GENERAL COURT-MARTIAL 4/38B

Convened by Brig J.M. Rockingham DSO Comd 9 Can Inf Bde dated 22 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
C30130		FRASER MACDONALD	TIMM

PROCEEDINGS REVIEWED JBKirby Lt 8 June 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 24 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes", as to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0950 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJ & A	L.C. RICHARDSON	Hq 9 Can Inf Bde
Member	CAPT	A. MACDONALD	N.N.S. Highrs
Member	LT	E.J. McNAB	H.L.I. of C.
Judge-Advocate			
Prosecutor	LT	H.V. BATEMAN	SDG Highrs
Defending Offr	LT	D.A. RABINOWITZ	SD and G Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to new adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused C 30130 Pte FRASER MacDonald TIMM before arraignment make(s) (no) ~~corpus~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser,* etc, *offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A)(B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to charge(s)..... The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1) The Court, standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. *RP 37(D).*)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea*

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 pares 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....(1) Do you intend to call witnesses on your behalf? Ans.....(2) Are they witnesses as to character only? Ans.....(3)
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? Ans.....(1)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ....., and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) (3) (4) (5) (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A)(B), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 56(1), KR Con 564. As to assembly and disposal of records after trial see instrs on back of Convening Order. Confirming Offr see KR Con 567. As to release from arrest by

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, Number C-30130 Private Fraser MacDonald TIMM, Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with

when on Active Service

DRUNKENNESS

in that he

CHARGE.
AA SEC 19

in the Field, at 1600 Hrs 7 May 45, was drunk.

(R.M. Gemmell) Lt.Col.,
Commanding,
S D & G Highlanders

In the Field,
15 May 45.

To be tried by Field General Court Martial.

(J M Rockingham) Brig
Comd 9 Cdn Inf Bde

22 May 45
In the Field

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of ... of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed ... AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Ch ... RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separa... see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 10... As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/apppmt, if any, see AA 182, 183, fns, KR Can 303, 328, ...

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-30130	Pte		Fraser MacDonald	TIMM	SD & G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(x) attached and on (date) 22 May 45 endorsed by me, ~~or by an officer under my command~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable within that time for a separate Convening Officer to be appointed~~.) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint the three Offrs from the Units~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~have appointed~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj — L C Richardson — HQ 9 Cdn Inf Bde
(Rank.) (Must be named. RP 106.) (Unit.)

MEMBERS.

Capt — G L MacDonald — Nth NS Highrs
(Rank.) (Named or detailed. RP 106.) (Unit.)

Lt — E J McNab — HLI of C
(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt — D C Anderson — HLI of C
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Dat 22 May 45

J M Rockingham (Signed personally. RP 105 fn 2.)
(J M Rockingham) Brig
Commanding 9 Cdn Inf Bde Convening Officer.
Brig (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/1697 (6143)

TRIAL BY COURT MARTIAL

Lck

I hereby certify that I have this day examined

C 30130 PTE. TIMM, F.M. of S.D. & G. HIGHRS.
(Number) (Rank) (Name) (Unit)

and in my opinion he is fit to undergo trial by Court Martial.

Station FIELD.

Date 24 May 1945

[redacted]
(A.D.C., S D & G Highlanders)

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Holland
23 May 45.

Re: Pte Timm F.M. C 30130
S. D. & H. Highl's

I am pioneer officer for the S. D. & H. Highl's. The a/m soldier has served under me in a theatre of operations. I found him to be reliable and an above average soldier under fire. His conduct was good and I would be very willing to accept him under my command at any time.

Lieut. J. V. Andre.
S. D. & H. Highl's.

Plea in Mitigation

Gentlemen,

Pte Timm is on charge before you for being drunk. [redacted] I would like to make this plea on his behalf because I am personally convinced that he deserves to be treated leniently by this court.

Drunkeness is an offence with which I normally have little sympathy. However due to the circumstances in this case I believe that the court should be sympathetic to the defendant. Pte Timm is a soldier who has had long service in the Can. army. His work has always been good and he has proved himself in battle. The statement of his platoon commander speaks for itself. In action you could not find

a better man. Unfortunately, Pte. Tims has a bad habit of getting drunk occasionally. This is a habit which some people find difficult to break. Pte. Tims is one of these people. Nevertheless it has never interfered with his work either in civilian life, or he held a responsible job or in the army.

After five years in the army a man is entitled to celebrate when the war finally ends and he can envisage himself going home. On the very same day Pte Tims committed the offence of getting drunk, people the world over and in every regiment in the Can. army were doing likewise. Why he should have been picked out among all the thousands and brought before you I do not know. Surely it is understandable that a man should want to celebrate

at a time like that - particularly a man who has been through the thick of it and has earned the right to celebrate.

Gentlemen, before you stands a man who volunteered to serve his country. He gave up a good job and five good years of his life to help to bring this war to a conclusion. Now all he wants is an opportunity to return to Canada where he has a job ~~waiting~~ and many friends waiting for him. Surely in view of the circumstances of the case you will deal leniently with the accused and not prevent his early return to Canada to which he is entitled due to his high priority.

In conclusion I would like to say that Pte Timm has impressed me with the fact that he sincerely regrets his offence. If given fair treatment by this

court I am convinced that both he and the Con. army would benefit.

I ask you to consider the Time's long service; his willing and good work in the army; the time at which the offence was committed; and finally the advisability of the defendant to get home as quickly as possible. If you will consider all these factors You convinced that you will be reluctant in handing out your punishment in case of the Time.

H. L. H. Schimmitz

EXHIBIT ONE Lcd

SUMMARY OF EVIDENCE in the case of C80130 Pte Timm F.M., Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas. By direction of the Commanding Officer the Summary is taken on oath.

1st Witness for the Prosecution

Capt S.P. LaFontaine, S.D. & G Highlanders, having been duly sworn, states.
At approximately 1600 hrs 7 May 45 I was driving through Emden and saw Pte Timm walking very unsteadily on one of the streets. I stopped my car and had him put in the back seat. He was nearly incapable of movement and his eyes were bleary. Pte Timm was totally incapable of any duty. He was drunk.

S.P. LaFontaine Capt

The accused declines to cross examine this witness.

2nd Witness for the Prosecution

C83005 RSM Lockhart F.A., S D & G Highlanders, having been duly sworn, states.
At approximately 1630 hrs 7 May 45 Capt LaFontaine placed Pte Timm in my custody. He was in the back seat of a car and was very drunk. He was unable to walk unassisted and was very incoherent. He was drunk.

F.A. Lockhart RSM

The accused declines to cross examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4E reserves his defence.

Certified that Rules of Procedure 4(C) (D) (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 11th day of May 1945, in the Field.

H.V. Bateman Lt

(H.V. Bateman) Lt.
S D & G Highlanders.

EXHIBIT TWO Lee

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
030130	Pte	Timan F.H.	S D & G Highlanders

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most recent conduct in each case. If the charge is for desertion or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct rendered on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) 22 times.

For AA Sec 19 3 times.

For AA Sec 24(2) 1 times.

For AA Sec 40 1 times.

Date of first entry in Field Conduct Sheet 21 Oct 40

Date of last entry in Field Conduct Sheet 9 May 45.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 16 days in military custody, *i.e.*, nil days in open arrest, 16 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 31 years

6. The date of his attestation is 8 Apr 40

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of CVSM & Clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date— N/A

Date of Promotion.

In the substantive rank of N/A

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27835) W.L.24959/3404 24,000 7/44 A.S.K.W.Ltd. Gp.498 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	29 Apr 42 Field	AA sec 15(1) AWL (20 dys 20 hrs)	60 dys Det	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 day of May 1945

[signature] Lieut Col

EXHIBIT THREE

MFM 6
(AFB 122)
40/PAM/130 (3438)

No. 30130 Name TIMM, F.J. Sqn, Battery, or Company Corps CIC Date of enlistment 8 Apr 41 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Oct 40	Spr		AA sec 24(2)	DOC	3 Dys pay	14 Jan 41	stoppage - 20-10-6	
Field	9 Jan 41	Spr		AA sec 40		10 dys pay	20 Jan 41	Forf 4 dys pay	
Field	9 Jan 41	Spr		AA sec 15(1)		5 dys pay	14 Mar 41	Forf 2 dys pay	
Field	12 Feb 41	Spr		AA sec 15(1)			14 Apr 41	Forf 1 dys pay	
Field	14 Mar 41	Spr		AA sec 15(1) AWL				Forf 7 dys pay	
Field	14 Apr 41	Spr		AA sec 15(1) AWL 9 hrs 35 mins					
Field	23 May 41	Spr	1	AA sec 17 Drunkenness(1st Off)	DOC	Fined £5.00	29 Apr 42	Forf 21 dys pay	
				AA sec 15(1) AWL(1 day 9 hrs 31 mins)		21 dys FP	29 Apr 42	Forf 1 dys pay	
Field	31 Jul 41		2	Drunkenness (2nd Off)AA 17					
Field	10 Mar 42	Spr		AA sec 15(1) AWL 45 mins					
Field	6 Apr 42	Spr		AA sec 15(1) AWL 20 d s 20 hrs)		60 dys Det	29 Apr 42	FGCM forf 92 dys pay	
Field	29 Apr 42	Spr		FGCM - AA sec 15(1) AWL 20 dys 20 hrs					

(PTO)

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 30 Oct 42		Spr		AA 15(1) AWL 23 hrs 50 mins AWL 5 hrs & 3 dys	DOO	28 dys FP	5 Nov 42	Forf 21 dys pay Forf 11 dys pay Forf 60 dys pay Forf 1 dys pay Total - 93 dys	
Field 26 Feb 43		Spr		AA 15(1) AWL 5 dys 19 hrs 51 mins		10 dys FP	26 Feb 43	Forf 10 dys pay Forf 6 dys pay Total - 16 dys pay	
Field 28 Sep 43		Spr		AA 15(1) AWL 8 hrs		2 dys FP	28 Sep 43	Forf 2 dys pay Total - 1 dys pay	
~~Field 26~~ Oct 43		Spr		AA 15(1) AWL 12 dys 2 hrs 30 mins		10 dys FP	28 Oct 43	Total - 30 dys pay Forf 13 dys pay	
Field 29 Nov 43		Spr		AA 15(1) AWL 2 dys 2 hrs 30 mins		14 dys FP	17 Jan 44	Forf 14 dys pay	
Field 10 Jan 44		Spr		AA 15(1) AWL 6 dys 14 hrs 30 mins				Forf 7 dys pay Total - 21 dys	
Field 1 Mar 44		Spr		AA 15(1) AWL 1 day 2 hrs 20 mins				Forf 10 dys pay	

No C30138 Name TIMM F.R. | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 8 Apr 40 | GC Badges | Service or Proficiency Pay | CMF R.C.A.F.

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

MFM 6 (AFB 122) 40/PAS/138 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 May 44	Spr		AA 15(1) AWL					Forf 15 dys pay
Field	22 Jun 44	Spr		AA 15(1) AWL					Forf 9 dys pay
Field	13 Jul 44	Spr		AA 15(1) AWL					Forf 4 dys pay
Field	29 Jul 44	Spr		AA 15(1) AWL 25 dys 23 hrs 30 mins		90 dys det 1	Sep 44		FGCM Forf 24 dys pay total - 124 dys pay
Field	9 Nov 44	Spr		AA 15(1) AWL from 1200 hrs 9 Nov to 1800 hrs 9 Nov 44 (absent 6 hrs)	Sgt Bennett	4 dys CB forf 10 dys pay	10 Nov44	B.R.Kerr Col	
Field	20 Dec 44	Pte		AA 15(1) AWL from 1330 hrs 20 Dec 44 to 1730 hrs 22 Dec 44 (2 dys 4 hrs)	DOC	forf 10 dys pay	26 Dec 44	Lt-Col RC Coleman	
Field	1 May 45	Pte	3	Sec 19 AA Drunkenness	Lt Andre Sgt Boyd.	fined $10.00	6 May 45	Major Petepiece	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
				Certified to be true copy or original document in my possession.					

(S P Lafontaine) Capt & Adjt
Off i/c Regt'l Documents

101 H Spr. Timm. Fm

O. H. M. S.

M. F. B. 270
1000M-12-60 (8068-09-7D)
H.Q. 1772-26-67

Correspondence to be PINNED here.

101 H

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 29th day of April, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Headquarters, Medium Artillery - Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*[redacted]

PROCEEDINGS REVIEWED.

[redacted]

21 May 42.

President.

Rank.	Name.	Regiment.
Major	H.D. Hayden	5 Cdn Med Regt RCA

Members.

Rank.	Name.	Regiment.
Captain	S.M. Carnaghan	Attd to 41 CSTC 1 R.C.A.S.C., R.U.
Lieut.	J.W. Dowle	7 Cdn A Tk Regt RCA

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (K.J. Leahe) Brigadier,
Commanding C.C.M.A. - Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C30130 Sapper Timm, F.M. 1 Cdn Tunneling Coy R.C.E.	1st Charge; A.A. Sec. 15 (1)	Guilty	Guilty. 60 days F.P.	I confirm finding and sentence H.D.G.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— Nil

(Signed) H.D.G. Ley, Brigadier, Commanding C.C.M.A. - Cdn Corps
Convening Officer (*c*)

(Signed) H.D.G. Ley Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29 day of April 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 29 day of April 1942.

H.D.G. Ley Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (d) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

N.A.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 4th day of May 1942.

N.A. Brigade Brigadier
Cdn. Corps.
C.C.M.A. *Confirming Officer.*

Promulgated and extracts taken in the case of

(*a*) (Dated) 14 MAY 1942 (Signed) C.A. Campbell
COLIN A. CAMPBELL - MAJ.
O/C. No. 1 Cdn. Tunnelling Coy. R.C.E.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42758) Wt. 46122—921 400 m 1/42 P. St. G. 6/42

B2

H.B. Hayden Maj
President

CHARGE SHEET

The Accused No. C30130 Sapper Timm, F.M. of the No. 1 Canadian Tunnelling Company, R.C.E. a soldier of the Canadian Army, Overseas, is charged with:-

First Charge.

Sec. 15 (1) Army Act.

When on Active Service, absenting himself without leave, in that he at Bordon absented himself without leave from 2200 hours 28th March, 1942 till reporting at Mickleham Hall at 1800 hours 18th April, 1942. Absent 20 days 20 hours.

(Colin A. Campbell) Major,
Officer Commanding, 1 Cdn Tunn Coy. RCE.
Canadian Army, Overseas.

In the Field.
21st April, 1942.

To be tried by Field General Court Martial.

(R.J. Leach) Brigadier,
C.C.M.A. - Cdn Corps

MEDICAL OFFICER'S CERTIFICATE.
K.R. (AR) PARA 557.

I certify that I have this morning examined No. C 301 36 (rank) Timms J. (Name)
of Lt. Transelberg. and in my opinion he is fit / unfit to undergo
trial by Court Martial.

Station Bordon

Date. April 29/42 Sgd. A.B. Hammond Capt.
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL ASSEMBLED BY ORDER OF BRIGADIER R.J. LEACH, C.C.M.A., CANADIAN CORPS.

In the Field. 29 April, 1942.

THE TRIAL OF C30130 Sapper Timm, F.M. No. 1 Canadian Tunnelling Company, R.C.E. Canadian Army, Overseas.

PRESIDENT

Major H.D. Hayden
5th Cdn Med Regt. R.C.A.

MEMBERS

Lieut. J.W. Lowle,
7 Cdn A.Tank Regt. R.C.A.

Capt. S.M. Carnagham,
Att.41 Cdn Gen Tpt Coy. 1 RCASCRU.

PROSECUTING OFFICER - Lieut. Y.H. Williamson
Defending Officer - Lieut. R.E. Neelands

At 1000 hours 29th April, 1942 the Court is opened.

The Order Convening the Charge Sheet and Summary of Evidence are read before the Court.

The Court complies with Rules of Procedures Nos. 22 and 23.

The Accused is brought before the Court.

The Order Convening the Court is read is marked Exhibit A, signed by the President and attached to the Proceedings.

The Names of the President and Members of the Court are read over in the hearing of the Accused and they answer to their names.

Q.1. Do you object to be tried by me as President or by any of the Officers whose names you have heard ?
A.1. No, sir.

The President and Menbers of the Court are duly sworn.

The Courtroom is cleared of Witnesses.

Q.2. Do you object to M7297 Spr. Herchek, F. as shorthand writer ?

A.2. No, sir.

The Charge sheet is marked and annexed to the Proceedings.

The Accused is arraigned upon the First Charge.

Q.3. Are you guilty or are you not guilty of the charge which you have heard ?
A.3. Guilty, sir.

The Accused having pleaded Guilty to the First Charge the provisions of R.P. 35(B) are now complied with.

The Court having been re-opened and the Accused is again brought before it and the charge to which he has pleaded Guilty is read to him.

The Reading of the Summary of Evidence is dispensed with by the Court and the agreement of the Prosecuting and Defending Officers and it is marked and signed by the President and attached to the Proceedings.

Q.1. Do you wish to make any statement in mitigation of punishment ?
A.1. No, sir.

Q.2. Do you wish to give evidence yourself or to call any witness as to character ?

A.2. No, sir.

The Defence is closed.

The Court is closed for consideration of findings.

The Court being re-opened and the accused is again brought before it.

The Prosecuting Officer Lieut. Y.H. Williamson is duly sworn and examined by the Court.

Q.1. Have you any evidence to produce as to character and particulars of service of the Accused.?
A.1. I produce this statement.

The Prosecuting Officer Lieut. Y.H. Williamson submits AFB. 296 being a statement as to the character and particulars of service of the Accused and a certified copy of MFM.6., the Field Conduct Sheet of the Accused.

These Statements are read, marked Exhibit A.and B. respectively and are annexed to the Proceedings.

Q.2. Is the Accused the person named in the statement which you have heard ?
A.2. Yes, sir.

Q.3. Have you compared the contents of this statement with the Regimental Books ?
A.3. Yes, sir.

Q.4. Are they a-true extracts from the Regimental Books and is the statement of entries in the conduct sheet a fair true summary of those entries ?
A.4. Yes, sir.

ADDRESS OF DEFENDING OFFICER Lieut. R.E. Neelands of No. 1 Cdn Tunn Company, R.C.E:-

" The Accused Sapper Timm, has been in the same Unit as myself for some considerable time. During that time he has worked on occasions directly under me. He has shown himself to be an excellent worker and possessing of ability. I would ask the court to consider these points on passing sentence. I would also ask the Court to note that the Accused returned of his own free will."

The Court is closed for consideration of Sentence.

ARMY FORM B 116.

No. 1 Cdn. Tunnelling Coy. R.C.E. REGIMENT.

STATION In The Field Date 21 April 1942

Application for a F.G.C.M. *Court-Martial.*

SIR,

I have the honour to submit the charge ~~of A.W.O.L.~~ against No. C 30130 Spr. Timm, F.M. No. 1 Cdn. Tunnelling Coy. R.C.E.

of the Company under my command, and request you will obtain the sanction of C.C.M.A. that a F.G. Court-Martial may be assembled for his trial at In the field.

The Case was investigated by (a) Major C.A.Campbell (Officer (b) Lieut. B.T.Trenouth Commanding) No. 1 Cdn. Tunnelling Coy. R.C.E.

A Court of Inquiry was held on (b) M.A. (date)

at (Station).

President M.A.

Members (Ranks, Names and Corps.)

4th Battalion R.C.E.

The accused is now at Guard Room His General Character is (c) Indifferent

I enclose the following documents (d) :—

1. Charge Sheet (~~in duplicate~~) (e).
2. Summary of Evidence, original (f) and ~~2~~ ~~copies~~ copy.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. Correspondence (g).
7. Statement as to character (A.F.B. 296) and regimental and company, etc., conduct sheets of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (i). [R.P. 14 (B)].

Prosecuting Officer

Lieut. Y.H. Williamson
#1 Cdn Tunn Coy. R.C.E.

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer C.A.T. Campbell
COLIN A. CAMPBELL, Major
O.C. No. 1 Cdn. Tunnelling Coy. R.C.E.

To C.C.M.A.
Canadian Corps.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. C 30130 Spr Timm F.M. #1 Tunnelling Co RCE Regiment is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer R.B.Hammond Capt.

* Insert "fit" or "unfit."

(a) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence [R.P. 19 (B) (iii)].
(b) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges ~~otherwise to be struck out~~ [R.P. 19 (B) (iii)].
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 46 (8) the fact should be recorded at the top of this form.

(11362) Wt.23030/316 20,000 8/39 A.& E.W.Ltd. Gp.698
(13455) Wt.45726/761 125,000 1/40 " " Forms/B116/16

Trial of:- C/30130 Sapper Timm, F.M.
1 Cdn. Tunnelling Coy. R.C.E.

Prosecutor:- Lieut. Y.H. Williamson
1 Cdn. Tunnelling Coy. R.C.E.

Defending Officer:- Lieut. R.E. Neelands
1 Cdn. Tunnelling Coy., R.C.E.

I, C-30130, Sapper Timm, F.M. of the No. 1 Canadian Tunnelling Company, R.C.E.

WISH
~~DO NOT~~ WISH to have an Officer assigned by the Convening Officer to represent me at my trial.

Spr. F. M. Timm

Spr. Timm, F. M.

LIST OF WITNESSES FOR THE PROSECUTION IN THE CASE OF

C-30130 Sapper Timm, F.M.

No. 1 Canadian Tunnelling Company, R.C.E.

B3833 Cpl. Moore, W.G.	No. 1 Canadian Tunnelling Coy. RCE.
B5803 L/Sgt. Croxford, W.R.	"
B83174 Cpl. Jodrell, W.J.	"

DEFENCE - Nil.

Summary of evidence in the case of
No. C30130 Spr. Timm F.M. of the No 1 Canadian
Tunnelling Coy R.C.E.
By direction of the Commanding Officer
the summary of evidence is taken on oath.

1st witness for
the prosecution.

B3833 Cpl. Moore W.G. of the No 1
Canadian Tunnelling Coy R.C.E. having
been duly sworn states:- At 2200 hours
28-3-12 at Bordon I took Tatoo and found
sapper Timm absent. W.G. Moore
B3833 Cpl.

2nd witness for the prosecution. Accused declines to cross-examine the witness

B3803 L/Sgt Croxford W.R. of the No 1
Canadian Tunnelling Coy R.C.E. having
been duly sworn states:- Since
2200 hours 28/3/12 Sapper Timm has been
absent from all parades and quarters
in Guadeloupe Barracks Bordon
until his presence now.
Accused declines to cross-examine W.R. Croxford
the witness B3803 L/Sgt.

3rd witness for
the prosecution

B83174 Cpl. Jodrell W.J. of the No 1
Canadian Tunnelling Coy R.C.E. having
been duly sworn states:- Sapper Timm
reported to me at Mickleham Hall
at 1800 hours 18-4-12. I placed sapper
Timm under close arrest. The accused
declines to cross-examine the

Witness.

W. J. Jodrell
B83114 Cpl.

The accused having been duly cautioned
in accordance with Rule of Procedure
4. (b) elects to reserve his defence.

B.T.T.

Spr. F. W. Timms
"C" 30130.

Certified that Rule of Procedure 4(c)(d)(e)(f)+(h) have been complied with.

Taken down by me in the presence and hearing of the accused this twentieth day of April, 1942.
In the Field.

D. T. Tremouth Lieut.

The accused expresses no preference for a defending officer.

D. T. Tremouth Lieut.

1 Tunn R.C.E.

29 April 1942.

Statement re General Character of C30130 - Spr. Timm, F.M.

I have known Timm's Father for many years and have known of Timm's home life. He comes of excellent parents with good upbringing and education. He has held several good positions in civilian life.

His conduct sheet of course gives a record that no one can be proud of. I believe that these entries are due primarily to too much liquor and not any desire on Timm's part to deliberately commit any offence.

I have found him quite truthful and he has a good deal of ability.

(Colin A. Campbell) Major,
Officer Commanding, 1 Cdn Tunnelling Coy., R.C.E.,
Canadian Army Overseas.

B4 Brigadier Maj President

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 30130	Spr.	Timm, F.M.	No.1.Canadian Tunnelling Company R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L.	4 times	11 times.
For Drunk	2 times	2 times.
For Conduct to the preg. etc. (Civil Offence)	times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~ ~~None~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N.A. beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for XX days in civil custody, and Nil 10 days in military custody, making a total of 10 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~XXXXXXXXXX~~ attestation paper is 28 yrs

6. The date of his ~~XXXXXXXX~~ attestation specified in his ~~XXXXXXXXXX~~ attestation paper is 8-4-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N.A.

8. The accused is entitled to deferred pay or gratuity in respect of N.A. service.

9. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). Nil.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of N.A. dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*1166.40) W1.B2044/902 75,000 12/40 A.& E.W.Ltd. (Gp.)656

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29 day of April 42

Lt Col A Campbell

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	..... years.
In the rank of	..... years
In the rank of	..... years.

(INSTRUCTIONS.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs completed accordingly.)

COPY.

No. C30130 Name TIMM, F.M. Sqn., Battery or Company 1 Fd Coy

Corps [illegible] Date of enlistment 8-4-40 G.C. Badges Service or Proficiency Pay

Signature O.C. Company, etc. Officer Commanding Engineer Training Centre. Sheet No.

MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Ottawa	20-5-40	Pte		AWL from 0830 hrs 19-5-40 to 2200 SM Good- hrs 21-5-40.		Forfts 3 dys Will pay 7 dys C.B.	22-5-40		
Petawawa	30-6-40	Spr		AWL.from 0200 hrs on 30-6-40 till 0810 hrs on 30-6-40.Absent 6hrs 10 min.	L/Cpl Profit	1 day C.B.	13-7-40	A.S.Gray, Maj.	Forfts 1 dys pay.
				VERIFIED TO DATE JULY 17 1940 ? ? ? ? ? Adjutant Engineer Training Centre.					
Mickleham Hall	31-8-40	"		AWL.1330 hrs 31-8-40 to 2215 hrs 1-9-40 AA.Sec 15(1) Absent 1 day 8 hrs 45 min.	L/Sgt Denny	2 days C.B. 2 days pay.	3-9-40	Capt. Campbell	
Mickleham	26-9-40	"	Nil	AWL, 2230 hrs 26-9-40 to 1030 hrs 27-9-40 total 12 hrs AA.Sec 15(1)	CSM.Scho- field Cpl Cowan	2 days pay loss 1 dys pay.	28-9-40	Major Campbell	

(P.T.O.)

Rank	Date of offence	Nos	Charge or punishment awarded	Offence	Particulars awarded	Date of award and signature of officer dealing with case	Remarks
Mickleham	30-9-40	Spr	Nil	AWL. 1330 hrs 30-9-40 to 1330 hrs 1-10-40 Absent 1 day AA.Sec 15(1)	Cpl Davies	Fined 3 dys pay.	2-10-40 Major Campbell
"	18-10-40	"		Losing by neglect 1 respirator anti-gas.AA. Sec. 24(2)	L/Sgt Pritlove	Stoppage of pay 18s 6d	21-10-40 Major Campbell
"	7-1-41	"		Conduct to the prej.etc. was absent from 1330 hrs parade.AA.Sec 15(2)	CSM. Schofield	Fined 3 days pay	9-1-41 Major Campbell
"	6-1-41	"		Committing a civil offence i.e. "Common assault struck and kicked Mr Fisher of Cresent Theatre Leatherhead.AA. Sec. 41(5).	Sgt PritLove	Stoppages of pay to 0-7-6 for doctors bill	16-1-41 Major Campbell
"	15-2-41	"	Nil	WOAS.AWL. 2230 hrs 15-2-41 to 30 hrs 16-2-41. Absent 13 hrs AA Sec. 15(1)	Sgt Howarth Cpl. King Cpl Gallow-ay	Forfts 10 dys pay. Loss of 1dys pay, forfts 4	Major Campbell

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122) 500M—8-39 (7883) H.Q. 1772-40-1

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Mickleham	13.3.41.	Spr	Nil	AWL. from fatigue duty from 1030 hrs 13.3.41 to 2300 hrs 13.3.41. Absent 12½ hrs. AA. Sec. 15(1)	SM.Wilson	Loss 1 dys pay Forfts 3 dys pay	15.3.41.	Major Campbell	
"	14.4.41.	"		AWL 2230 hrs 14.4.41. to 0805 hrs 15.4.41. Absent 9 hrs 35 min. AA. Sec. 15(1).	SM.Wilson L/Cpl Gerow	Forfts 2 dys pay	15-4-41.	Major Campbell	Loss 1 dys pay
Fetcham	13.5.41.	"		WOAS. DRUNK A.A.Sec. 19	Documentary	Admonished ~~XXXXXXXX~~	23.5.41.	Major Campbell	1st Offence
Mickleham	20.5.41	"		WOAS.AWL. 2359 hrs 20.5.41 to 0930 hrs 22.5.41 Absent 1 day 9½ hrs A.A.Sec.15(1)	SM.Wilson	Forfts 5 dys pay.	23.5.41.	Major Campbell	Loss 2 dys pay.

(P.T.O.)

	Date	Rank	Corps or Regiment	Offence	Name of Witness	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
1. Eastbourne 41.	5.6	Spr.		1. WOAS.AWL.0600 hrs 5.6.41 to 2200 hrs 6.6.41 Absent 1 day 16 hrs.AA. Sec 15(1) (2)AWL.whils t under open arrest 1100 hrs 8.6.41. to 2359 hrs 8:6.41.Absent 12 hrs 59 min.AA.Sec15(1)	Document-ary. SMWilson	14 days F.P. 14 dys forfts pay.	13.6.41.	Major Campbell	Loss of 3 days pay.
2. Mickleham 41.	8.6.								
Mickleham 41.	30.7.	"	2	1. WOAS. Drunk at Mickleham at 1430 hrs. A.A. Sec 19.2. WOAS. Conduct to the prej of good order and military discipline- created a disturbance at Mickleham at 1430 hrs 30.7.41.AA.Sec 40.	SM.Wilson Sgt Callad-ine	1.$5.00 fine for 2nd Drunk 2. Awarded 21 dys F.P.Forfts 21 days pay.		Major Campbell	
Cove	9.3.42.	"		Absenting himself from training parade from 1445 hrs to 1540 hrs 9.3.42. AA. Sec. 15(1)	L/Sgt Harris	1 dys pay	10.3.42.	Major Campbell	

CERTIFIED TRUE COPY.

COLIN A. CAMPBELL - MAJ.
O.C. No. 1 Cdn. Tunnelling Coy. R.C.E.

VVV-51

Lpr. Timm, # Mac.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-30130 Spr TIMM, F M

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 4 detention for a period of Twenty (40) days

(Sgd) ..... 1 Sep/44 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 4 Sep 44 Commanding "B" Sup Rdes Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-30130 Spr. Timm F.M.	5 Sep 44	[illegible]

ENTERED PART II ORDERS

DATE 6 Sep 44 PAGE 212

Sgt i/c Cdo. Registry

Records Officer.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 8 SEP 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 VV-51

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P Ac S/1868 (2864)

Convened by Order of Brigadier P.R. Shields Comd "B" Gp CRU dated 31 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-30130	Spr	Fraser, MacDonald	TIMM	1 CERU

PROCEEDINGS REVIEWED

J.C. Campbell Major

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ..... on (*date*(s)) 1 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~—~~

~~The Interpreter is sworn.~~(1) Do you object to C/9632 T G.M. DUNFIELD as shorthand writer? Ans NO - SIR

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO - SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redmond VD	HQ CRU
Member	CAPT	W.F. SWINTON	1 CASGRU
Member	LT	E.J. HARDY	1 CSRU
~~Judge-Advocate~~			
Prosecutor	LT	C.I. LAWTON	1 CERU
Defending Offr	LT	J.A. DARLING	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans N.D. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~s~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under* B5 *such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. .....

..... Do you intend to call witnesses on your behalf ? Ans. .....

Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 95, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. To call character witnesses NOTE ATT
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (~~ies~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 358. *If above documents not produced, see RP* 46 *fn* 1 *para* 3.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet, and in mitigation of punishment ?(1) Ans. Yes also by 2nd Officer NOTE ATT
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2223, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*B*), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C-30130 Spr. TIMM, Fraser MacDonald, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE

A.A.15(1) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from No. 1 Canadian Engineer Reinforcement Unit from 2230 hrs. 29 Jul 44 until he surrendered himself at the Guard Room of No. 1 Canadian Engineer Reinforcement Unit at 2200 hrs 22 Aug 44. (Absent 23 days, 23 hours, 30 mins.)

In the Field
28 Aug 44

(H.G.J. Wards) Lt. Col
A/Commanding Officer
1 Cdn Engr Rft Unit
Canadian Army (Overseas)

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

31 Aug 44

(F.R. Shields) Brigadier
Comd "B" Group
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-30130	Spr		Fr[illegible]er, MacDonald TIBB		1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 31 Aug 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CASCRU
Lieutenant	to be detailed by	1 CSRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(*Signed personally. RP 105 fn 2.*) (Rank.)

Date 31 Aug 44

Commanding "B" Gp CRU (P.R. Shields) Brigadier Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA88 (In lieu of AFA8) 40/P & S/1697 (4031)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE.

E.R. (Can) Form 557.

I certify that I have this morning examined

No. C 30130 Spr. Timm. F.C.

of R.C.E.R.C.

and in my opinion he is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Field

Date 1-9-44

J.B. Masten Capt.
Medical Officer.
RCAMC

F.G.C.M. IN THE CASE OF

C-30130 Spr TIMM, F.M. No 1 CERU

1 Sep 44

EVIDENCE AS TO CHARACTER (IN MITIGATION) NOTE E-1

1st WITNESS FOR THE DEFENCE AS TO CHARACTER

Capt J.D. Bryce on strength of No 1 CERU having been duly sworn states:

In 1943 I was 2 i/c of No 2 Tunnelling Coy. Spr Timm came to us in March 43 and remained to September 43 during which period he was a willing and efficient soldier with us. Sir, I know nothing of his record before or since. He was never up for Orderly Room during that period.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

STATEMENT BY THE ACCUSED (IN MITIGATION) NOTE E-3

Sir,

I came over in 40 and I joined the Tunnelling Coy in Aug. I was posted out to the Fld on coastal defence. I was with them for quite awhile travelling around the coast and I came into Headquarters. I was posted out to bomb disposal and while I was out on bomb disposal I was up on the East coast near Yarmouth and at that time, September, a draft for Gibraltar had left and I was left behind. I figured my job was every bit as important at that time so I came into Headquarters again. I was lying around for some time doing nothing and the inactivity was hard on me, Sir, and I got restless and fed up, and so I took to drinking a bit. When the boys came back from Gibraltar they transferred me to No 2 Tunnelling. I got along very well at No. 2 Tunnelling but there was a surplus of miners and they sent me to the Holding Unit. I tried every possible way and made every effort to be placed on a draft. I even went as far as to try to be transferred to a more active unit but it was the same answer, no. My trade of miner held me back. I was kept in reserve. It was quite stagnant around here and I got restless again so they sent me over to No 2 Construction Coy and there my trade didn't fit in so they sent me to No 2 CBRG so that I would get on a draft to France. With all my hopes and aspirations I was left behind again. I was just the overflow, in fact I never even left camp at No 2 CBRG in the hope of getting on. When I got back to the Holding Unit I was so mentally depressed that I took to drinking and got drunk and stayed drunk. I surrendered myself and went back to my unit this time. I am unmarried. I am a metalurgist in civil life. I worked with the Department of Mines and Resources at Ottawa. I have an excellent record all the way through civil life. I have my matriculation. Sir, I would like to make one last plea. I would like to get to France before this is all over.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

PLEA IN MITIGATION BY DEFENDING OFFICER NOTE E-3

Sir,

Judging from the prisoner's record he is of a nervous type, quite restless, easily upset, and he has undoubtedly tried to get overseas a good many times. I think he tried to bring out the point that he has done his best to do an active part in the war itself but has been turned down on several occasions due largely to circumstances, not to himself. He is twenty-nine years old, category "A". He is a miner "B", driller "C", a pioneer "C", an operator SEC "C", and also a driver "IC", five trades which are engineer trades. It has been proved by Capt

EXHIBIT "A"

D/D 129517. Cpl. Pauze. J.P. was NCO in charge roll call for No 2 Pl "C" Coy No 1 CERU. on 29 Jul 44 at 2230 hours & called tattoo roll call and C30130 Spr Timm F.M. failed to answer his name. I marked him absent without leave from 2230 hours 29 Jul 44.

J. P. Pauze Cpl.

M

F

D

F.G.C.M. IN THE CASE OF

C-30130 Spr TIMM, F.M. No 1 CERU

1 Sep 44

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In the opinion of the Court it is unnecessary to comply with RP 83(B)

PLEA IN MITIGATION BY DEFENDING OFFICER NOTE E-3

Sir,

Judging from the prisoner's record he is of a nervous type, quite restless, easily upset, and he has undoubtedly tried to get overseas a good many times. I think he tried to bring out the point that he has done his best to do an active part in the war itself but has been turned down on several occasions due largely to circumstances, not to himself. He is twenty-nine years old, category "A". He is a miner "B" driller "C", a pioneer "C", an operator SEC "C", and also a driver "IC", five trades which are engineer trades. It has been proved by Capt

Bryce and by records that this man did soldier at one time and I firmly believe that if he was given the proper atmosphere and place, the type of work he wanted to do was to go overseas with the boys, he would soldier again. Of Course we can't be sure of that, but I would like to see that he is given the chance.

THE COURT IS CLOSED TO CONSIDER THE SENTENCE

EXHIBIT "A"

I, D129517, Cpl. Pauze J.P. was NCO in charge roll call for No 2 Pl "C" Coy No 1 CERU. On 29 July 44 at 2230 hours I called tattoo roll call and C30130 Spr Timm F.M. failed to answer his name. I marked him absent without leave from 2230 hours 29 July 44.

J. P. Pauze Cpl.

MS

F

D

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C30130 Spr. Timm F. M., Royal Canadian Engineers, on the strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

D129517 Cpl. Pauze J. P., Royal Canadian Engineers, a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Exhibit "A".

Having regard to the exigiencies of the service attendance of this witness cannot in my opinion be readily procured.

W. S. MacKattie Lt.
Officer detailed to take the Summary of Evidence

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS for the prosecution

Lieut. C. F. DeWolfe, RCE, No 1 Can Engr Fft Unit, having been duly sworn states.

(1) "I, Lieut. C. F. DeWolfe, RCE, No. 1 CERU present amendment to D.O. 182 Para 6-A(a) d/2 Aug 44, as given in D.O. 197 Para 5-A(c), relating to the absence without leave of C30130 Spr. Timm F. M., whom I now recognize (Marked Exhibit "B").

(2) "I, Lieut. C. F. DeWolfe, RCE, No 1 CERU present a copy of D.O. 186 d/7 Aug 44 of which para 5-A(b) relates to the absence without leave of C30130 Spr. Timm F. M., whom I now recognize. (Marked Exhibit "C").

(3) "I, Lieut. C.H. DeWolfe, RCE, No. 1 CERU present amendment to R.O. 186 Para 5-A(b) d/ 7 Aug 44 as given in D.O. 199 Para 5-A(d) relating to the absence without leave of C30130 Spr. Timm F.M. whom I now recognize. (Marked Exhibit "B").

C.H. DeWolfe Lt.
C.H. DeWolfe Lt. RCE

The accused declines to cross-examine this witness.

THIRD WITNESS
for the prosecution

B25326 A/Cpl. Robertson B., No. 1 Cdn. Engr. Rft. Unit, having been duly sworn states: "I, B25326 A/Cpl. Robertson B., of No. 1 Cdn Engr. Rft Unit, Cdn. Army (Overseas) was NCO in charge of the upper Guard Room at No. 1 Cdn. Engr. Rft. Unit on the evening of 22 Aug 44. At 2200 hrs on that evening, C30130 Spr. Timm F.M. whom I now recognize as the accused entered the Guard Room and surrendered himself as an absentee without leave. Spr. Timm was sober and properly dressed. I placed him under close arrest and escorted him to detention barracks."

B Robertson Cpl.
B25326 A/Cpl Robertson B.

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

In the field
27 Aug 44

W. D. MacKattie Lt.
Officer detailed to take the Summary of Evidence

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C-30130 Spr. Timm F.M., Royal Canadian Engineers, on the strength of No.1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).
By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS For the prosecution — D-129517 Cpl. Pauze J.P., Royal Canadian Engineers, a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Exhibit "A" Having regard to the exigiencies of the service attendance of this witness cannot in my opinion be readily procured.

H.D. MacHattie Lt.
Officer detailed to take the Summary of Evidence

The accused does not demand the attendance of this witness for cross-examination

SECOND WITNESS For the prosecution — Lieut. C.H. DeWolfe, RCE, No.1 Cdn Engr Rft Unit, having been duly sworn states.
(1) "I, Lieut. C.H. DeWolfe, RCE, No.1 CERU present amendment to D.O.182 Para 6-A(a) d/2 Aug 44, as given in D.O. 199 Para 5-A(c), relating to the absence without leave of C-30130 Spr. Timm F.M., Whom I now recognize (Marked Exhibit "B")
(2) "I, Lieut. C.H. DeWolfe, RCE, No.1 CERU present a copy of D.O. 186 d/7 Aug 44 of which para 5-A (b) relates to the absence without leave of C-30130 Spr. Timm F.M., whom I now recognize. (Marked Exhibit "C").
(3) "I, Lieut. C.H.DeWolfe, RCE, No.1 CERU present amendment to D.O. 186 Para 5-A (b) d/7 Aug 44 as given in D.O. 199 Para 5-A (d) relating to the absence without leave of C-30130 Spr. Timm F.M. whom I now recognize. (Marked Exhibit "D")

C.H. DeWolfe Lt.
C.H.DeWolfe Lt. RCE

The accused declines to cross-examine this witness.

THIRD WITNESS For the prosecution — B-25326 A/Cpl. Robertson B., No.1 Cdn Engr Rft Unit, having been duly sworn states:-
"I, B-25326 A/Cpl. Robertson B., of No.1 Cdn Engr Rft Unit , Cdn. Army (Overseas) was a NCO in charge of the upper Guard Room at No.1 Cdn Engr Rft Unit on the evening of 22 Aug 44. At 2200 hrs on that evening, C-30130 Spr. Timm F.M. whom I now recognize as the accused entered the Guard Room and surrendered himself as an absentee without leave. Spr. Timm was sober and properly dressed. I placed him under close arrest and escorted him to detention barracks."

B. Robertson Cpl.
B-25326 A/Cpl. Robertson B.

The accused declines to cross-examine this witness.

The accused was cautioned as follows:
"Do you wish to make any statemint or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with

In the field
27 Aug 44

H.D. MacHattie Lt.
Officer detailed to take the Summary of Evidence.

CERTIFIED TRUE COPY OF ORIGINAL SUMMARY OF EVIDENCE

H.D. MacHattie Lt.
H.D. MacHattie Lt.

APPLICATION FOR DEFENDING OFFICER

I, C-30130 Spr. Timm, P.M. Request that Capt. J.D. Bryce, if available be appointed to defend me in my forthcoming Court Martial.

August 27th 14
Date

J. M. Timm
C-30130 Spr. Timm P.M.

LIST OF EXHIBITS

Exhibit "A"	Signed statement [redacted]-129617 Cpl. Pauze J.P.
Exhibit "B"	1 CERU Part 11 Order No.199 d/22 Aug 44
Exhibit "C"	1 CERU Part 11 Order No. 186 d/7 Aug 44

EXHIBIT "B"

NO I CANADIAN ENGINEER REINFORCEMENT UNIT

LAST ORDER NO 198 d/21 Aug 44 | PART II ORDERS | THIS ORDER NO 199 d/22 Aug 44

Issued By

COLONEL G.H. WHYTE, M.C., V.D., Commanding Officer

" A"

1 ATTACHED

1-A
(a) Ceases to be attached fsp to 1 CSRU wef 20 Aug 44:

LIEUT DE PICKETT

2 COURSES

2-A
(a) Proceeded on CMHQ Course 949 Ser 4(12) Intelligence Offrs RE (22 Aug 44 to 5 Sep 44) and attached fsp to SME Ripon wef 22 Aug 44 (Auth: CMHQ 2/Engrs/1/17 (Trg M2) d/21 Jul 44)

LIEUT CG BOURNE
LIEUT AH HARDER
LIEUT WF McEWEN

2-B
(a) Off Photographic Interpretation Course and ceases to be attached fsp to School of Mil Intelligence wef 20 Aug 44:

LIEUT CG BOURNE
LIEUT AH HARDER
LIEUT WF McEWEN

(b) Off Inf Offrs Wireless Course and ceases to be attached fsp to 1 CSRU wef 12 Aug 44:

LIEUT HD HAMILTON

2-C
(a) Having attended Inf Offrs Wireless Course (7 Aug 44 to 12 Aug 44) qualified as shown wef 12 Aug 44:

LIEUT CS DUNN "D"
LIEUT HD HAMILTON "Q2"

3 LEAVE OF ABSENCE

3-A
(a) Granted 7 days PL from 20 Aug 44 to 27 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR(A):

LIEUT HD DEPIERO

4 PROMOTIONS

4-A
(a) To be CAPT and to have seniority in the RCE from 30 Oct 43 (Auth: CRO Supp 4933 d/18 Aug 44)

LIEUT(A/CAPT) DS MITCHELL

TO SHEET TWO

5 PERMANENT ESTABLISHMENT - Postings

5-A
(a) Ceases to be absorbed in PE HQ as Asst Adjutant wef 17 Aug 44

LIEUT R MacRAE

5-B
(a) Assumes the Appt of Asst Adjutant PE HQ wef 10 Aug 44

LIEUT I SHIENFIELD

6 NEXT OF KIN

6-A
(a) Change of address of next of kin to Mrs Margaret Pickett (Wife) 10507 - 129 St., Edmonton, Alberta, Canada:

LIEUT DE PICKETT

7 STRENGTH DECREASE

7-A
(a) SOS to "Y-5" List on proceeding on Photo Interpretation Course (22 Aug 44 to 27 Sep 44) at School of Mil Intelligence Matlock wef 22 Aug 44 (Auth: 402 Int Soc Pro (Courses 1) d/11 Aug 44)

LIEUT JW WYLIE

"B"

1 STRENGTH INCREASE

1-A
(a) TOS pending transfer from 6 CIRU wef 19 Aug 44 (Auth: 408/Tradesmen/1 (PTA) d/15 Aug 44)

B 42806 PTE TREMBLAY PW (Armr Mech MV "C")

1-B
(a) TOS from 3 CIRU wef 22 Aug 44 (Auth: 408/Tradesmen/1 (PTA) d/17 Aug 44)

C 6112	PTE	BLOOM	LE
B 112246	PTE	DECARLE	LJ
F 3854	PTE	MURRAY	HR
F 24501	PTE	MacDONALD	SG
F 24437	PTE	MacDONALD	TB
F 33426	PTE	PATERSON	JC
G 14171	PTE	POWER	E

(b) TOS from 1 NETD wef 22 Aug 44 (Auth: Pulhems Profile)

B 130966 SPR GALLAGHER CM Unfit

1-C
(a) TOS from "Y-2" List on release from Cdn Detn Bks wef 19 Aug 44:

B 28336	SPR	CONURN	VEJ
C 36699	SPR	RELISLE	LJF

TO SHEET THREE

1 STRENGTH INCREASE

1-C
(b) TOS from "Y-2" List on release from Cdn Dstn Bks wef 21 Aug 44:

D 15791 SPR DELAGE R Unfit

(c) TOS from "Y-3" List on return from B/Shunters Course at Tn Trg Centre RE wef 20 Aug 44:

M 102998	SPR	BATEMAN	JC	
C 63476	CPL	BOUDREAU	F	(Blacksmith "C")
C 63456	SPR	CAVANAGH	RV	(Oper SEE "C")
H 101220	SPR	FINKLE	H	
C 98787	SPR	GIFF	GL	
K 40223	SPR	SWEENEY	HE	

(d) TOS from "Y-3" List on disch from Hosps shown wef 12 Aug 44:

D 15116	SPR	CHAIF	J	(Stoker "C") 9 Gen
B 29477	SPR	HUTCHINGS	H	(Bricklayer "D") 13 Gen
L 74128	SPR	KERR	WJ	13 Gen
D 129979	SPR	MITCHELL	JH	(Eng Fitt i/c & P "B") 18 Gen
M 101265	SPR	SWIFT	DS	4 Conv Depot

(e) TOS from "Y-5" List on return from Stretcher Bearers and Medical Assts Course at 1 CGRU wef 22 Aug 44:

G 49155 SPR DROST WF

(f) TOS from "Y-3" List on disch from 4 Conv Depot wef 21 Aug 44:

H 36302	SPR	HUGHES	RV	
M 65395	SPR	JAHELKA	D	
H 36345	SPR	KEHLER	J	(Dvr Mech MV "C")
D 126783	SPR	LEMEBVRE	P	(Carpenter "C" Note "F")
B 130366	SPR	MORRISSEY	FJ	
F 75655	SPR	McISAAC	DJ	

(g) TOS from "Y-3" List on disch from 9 Gen Hosp wef 13 Aug 44:

B 95398 SPR JACKSON RL (Stoker "C" Note "F")

(h) TOS from "Y-3" List on disch from 1 Spec Hosp wef 19 Aug 44:

G 48227 SPR JAGOE HC (Oper SEE "C")

(i) TOS from "Y-3" List on disch from Roman Way Conv Hosp wef 11 Aug 44:

D 22210 SPR McKENZIE GA (Pioneer "C")

(j) TOS from "Y-3" List on disch from 23 Gen Hosp wef 21 Aug 44:

M 17564 SPR WILLS AC

1-D
(a) D.O. 197 Para 1-B (a) d/19 Aug 44 insofar as it refers to the u/m is amended by the addition of "(Note "F")"

1-E
(a) H 102834 SPR FULTZ GB (Carpenter "C")

D E L E T E D

TO SHEET FOUR

2 ATTACHED

2-A
(a) Attached fsp to 2 Cdn Tobacco Depot wef 10 Aug 44 (Auth: CRU AT 1308 d/18 Aug 44)

K 99131	SPR	SMITH	TH

(b) Attached fsp to 1 Cdn Base Pk Coy RCE wef 18 Aug 44 (Auth: CMHQ AT 1242 (AG2b) d/14 Aug 44)

M 35951	SGT	WALKER	WC

2-B
(a) Attached fsp from 30 Cdn Air Svy Liaison Sec for period 12 Aug 44 to 19 Aug 44:

D 10734	L/CPL	DAVIS	HN
A 32050	SPR	DODD	JC
H 11083	SPR	LAMBERT	DM

2-C
(a) Conse to be attached fsp from 30 Cdn Air Svy Liaison Sec wef 18 Aug 44:

M 36699	SPR	BALE	HP
M 106193	CPL	DAWSON	KT
F 76356	SPR	KEEFE	EC
B 133612	SPR	SNIDER	CA

(b) Conse to be attached fsp except Regt'l Duty from RCE Band wef 20 Aug 44:

B 130523	PTE	BRAY	W
A 116511	PTE	CARR	JE
A 70059	PTE	DIXON	EW
L 84552	PTE	ELLIS	AC
A 102277	PTE	GREENLY	GE
B 88584	L/SGT	GREENWELL	J
A 106600	PTE	HAYTER	RW
563006	BANDMASTER(WOI)	HEMSTEAD	JH
B 135477	TPR	HILES	WH
M 24047	ITE(A/L/CPL)	HONEYCHURCH	W
A 23152	SPR(A/L/CPL)	JEANS	RH
D 6084	GNR	JENNINGS	A
M 7286	SPR(A/CPL)	LAUDER	H
M 106658	SPR	LOUTIT	GM
A 103353	TPR	MELROSS	TG
B 87214	PTE	MOOR	J
A 103399	TPR	MacCALLUM	GC
D 26592	A/CPL	McDONALD	DF
M 50102	PTE	NIMECK	JF
C 65498	PTE	PARKER	JW
F 35145	TPR	PECK	EA
B 29908	SPR	PEDERSON	R
D 16441	SPR	PEPPY	EV
M 50035	PTE	PHILLIPS	HW
G 32901	PTE	SPARKS	HR
A 27178	PTE	PRITCHARD	RW
A 102162	PTE	WALKER	FEC
D 26953	PTE	HINES	CB
A 102180	PTE	WESTGARTH	R

TO SHEET FIVE

2 APPOINTED

2-D

(a) Cosses to be attached for Regt'l Duty to RCE Band wef 20 Aug 44:

A 102258 PTE FARNHAM WL

(b) Cosses to be attached fap to CTS wef 19 Aug 44:

L 33132 CPL(A/SGT) JOHNSON JR

(c) Cosses to be attached fap to Cdn Detn Bks wef 19 Aug 44: Unfit

M 7273 PTE McCLOY DN

(d) Cosses to be attached fap to P & S Det RCASC wef 21 Aug 44:

M 103679 SPR NIXON DL

(e) Cosse to be attached fap to CMHQ wef 21 Aug 44(Auth: A T 1312 undated)

L 19177 SPR McELHONE M
B 114005 SPR TOST C Unfit

(f) Cosses to be attached fap to 2 Adv Base W/S wef 9 Aug 44: Unfit

K 99131 SPR SMITH TH

2-E

(a) Off Detached Duty to Deep Drilling School wef 20 Aug 44:

H 102103 SPR(A/L/CPL) BRANT DW
H 36504 SPR CHEZEWICH E
K 31036 SPR ELLISON W.
F 78617 SPR FARRELL EF
F 91619 SPR PARRELL P
H 1558 SPR(A/L/CPL) HANSON HE
B 27479 SPR PRIMEAU JC
B 27366 SPR ST.JUNION S
K 46233 SPR VANIDOUR F
B 48355 SPR(A/CPL) WAGNER HH

(b) Off Detached Duty to Deep Drilling School wef 19 Aug 44:

L 103282 SPR GRIEVE WK
D 129854 SPR McLELLAN KC
B 145149 SPR RICHARDSON RH
K 100139 SPR THORLEIFSON P

3 COURSES

3-A

(a) Having attended Diesel Course (4 Aug 44 to 12 Aug 44) qualified as shown wef 12 Aug 44:

D 110133 SPR EDGE
L 74294 CPL HARBIN WA "Q1"
A 103650 SPR HILLIKER TA "Q1"
K 76380 SPR MARTIN HW "Q1"
B 138121 SPR McDONALD GH "Q1"
D 148368 SPR ROXBOROUGH JF "QB" Unfit
JGH "Q1" Unfit

TO SHEET SIX

4 LEAVE OF ABSENCE

4-A
(a) Granted 7 days PL plus 48 hrs ext from 21 Aug 44 to 30 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR&I (Total leave and entitlement 9 days)

F 86072	SPR	BENT	AH
D 83032	SPR(A/L/CPL)	BUTLER	OA
K 99754	SPR(A/L/CPL)	COCKS	MHJ
B 29320	SPR	FERGUSON	RA
D 16066	CPL(A/SGT)	FRY	GW
A 19551	SPR(A/CPL)	GILLIES	DJ
A 19259	SPR	GREENHILL	KC
M 15956	CPL(A/SGT)	ROGERS	JW
K 98579	SPR(A/L/CPL)	SMITH	GC
M 7301	CPL	TARRANT	WF
B 27275	SPR(A/L/CPL)	THOMPSON	AE

(b) Granted 7 days Disembarkation Leave from 21 Aug 44 to 28 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR&I:

F 91508	SPR	FEAR	FH	Unfit
H 204445	SPR	McLEOD	KE	

(c) Granted 7 days PL from 21 Aug 44 to 28 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR&I:

L 66261	SPR	STANLEY	RA	Unfit
H 3640	SPR(A/CPL)	TURNBULL	CE	

(d) Granted 7 days Compassionate Leave plus 48 hrs ext from 21 Aug 44 to 30 Aug 44 with money allce in lieu of rations Art 789(3)&(4)FR&I. (Total leave and entitlement 9 days)

L 154171	LTE	HOGG	NR
B 65076	PTE	SPEIGHT	RW

D E L E T E D

(e) Granted 7 days Special PL from 11 Aug 44 to 18 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR&I

B 22210	SPR	McKENZIE	GA

(f) Granted 7 days Special PL from 12 Aug 44 to 19 Aug 44 with money allce in lieu of rations Art 789 (3) & (4):

D 15116	SPR	CHAIF	J
B 29477	SPR	HUTCHINGS	H
B 95398	L/CPL	JACKSON	RL
L 74128	SPR	KERR	KJ
D 129979	SPR	MITCHELL	JH
M 101265	SPR	SWIFT	DS

5 ABSENT WITHOUT LEAVE

5-A
(a) AWL (8th day eff) wef times and dates shown:

K 75390	SPR	FEDDERSON	H	2230 hrs 12 Aug 44 to 2230 hrs 20 Aug 44	
G 51106	SPR	McANULTY	WJ	0700 hrs 13 Aug 44 to 0700 hrs 21 Aug 44	
D 15068	SPR	NAYLOR	H	2200 hrs 13 Aug 44 to 2200 hrs 21 Aug 44	Unfit
C 2841	SGT	PENFOLD	JF	0845 hrs 13 Aug 44 to 0845 hrs 21 Aug 44	

TO SHEET SEVEN

5 ABSENT WITHOUT LEAVE

5-A
(b) AWL (22nd day off) wef times and dates shown:

M 50806	SPR	McGRANN	TJ	2200 hrs 29 Jul 44 to 2200 hrs 20 Aug 44
C 30130	SPR	TIMM	FM	2230 hrs 29 Jul 44 to 2230 hrs 20 Aug 44

5-B
(a) Returned from AWL wef times and dates shown:

M 16359	SPR	DAVIS	RG	1400 hrs 18 Aug 44
B 83018	SPR	DUFFIELD	GD	2015 hrs 16 Aug 44
K 74711	SPR	MEIHM	GHB	1330 hrs 19 Aug 44
A 48604	SGT	SINCLAIR	JR	2200 hrs 20 Aug 44

5-C
(a) D.O. 187 Para 4-A (a) d/8 Aug 44 insofar as it refers to the u/m is amended to read "AWL wef 0700 hrs 5 Aug 44"

M 59577 SPR BLASETTI E

(b) D.O. 196 Para 5-A (b) d/18 Aug 44 insofar as it refers to the u/m is amended to read "wef 0700 hrs 5 Aug 44 to 0700 hrs 13 Aug 44"

M 59577 SPR BLASETTI E

(1) (c) D.O. 182 Para 6-A (a) d/2 Aug 44 insofar as it refers to the u/m is amended to read "AWL wef 2230 hrs 29 Jul 44"

C 30130 SPR TIMM FM

(3) (d) D.O. 186 Para 5-A (b) d/7 Aug 44 insofar as it refers to the u/m is amended to read "wef 2230 hrs 29 Jul 44 to 2230 hrs 6 Aug 44"

C 30130 SPR TIMM FM

5-D
(a) D.O. 190 Para 4-B (a) d/11 Aug 44 insofar as it refers to the u/m is hereby cancelled:

M 59577 SPR BLASETTI E

(b) D.O. 193 Para 5-A (a) d/15 Aug 44 insofar as it refers to the u/m is hereby cancelled:

H 19660 SPR HOUDE J

(c)

D E L E T E D

6 REVERSIONS

6-A
(a) Relinquishes the Appt of A/L/SGT and reverts to the confirmed rank of CPL on SOS wef 21 Aug 44:

D 98931 CPL(A/L/SGT)WORRELL H Unfit

TO SHEET EIGHT

6 REVERSIONS

6-A
(b) Relinquishes the Appt of A/L/CPL and reverts to the permanent grade of SPR on SOS wef 22 Aug 44:

B 27284 SPR(A/L/CPL) SANDFORD P $1.50 per diem Unfit

7 PERMANENT ESTABLISHMENT - Postings

7-A
(a) Absorbed in Basic PE Trades Trg Wing in Sgt Instr (Elec)/Vacancy wef 22 Aug 44:

U 1930 SPR BRIGGS J (Electrician "A")

(b) Absorbed in PE Trg Inst Trades Trg Wing in Cpl Instr(Bricklayer) wef 21 Aug 44:

B 29590 SPR(A/CPL)SUTHERLAND J

(c) Absorbed in Basic PE "A" Wing as Driver i/c wef 21 Aug 44:

C 90240 SPR CHARTRAND PED Unfit

(d) Absorbed in Basic PE "A" Wing as Motorcyclist wef 21 Aug 44:

B 29528 SPR PHILLIPS EJ

7-B
(a) Ceases to be absorbed in Basic PE "I" Wing in Sgt Instr Vac wef 21 Aug 44:

B 92931 CPL(A/L/SGT)WORRELL H (Carpenter"B") Unfit

8 TRADESMEN'S QUALIFICATIONS

8-A
(a) Having passed the required tests have qualified as Driver i/c Class III wef 19 Aug 44:

C 30244	SPR	ARNOLD	AJA
C 100325	SPR	BAKER	ER
D 130458	SPR	BATEMAN	GW
F 19275	SPR	BERRIGAN	JM
F 36087	SPR	BRIGHTMAN	HC
B 137325	SPR	BURGESS	HD
G 2057	SPR	CAMPBELL	DM
B 107640	SPR	CARTER	HE
C 76071	SPR	CORBIN	AA
B 29810	SPR	CRISPIN	G
L 103469	SPR	FELDBRUEGGE	JA
D 58029	SPR	GOSSELIN	W
L 64751	SPR	GUSTAFSON	M
M 59527	SPR	HETHERINGTON	GL Unfit
H 19650	SPR	HOUDE	J
L 10264	SPR	JOHNSON	AA
M 8624	SPR	KELLEY	JD
H 103205	SPR	LUCIER	HJ
B 118646	SPR	MARTIN	JJ
F 57572	SPR	MacKENZIE	LA
K 29051	SPR	O'BRIEN	RF
A 108608	SPR	PAYNE	AL
L 106337	SPR	REMILLARD	J
M 60553	SPR	ROBERTS	WD
B 135197	SPR	SILVER	J
M 15864	SPR	SYMINGTON	A
D 110178	SPR	WILLIAMS	LE
D 106126	SPR	WILLIS	ME
B 129648	SPR	ZEMLIAK	J

TO SHEET NINE

8 TRADESMEN'S QUALIFICATIONS

8-A
(b) Having passed the required tests have qualified as Driver 1/c Class III wef 21 Aug 44:

B 25756	SPR	DUNN	AJ
C 2364	SPR	GROULX	A

(c) Having passed the required tests has qualified as DR Class III wef 21 Aug 44:

G 6193	SPR	COLLETTE	L

8-B
(a) Failed to qualify as Driver 1/c wef 19 Aug 44:

F 51382	SPR	BONANG	JL
F 56753	SPR	BOUTILIER	SW
D 141041	SPR	ROULEAU	JA
H 103404	SPR	WOJNA	AS

9 TRADESMEN'S RATES OF PAY

9-A
(a) Ceases tradesmen's rates of pay as Carpenter "B" wef 12 Aug 44 and granted tradesmen's rates of pay as Carpenter "C"/wef 13 Aug 44 on Rft Quota

M 41330	SPR	BOXLEY	PA

(b) Granted tradesmen's rates of pay as D/Shunter "B" on Rft Quota wef 4 Aug 44:

B 41119	CPL	O'DONNELL	WC

(c) Ceases tradesmen's rates of pay as Plumber "B" wef 21 Aug 44 and granted tradesmen's rates of pay as Clerk "C" on Rft Quota wef 22 Aug 44:

B 130820	SPR(A/L/CPL)	WATSON	GR

9-B
(a) Ceases tradesmen's rates of pay as Electrician "B" on TOS wef 3 Jul 44:

B 22656	SPR	TROCHIMCHUK	M

(b) Ceases tradesmen's rates of pay as Carpenter "B" on SOS wef 10 Aug 44:

B 113551	SPR	THOMPSON	PC

10 PUNISHMENTS

10-A
(a) On 18 Aug 44 awarded 27 days Detention with conjoint forf of 27 days pay FR&I 149 (1) (b) for an offence under AA Sec 15(1) AWL from 0600 hrs 31 Jul 44 to 2330 hrs 16 Aug 44 (Absent 16 days 17 hrs 30 mins) In close arrest from 2330 hrs 16 Aug 44 to 2400 hrs 17 Aug 44 (1 day 30 mins) Forfeits 17 days pay FR&I 149(1)(a) Forfeits 1 days pay FR&I 149 (1) (c) (ii) Total forf 45 days pay:

A 48703	SPR	HORNBLOWER	C

TO SHEET TEN

10 PUNISHMENTS

10-CIVIL CONVICTIONS

(a) On 17 Aug 44 was fined £2-0-0 and ordered to pay £1-0-0 costs at the Court of Summary Jurisdiction Camberley for a civil offence. Fine and costs paid:

H 100436 SPR BILOUS S

11 MARRIAGES BIRTHS AND DEATHS

11-A

(a) Granted permission to marry Miss Lillian Jenkins on or after 15 Oct 44 (Auth: CMHQ 1000;110a d/19 Aug 44)

B 28931 SPR HUMPHRIES HJ

(b) Granted permission to marry W 108263 Pte Edna Barraclough on or after 20 Oct 44 (Auth: CMHQ 1000;110a d/19 Aug 44)

M 104325 SPR SCOTT PR

11-B

(a) Married without permission to Miss Winnifred Louise Warner on 3 Jul 44 at Sandhurst, Berks, England:

B 40283 SPR STRAATMAN GA

11-C

(a) Son, Michael Richard, born at Toronto, Ontario, Canada, on 5 Jul 44. Wife Mrs Ilene Marjorie Cook:

B 118674 SPR COOK JA

(b) Daughter, Kathleen Ella, born at Inverness, Scotland, on 26 Jul 44. Wife Mrs Edith Radnor Jackson:

H 17181 SPR JACKSON RC

12 NEXT OF KIN

12-A

(a) Change of address of next of kin to Mrs Mary Dornice Rogers Richardson (Wife) 632 Bannatyne Ave., Winnipeg, Manitoba, Canada:

H 25067 SPR RICHARDSON EH

(b) Change of next of kin to Mrs Winnifred Louise Straatman (WIFE) 2 Drind Park Terrace, Main Road, Sandhurst, Berks, England:

B 40283 SPR STRAATMAN GA

13 HONOURS AND AWARDS

13-A

(a) Awarded the Canadian Volunteer Service Medal and Clasp wef dates shown (Auth: ORO 4167)

C 90240	SPR	CHARTRAND	PE	11 Aug 44	Unfit
K 48164	SPR	GRENIER	RP	12 May 44	
A 19170	SPR	MacALONEY	J	15 Jan 44	Unfit

(b) Awarded one Good Conduct Badge wef 10 Sep 41(Auth: ORO 384)

A 19170 SPR MacALONEY J Unfit

TO SHEET ELEVEN

SHEET ELEVEN OF I CERU PART II ORDER NO 199 d/22 Aug 44

13 HONOURS AND AWARDS

13-A
(a) Awarded the Clasp to the Canadian Voluntoer Service Medal wef dates shown:

C 102214	SPR	DUNCAN	OV	17 Aug 44
A 105707	SPR	GRUDD	AL	3 Aug 44

14 STRENGTH DECREASE

14-A
(a) SOS to 1 CCOD wef 21 Aug 44 (Auth: 408/1 CCOD/1 (PTA) 452/Aspireaul JC/1 d/14 Aug 44)

E 4571 CPL ASPIREAULT JC ✓ Unfit

(b) SOS to 1 Cdn Base W/S RCEME wef 21 Aug 44 (Auth: 408/Trans D/1 (PTA) 452/Barrow R/1 d/12 Aug 44)

D 81601 SPR BARROW R ✓ Unfit

(c) SOS to 1 Cdn Army Show wef 21 Aug 44 (Auth: 408/Concert Parties/1 (PTA) 452/Farnham WL/1 d/16 Aug 44)

A 102258 PTE FARNHAM WL ✓ Unfit

(d) SOS to 1 CCOD wef 21 Aug 44 (Auth: 408/1 CCOD/1 (PTA) d/12 Aug 44)

L 101994 SPR FAUQUIER HC ✓ Unfit

(e) SOS to 7 Cdn Art Wks Coy RCE wef 21 Aug 44 (Auth: CMHQ Domd 7280 d/8 Aug 44)

B 23106 SPR LEONARD JJ

(f) SOS to 5 Gen Pnr Coy wef 21 Aug 44 (Auth: 408/Gen Pnr Coy/1 (PTA) 452/Arnold HL/1 d/12 Aug 44)

L 19236 SPR POOLE GH (Painter "B") ✓ Unfit

(g) SOS to 7 Cdn Art Wks Coy RCE wef 22 Aug 44 (Auth: 444/Hosp/1 (PTA) 408/Art Wks Coy/1 452/Sandford P/1 d/18 Aug 44)

B 27284 SPR SANDFORD P Unfit

(h) SOS to Rocky Mountain Rangers wef 11 Aug 44 (Auth: CRU 444/Remuster/1 2 (Org) d/7 Aug 44)

B 113581 SPR THOMPSON PC

(i) SOS to CMHQ wef 21 Aug 44(Auth: CMHQ AT 1894(AG2b)d/17 Aug 44)

B 92951 CPL WORRELL H (Carpenter "B") Unfit

14-B
(a) D.O. 195 Para 16-A (m) d/17 Aug 44 insofar as it refers to the u/m is amended to read "(Welder "B")"

M 103228 SPR YARWOOD A (Plumber"C"Note"F")

14-C
(a) D.O.197 Para 14-A (c) d/19 Aug 44 insofar as it refers to the u/m is hereby cancelled:

B 144562 SPR GRENIER GW

(D.S. MITCHELL) Capt.,
Adm Officer,
for Commanding Officer,
No 1 C.E.R.U. CA(OS)

/Lea

CERTIFIED TRUE COPY

EXHIBIT "C"

M

NO 1 CANADIAN ENGINEER REINFORCEMENT UNIT

LAST ORDER NO 185 d/6 Aug 44

PART II ORDERS

Issued By

THIS ORDER NO 186 d/7 Aug 44

COLONEL G.H. WHYTE, M.C., V.D., Commanding Officer

" A"

1 STRENGTH INCREASE

1-A
(a) TOS from " Y-3" List on disch from 11 Gen Hosp wef 4 Aug 44:

LIEUT AF COOPER

2 COURSES

2-A
(a) Proceeded on Inf Offrs Wireless Course (7 Aug 44 to 12 Aug 44) and attached fap to 1 CSRU wef 7 Aug 44: (Auth: 402/CRU/1/6 (Courses 1) d/2 Aug 44)

LIEUT CS DUNN
LIEUT HD HAMILTON

(b) Proceeded on Offrs and NCOs' Gas Course (6 Aug 44 to 26 Aug 44) and attached fap to 4 Wing CTS wef 6 Aug 44 (Auth: 402/CTS/1/17 (Courses 1) d/29 Jul 44)

LIEUT WC FLEMING
LIEUT RJ HAMMER

2-B
(a) Off Inf Offrs Wireless Course and ceases to be attached fap to 1 CSRU wef 6 Aug 44:

LIEUT AW - RAE

3 HONOURS AND AWARDS

3-A
(a) Awarded the Clasp to the Canadian Voluntoer Service Medal wef 22 Jul 44 (Auth: ORO 4167)

LIEUT GH McDOUGALL
LIEUT PH TAYLOR

4 STRENGTH DECREASE

4-A
(a) SOS to 1 NETD wef 5 Aug 44 (Auth: CMHQ (MS 3) MS 2782 d/1 Aug 44)

LIEUT WT BOYES

4-B
(a) SOS to "Y-3" List on disch to DN & PS Hosp wef 2 Aug 44:

LIEUT RA BRIGHT

TO SHEET TWO

"B"

1 STRENGTH INCREASE

1-A

(a) TOS from 1 CIRU and transferred from CIC to RCE wef 19 Jul 44 (Auth: 408/1 Inf RU/1 (PTA) d/3 Aug 44)

K 22029	PTE	GARRETT	LR
L 1604	PTE	PEERENDOOM	WM

(b) TOS from "X-10" List RCE(1 Rly Op Coy) and remain attached fup to 1 Rly Op Coy RCE wef 4 Aug 44 (Auth: EA7X/7157 d/4 Aug 44)

C 93181	SPR	GORDON	GM

(c) TOS from "Q" List wef 5 Aug 44 (Auth: AT 1027 d/1 Aug 44)

B 25282	SGT	TAIT	HG

1-B

(a) TOS from "Y-3" L ist on disch from Hosp wef 5 Aug 44:

M 54544	SPR	BATHURST	GD

(b) TOS from "Y-3" List on disch from Hosps shown wef 6 Aug 44:

H 59748	SPR	DELLMAN	CB	(Dftsmn Arch "A")	9 Gen
A 48721	SPR	COX	HF		11 Gen
F 41466	SPR	GEINDRON	NDH	22 Gen	Unfit
F 34670	SPR(A/CPL)	SNELL	W	1 Spec	

(c) TOS from "Y-3" List on disch from Hosps shown wef 5 Aug 44:

B 39527	SPR	KING	G	22 Gen
B 29051	SPR	LANDRIAULT	PR	9 Gen (Opor SEE "C")
B 29528	SPR	PHILLIPS	EJ	24 Gen
B 27563	SPR	SMITH	FM	24 Gen (Bricklayer "C")

(d) TOS from "Y-3" List on disch from Hosps shown wef 5 Aug 44

F 3006	SPR	BOLLIVAR	LR	(Carpenter "C") Rec Stn Warley
H 56223	SPR	McFARLAND	CO	22 Gen
H 204413	SPR	McLEOD	RE	(Carpenter "C")

(e) TOS from "Y-2" List on release from Cdn Detn Bks wef 6 Aug 44:

C 64132	SPR	MA HONEY	D

(f) TOS from "Y-5" List on return from E/Shunter's Course at Tn Trg Centre RE wef 6 Aug 44:

D 41119	CPL	O'DONNELL	WC

1-C

(a) D.O. 179 Para 1-B (d) d/29 Jul 44 insofar as it refers to the u/m is amended by the dolotion of "(Pioneer "C")"

D 108126	SPR	WILLIS	ME	(Pioneer "C")

TO SHEET THREE

1-C STRENGTH INCREASE

1-C
(a) D.O. 149 Para 1-A d/24 Jun 44 insofar as it refers to the u/m is amended to read "wef 23 Jun 44" (Obs OR 2454)

L 64399	A/L/CPL	BACHIU	JW
C 52436	SPR	CLIFFE	RJ
A 105994	SPR	FERGUSON	JC
K 48299	SPR	GRAY	JP
B 89657	SPR	JONES	C
A 55349	SPR	KELLEY	JG
B 26453	SPR	LING	AA
D 129797	SPR	MORRIS	PJ
B 25311	SPR	McCARTHY	MJ
K 62754	SPR	McFARLEN	A
M 54404	SPR	RICE	DK
K 40942	SPR	SAM	W
U 1552	SPR	WALLER	HJ
C 90128	L/CPL	WARA	S

1-D
(a) D.O. 190 Para 1-C (b) d/10 Aug 43 insofar as it refers to the u/m is hereby cancelled:

B 27128 SPR REID RC

2 ATTACHED

2-A
(a) Attached fap for 3 days to OCTU Sel Centre wef 6 Aug 44 (Auth: REC/4719 d/26 Jul 44)

M 103076 SPR(A/SGT) ARCHIBALD NG

(b) Attached fap to CTS wef 4 Aug 44 (Auth: CRU A 5929 undated)

C 32300 SPR FOHERT EP Unfit

3 COURSES

3-A
(a) Proceeded on Methods of Instr Course (6 Aug 44 to 12 Aug 44) and attached fap to CTS wef 6 Aug 44 (Auth: DGHQ 4-8-0 d/19 Jul 44)

B 26586 SPR(A/CPL) BRANNEN WJ

(b) Proceeded on Firefighting Course (7 Aug 44 to 19 Aug 44) and attached fap to 1 CARU wef 7 Aug 44 (Auth: DGHQ 4-8-16 d/14 May 44)

B 26105 SPR(A/SGT) CLOSE J
B 89715 SPR WEAVER R

(c) Proceeded on Drill Course (4 weeks) and attached fap to Guard Depot wef 6 Aug 44 (Auth: HQ CRU SD4 d/5 Aug 44)

C 30519 CPL(A/CSM) FARLEY R

3-B
(a) Having completed a CLES Course in Mathematics "A" qualified "A" wef 3 Aug 44:

K 75390 SPR PEDDERSON H

TO SHEET FOUR

4 LEAVE OF ABSENCE

4-A
(a) Granted 7 days Disembarkation Leave from 5 Aug 44 to 12 Aug 44 with money allce in lieu of rations Art 789 (3) & (4) FR&I:

D 57059 SPR PREVOST G Unfit

(b) Ext from Roman Way Conv Hosp DO 24 d/11 Jul 44: "Granted 14 days Sick Leave from 26 Jun 44 to 10 Jul 44 with Sick Leave allces in accordance with Art 793 FR&I (Auth: 10/Quartz AL/1 AMD 2 d/23 Jun 44)

D 16021 SPR QUARTZ AL

5 ABSENT WITHOUT LEAVE

5-A
(a) AWL wef 2359 hrs 3 Aug 44:

H 45621 SPR CHISAMORE L

(b) AWL (8th day off) wef times and dates shown:

D 15745	SPR	DERIAULT	L	2230 hrs 28 Jul 44 to 2230 hrs 5 Aug 44	
G 52832	SPR	DUROST	WE	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	
D 16789	SPR	GALARNEAU	AP	2230 hrs 29 Jul 44 to 2230 hrs 6 Aug 44	
B 94912	SPR	GRIFFITH	J	0600 hrs 29 Jul 44 to 0600 hrs 6 Aug 44	
B 94911	SPR	GRIFFITH	R	0600 hrs 29 Jul 44 to 0600 hrs 6 Aug 44	
B 39740	SPR	HARVEY	WD	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	
B 3445	SPR	HUTCHINSON	JAL	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	
F 91773	SPR	MASON	HL	1300 hrs 29 Jul 44 to 1300 hrs 6 Aug 44	Unfit
M 50206	SPR	McGRANN	TJ	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	
L 19934	SPR	TAYLOR	S	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	
C 30130	SPR	TIMM	FM	2200 hrs 29 Jul 44 to 2200 hrs 6 Aug 44	

(c) AWL (22nd day off) wef times and dates shown:

C 37571	SPR	GROULX	R	0715 hrs 15 Jul 44 to 0715 hrs 6 Aug 44	
D 126773	SPR	METCALF	AG	1050 hrs 14 Jul 44 to 1050 hrs 5 Aug 44	

5-B
(a) Surrendered from AWL wef 1120 hrs 5 Aug 44:

H 69204 SPR " TREMBLAY GH

TO SHEET FIVE

6 REVERSIONS

6-A
(a) Relinquishes the appt of A/RSM (WO I) and reverts to the confirmed rank of CQMS wef 1 Aug 44 (Subject to confirmation by CMHQ - Auth Appd to ORO 4666 para 32):

M 12502 CQMS(A/RSM(WO I)) WARD WW Unfit

(b) Relinquishes the appt of L/SGT and reverts to confirmed rank of CPL on SOS wef 3 Aug 44:

C 2018 L/SGT SENMAN T

7 TRADESMEN'S RATES OF PAY

7-A
(a) Granted tradesmen's rates as Waterman "C" on Rft Quota wef 1 Aug 44:

C 27766 L/SGT HAUNTS REK

7-B
(a) Ceases tradesmen's rates as Miner "B" on TOS wef 3 Aug 44:

B 39527 SPR KING G

8 PUNISHMENTS

8-A
(a) On 1 Aug 44 awarded a forf of 21 days pay FR&I 149 (2) for an offence under AA Sec 15(1) AWL from 2200 hrs 29 Jul 44 to 2000 hrs 31 Jul 44 (1 day 22 hrs) Forfeits 2 days pay FR&I 149 (1)(a) Total forf 23 days pay:

F 32431 SPR BROWN JL

(b) On 3 Aug 44 awarded 3 days CB and a forf of 14 days pay FR&I 149 (2) for an offence under AA Sec 15(1) AWL from 2230 hrs 29 Jul 44 to 2330 hrs 29 Jul 44 (Absent 1 hr) and an offence under AA Sec 15(3) Placed under stoppages of pay to the amount of £C-17-2 FR&I 172 (6) Cost of apprehension :

H 39166 SPR CREASER TR

(c) On 3 Aug 44 awarded a forf of 21 days pay FR&I 149 (2) for an offence under AA Sec 15(1) AWL from 2200 hrs 29 Jul 44 to 1845 hrs 30 Jul 44 (Absent 20 hrs 45 mins) and an offence under AA Sec 15(3) Forfeits 1 days pay FR&I 149 (1) (a) Total forf 22 days pay:

F 91533 SPR JONES HK

9 MARRIAGES BIRTHS AND DEATHS

9-A
(a) Granted permission to marry Miss Sarah MacLean on or after 5 Aug 44 (Auth: CMHQ 1000:110a d/4 Aug 44)

H 25116 SPR KENYON G

(b) Married with permission to Miss Elizabeth Anderson Palmer at Edinburgh, Scotland on 28 Jul 44:

A 88060 SPR JANSSEN RF

POINT OF SIX

10 NEXT OF KIN

10-A
(a) Change of address of next of kin to Mrs Ann Louise Fedoyko (Wife) 336 Ossington Ave., Toronto, Ontario, Canada:

B 129630 SPR FEDEYKO PR

(b) Change of address of next of kin to Mrs Elizabeth Anderson Jansson (Wife) 8 Stewart Terrace, Edinburgh, Scotland:

A 88060 SPR JANSSEN RF

11 HONOURS AND AWARDS

11-A
(a)A Awarded the Clasp to the Canadian Volunteer Service Medal wef 11 Jun 44 (Auth: ORO 4167)

G 19367 SPR STEWART MW

12 STRENGTH DECREASE

12-A and despatched to 1 Ech 21 Army Gp
(a) SOS to "X10" List RCE/wef 4 Aug 44 (Auth: EA7X/7149 d/3 Aug 44)

P 10177 S/SGT NESBITT DJ

12-B
(a) D.O. 15 Para 15-B (a) d/19 Jan 44 insofar as it refers to the u/m is hereby cancelled:

B 27128 SPR REID R

13 PAY AND ALLOWANCE

13-A
(a) Granted increased tradesmen's rates as Miner "C" $1.65 per diem wef 25 Jul 44 having completed 4 months proficient service (Auth: GO 486/42)

B 48611 SPR BOISVENUE EA

(b) Granted increased tradesmen's rates as Oper SEE "C" $1.75 per diem wef 1 May 44 having completed 6 months proficient service (Auth: GO 486/42)

C 122811 SPR KENNEDY DE

(D.S. MITCHELL) CAPTAIN
Adm Officer
No. 1 Cdn Base Sft Unit
Canadian Army (Overseas)

/Los

CERTIFIED TRUE COPY

SUB FOR ARMY FORM B.-96 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	UNIT (or as the case may be)
C-30130	Spr.	Timm, F.W.	No. 1 Cdn Engr Rft Unit

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For...A.A.15 (1)..... ...17...times.

For...A.A.19..... ...2... times.

For...A.A.40..... ...1... times.

~~For..... ..... times.~~

Date of first entry in Field Conduct Sheet.....28 Sep 40.....

Date of last entry in Field Conduct Sheet.....13 Jul 44.....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~3. The accused at the present time is under sentence for.....~~
~~beginning on the.....day of.....~~

4. The accused has been awaiting trial on the present charges for.....

~~days in civil custody; and for~~.....10.....days in military custody, i.e.; ~~.....days in open arrest,~~.....10.....days in close arrest; ~~of which.....days were spent in hospital.~~

5. The present age of the accused is...20.5/12 yrs...

6. The date of his...attestation.....is...8-4-40.....
~~calling up for military service~~

7. The service which the accused is allowed to reckon is ...4 0/12 yrs.....

8. The accused is in possession of...CVSM & Clasp...

~~9. (if the accused is a warrant officer or N.C.O.)~~
The accused has served continuously, without reduction, to the present date. Date of Promotion.

~~In the substantive rank of.....~~
~~In the war substantive rank of.....~~
~~In the acting rank of.....~~

"State the military decorations (if any held by accused.

INSTRUCTION.- If any matter in any of the above paras cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL OR CIVIL COURT.

Constitution of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
F.C.C.M.	29 Apr 42 Field	A.A. 15 (1) AWL 20 days 20 hrs.	Sentence not known Att. fap to Cdn Cps Pd Pun Camp 14 May 42 Ceases att. Cdn Pd Pun Camp 27 Jun 42 Total forf. 92 days pay.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this First day of Sep 1942

.....

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2065)

Supplementary

C30130 No. TIMM, Fraser MacDonald. Name

Sqn., Battery, or Company

Corps RCE

Date of enlistment 8.4.40

G.C. Badge

Service or Proficiency Pay

Character

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature of O.C. Company, etc. H.D. MacPhail Lt.

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field		Spr	Nil						
"		"	"	A.A. 15 (1)		Forf. 3 days pay FR&I 149(1)(a)&(e)	28 Sep 40	O.C. 15 d/4 Oct 40	
"		"	"			Forf. 2 days pay FR&I 149(1)(e)	30 Sep 40 ?	D.O. No. 16 d/8 Oct 40	
"		"	"			Stoppages of pay FR&I 158(2) of £0.18.6	21 Oct 40	D.O. No. 20 d/28 Oct 40	
"		"	"	A.A. 40		Forf. 3 days pay FR&I 149(1)(e)	9 Jan 41	D.O. No. 4 d/14 Jan 41	
"		"	"			Forf. 10 days pay FR&I 149(1)(e), and 7/6d stoppage of pay	9 Jan 41	D.O. No. 6 d/20 Jan 41	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Spr	Nil	A.A. 15 (1)		Forf. 5 dys pay FRpI 149(1)(e)	18 Feb 41		D.O. No. 16 d/7 Mar 41
"		"	"	A.A. 15 (1)		Forf 4 dys pay FRpI 149(1)(e)	14 Mar 41		D.O. No. 18 d/21 Mar 41
"		"	"	AWL 9 hrs 35 mins		Forf 2 dys pay FRpI 149(1)(e)	14 Apr 41		D.O. No. 25 d/22 Apr 41
"		"	"	Drunkenness (1st offence)		Admonished	23 May 41		D.O. No. 34 d/28 May 41
"		"	1	AWL 1 day 9 hrs 31 mins.		Forf 5 dys pay & 2 dys pay FRpI 149(1)(b)(e)			
"		"	1	Drunkenness (2nd offence)		Fined 5.22 31 dys. Fd. Pun.	31 Jul 41		D.O. No 53 d/15 Aug 41 21 dys pay FRpI 149(1)(b)
"		"	1	Drunkenness (2nd offence)		Forf. 1 dys. pay FRpI 149(2)	10 Mar 42		DO. No 14 d/31 Mar 42
"	29-2-42	"	2	AWL 45 mins.		Forf. 92 dys. pay FRpI 147(1)(a)(b)(c)	29 Apr 42	FGCM	DO. No 23 d/9 May 42
"	29-3-42	"	2	FGCM - AWL 20 dys. 20 hrs.					DO No 23 d/9 May 42
				Att. Fap to Cdn Cps Fd Pun Camp - 14 May 42 Ceases att Cdn Fd Pun Camp - 27 Jun 42					DO No 30 d/6 Jul 42

M.F.M. 6
(A.F. B.122)
40/P & /8126 (2965)

Supplementary

No. 30130 Name TIMM, Fraser MacDonald | Sqn., Battery, or Company 2 | Corps RCE | Date of enlistment 8.4.40 | G.C. Badges | Service or Proficiency Pay Yes

Date of last entry in Company Conduct Sheet | No. and date of last drunk 31.7.41 | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature & O.C. Company, etc. Y.P. MacDonald Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30.10.42	Spr.	2	(1) AWL 3 days 23 hrs 50 mins (2) AWL 5 hrs.		28 dys. FP	5 Nov 42		DO No. 98 - 5 Nov 42 Total forf. 3 ~~days pay~~
"	~~???~~	"	2	AWL 5 dys 15 hrs 51 mins.		10 dys. FP	26 Feb 43		DO No 10 - 11 Mar 43 Total forf. 10 dys pay.
"		"	2	AA 15(1) AWL 8 hrs.		2 days F P	28 Sep 43		DO No 233 - 28 Sep 43 Total forf. 3 dys pay.
"		"	2	AA 15(1) AWL 12 days 2 hrs. 30 mins.		Forf. 24 dys pay FR & I 149(b)	28 Oct 43		DO No 41 - 5 Nov 43 Forf. 13 dys pay FR & I 149(1)(a)
"		"	2			13 days FP	25 Nov 43		DO No 259 - 26 Nov 43 ~~FR & I 149(1)~~ Total forf ~~R~~ 13 dys pay.
"		"	2	AA 15(1) AWL 2 days 2 hrs 30 mins.		14 days FP	17 Jan 44		DO No 16 - 20 Jan 44 Total forf. 24 dys pay.
"		"	2	AA 15(1) AWL 6 days 14 hrs 30 mins					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Spr	2	AWL 1 day 2 hrs 20 mins		Forf. 9 days pay FR&I (i)(a)	1 Mar 44		DO No 10 - 10 Mar 44
"		"	2	AA 15 (i)			2 May 44		DO No 22 - 2 Jun 44 Total forf. 15 days pay.
"		"	2	AWL			22 Jun 44		DO No 26 - 30 Jun 44 Total forf. 7 days pay
"		"	2	AWL			13 Jul 44		DO No 28 - 21 Jul 44 Total Forf 4 days pay.

CERTIFIED TRUE EXTRACT FROM MFM 4 IN MY POSSESSION

[signature] Capt
Officer having custody of Regimental Books.

27 Aug 44

Exc
WL

OFFICERS UNDER INSTRUCTION F.G.C.M. 1 Sep 44

Lt J.D.A. Cumming	No 1 CASCRU
Lt E.A. Bourne	No 1 CASCRU
Lt M.B. Hansen	No 1 CERU

4/V/54

PTE Timmings JJ.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H102217 Pte John James Timmings

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty (60) days.

(Sgd) R F Minigan Capt 20 Jan 45 (Sgd) E R Blackburn Capt

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ Court

(1. AA 57A. Delete if not used.)

Date 22 Jan 45. (Sgd) E R Farmer Brig

Commanding DOMS 2 Can Corps

Maj Gen 2 Can Corps. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H102217 Pte Timmings J J	23 Jan 45	H Kennard Capt Commanding 2 Can Corps Can Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4454

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & R/1698 18144 4/388

Convened by Order of Brig E R Farmer DSO MC Comd 2 Can Corps dated 18 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H102217	Pte	John James	Timmings	2 Can C Ass RCASC

PROCEEDINGS REVIEWED

27/1/45 H Kennard Capt

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date) 20 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, if any, ~~and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt E R Blackburn, RASC 2 Can C Tps
Member	Lieut J R Peters, CBF, RCE 2 Can C Tps
Member	Lieut F G Braidshaw, RCA Fd Regt, 2 Can C Tps
Judge-Advocate	Capt R F Minigan, 11 Bde Tps
Prosecutor	Lieut E F McKnight, 2 Can C Ty Coy
Defending Offr	Lieut J D Macdonald, 2 Can C Tps

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conf Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Can C RCASC P-1-9

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that ~~the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Evidence on Oath. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. Yes.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. I shall witnesses as to Character only.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 8, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C, respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. My Officer.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 108, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.102217 Pte Timmings, John James 2 Cdn Corps Car Coy (RCASC), a soldier of the Canadian Army is charged with:-

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE

In that he

in the field on 16 Dec 44, absented himself without leave from his unit, 2 Cdn Corps Car Coy (RCASC) from 2359 hrs on the said 16 Dec 44 until he surrendered himself at his platoon office at 2330 hrs, 30 Dec 44. Total time absent 13 days 23 hours 31 minutes.

In the Field
3 Jan 45

F Leaman Capt
(F. Leaman) Capt
Commanding
2 Cdn Corps Car Coy (RCASC)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
5 Jan 45

G.R.D. Farmer
(G.R.D.Farmer) Brigadier
DDMS 2 Cdn Corps

S.E. Blackburn Capt Pres.
A.W. Chew Capt Mem.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAS/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.102217	Pte		John James	TIMMINGS	2 Cdn C Sar Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Jan 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint a Field Officer owing to the exigencies of the service. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason(s) hereunto attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Captain	E. R. Blackburn	ADOS 2 Cdn C Tps

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lieut	J. R. Peters	CBF RCEME
Lieut	F. G. Haddow	A/A Inf Rep 2 Cdn C Rear

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	H. P. Milligan	HQ 2 Cdn C Rear

On Active Service in the Fd

in Holland (Country)

(Signed personally. RP 105 fn 2.) (G.R.B.Farmer) Brigadier (Rank.)

Date 18 Jan 45

Commanding DADOS 2 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

E Blackburn Capt DOS

MEDICAL CERTIFICATE

This is to certify that I, the undersigned M.O. of Main HQ 2 Cdn Corps have examined the u/m soldier

MEDICAL CERTIFICATE

This is to certify that I, the undersigned M.O. of Main HQ 2 Cdn Corps examined the u/m soldier and found him fit to undergo trial by F.G.C.M. on this, the twentieth day of January 1945.

H.102217 Pte TIMMINGS, J.J.

T.P. Ledman Capt.

(T. P. Ledman) Capt
Medical Officer
Main Headquarters, 2 Cdn Corps.

D. 3. A 20104 Sgt. Robbins W.T.
2 Can. Corps Car. Coy A.C.A.S.C.
sworn states:
The accused, whom I identify as Pte Lemmings, failed to return from his pass which expired 2359 hrs, 16 Dec 44. I called the roll on each succeeding morning. I did not see the accused until Roll Call on 31 Dec. 44.

Cross Examination -
accused is my platoon at Main Corps. W.O.
A.P. 83 (8) complied with.

Lieut L. Bake. 2 Can. Corps Car Coy. A.C.A.S.C. sworn states:
On 30 Dec 44 I was in Car Coy office and accused, Pte Lemmings whom I recognize entered the pl. office. He remarked that he was late and handed me his pass, which I produce. Pass admitted in evidence and marked exhibit "E.H." He reported late at Pl. office at 2830 hrs, 30 Dec 44. He readily admitted he was late.

No Cross Examination.
By Court: I asked accused for an explanation. He stated he was sick and unable to return. He stated he had not contacted a Med. Off. and had no certificate.
A.P. 83 (8) complied with.

The Prosecution is closed.

D.C. The accused, 4.102217 Pte Jennings, J.J. sworn states:
I have been with Bn Cas Coy since 12 Jul. 73 approx. On 17 Dec. 44 I got a 48 hr pass. Ex. "A" is the pass. It expired 2359 hrs 19 Dec 44. While on pass I had a bad cold. I had the cold when I left the unit. While proceeding on leave it developed to a worse stage. I had to stay in. This was in Brussels where I went because I had some friends there. I did not know any body in Brussels. I stayed in Brussels until 20 Dec 44. I stayed with some friends in Brussels. They looked after me. I did not see a Med. Off. or Civilian doctor. I thought I would be well enough to return from day to day. I got back on 30 Dec 44 and reported to Lieut. Bole at Main Bn Coy Office. I explained the reason I was late and handed in my pass. I told him that while away I was sick but failed to report to a M.O. I was put under open arrest until following day. Since then 31 Dec 44 I have been under close arrest.
Cross Exam.

while in Ghent my friends wanted to call in a civilian doctor but I told them I did not think it was necessary M. as I would be alright to return to my unit on following day. I was not sick in bed. I did not try to get in touch with my unit. I know that on back of pass it states, if sick, you should report to a M.O. I knew that there are Med. Units in Ghent.

I have been in Army since 8 Sep. 72 and Overseas since 1 Apr. 73.

I left unit in a 60 cwt and went to Brussels. I went by train to Ghent. I knew my pass was made out to Brussels. I did not report at Leave Centre in Brussels. A C.S.M. of R.C.E.M.E. ~~told~~ gave me permission to leave from Canada Base the Leave Centre. He did not give me permission to go to Ghent. I figured I could go any place in area of Brussels. I did not know that unit by troops are not allowed.

R.P. 58 (2) Complied with.

Defence is closed.

E1

Lieut D. J. Black, a Coln. C Car Coy,
H Ca S C, sworn states:
I am pl. off. A Pl. Main HQ.
& Can C. as such am pl. off.
of accused whom I recognize
for Pte Cummings. He was
with Unit when I joined it
on 10 Mar 44. As a workman
Pte Cummings is efficient
and a capable driver. He is
also a pianist of good ability.
Honest & industrious. As a
soldier all augs & Sep this
year he gave me no trouble
whatsoever. Since that time
I have found it necessary
to take disciplinary action
against him for various small
offences. He has family troubles
of long standing. He steadily
seemed to become more obstinate
and had finely fixed ideas. He has
expressed worry over family
affairs. The accused was
examined by a psychiatrist
during past week. I produce
report of psychiatrist
Report of psychiatrist admitted
and marked ex. "D". After I saw
report I was of opinion that
Acc'd had some mental unbalance.
I am still of that opinion.
R. P 83681 complied with.

Address by Prosecuting Officer.

Sir,

The accused states that he was given leave to Brussels and instead of staying there proceeded to Ghent which shows that he must have had an intention of living A.W.L. as a pass to Brussels does not give him permission to go anywhere but to that city. In doing this he was taking the chance of not getting back to Brussels or to his unit.

He also states that he took sick and was unable to come back yet he did nothing about it by getting in touch with his unit or calling a Medical Officer either civilian or military. He thought he would be better from day to day but this went on for 12 or 13 days until he was taken ill.

* * *

In summing up all the evidence I find the accused knowingly was absent from his unit without leave and I think there should be no doubt in the mind of the court that the accused is guilty as charged.

SUMMING-UP /- DEFENCE

Sirs:

It is a [redacted] axiom of law that there are two elements in every crime - (1) the physical act and (2) the intention. Although I am not going to talk law as that is the province of the J.A., I have deliberately brought this to your attention in this case for it is my submission that the accused did not form the intent to go absent without leave.

I respectfully wish to bring to the attention of the court Pte. Timmings own statement. You have seen him and have heard him tell a straightforward story and I am sure that you cannot but be convinced of his sincerity. Let me capituate what are, I submit, the real facts: Timmings wished to go to Ghent but instead was sent to Brussels. He left at a time when he had a heavy cold and after the long cold drive in the back of a 60 cwt felt miserable. Knowing nobody in Brussels he decided to go to Ghent where he had friends -- a family whom he had met while stationed near there. When his illness got no better, these people looked after him. Granted he should have called in a medical officer or a civilian doctor, but reasonably enough he thought each day that he would be able to go the following day.

Now Sirs, I again want to stress Timmings whole attitude. When he reported back to Camp he told Lt. Bake that he was late and that he had been too ill to travel. Certainly this is not the attitude of a man who wished to lie about his absence. I submit that Pte. Timmings never had the intention of going absent without leave and since he did not have the intention that there is no offence, and consequently must be dismissed.

Exhibit "A" referred to in Summary of Evidence

.....

Signature of officer taking summary

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass No. Date 14 Dec 44

No. H.102217 Rank Pte Name Timmings, J.

has permission to be absent from his unit from 0900 hrs. 14 Dec 44

to 2359 hrs. 16 Dec 44 for the purpose of proceeding to

Brussels

Billeting Scheme

2 CDN CORPS CAR COY

Orderly Room Stamp

(Unit Signature Stamp)

5-4

NEUROPSYCHIATRIC REPORT

15 Jan 45

H-102217 Dvr. TIMMINGS,J.J.
RCASC, Car Coy, 2 Cdn Corps

AGE 36 YRS ENLISTED SEP 42 OVERSEAS APR 43

FRANCE 15 Jul 44

Referred because AWL 14 days after he should have returned from leave and because his officer stated that he at times had shown evidence of mental imbalance. Is reported to be a good workman.

Denies early timidity, instability, anti-social activity or alcoholism.

Passed grade viii at 15. Employed 11 years as driver and salesman for a fruit merchant. Subsequent occupational history rather shifting. Not married but lived with a common-law wife for two years before enlistment. States wife has drawn no allowance since he joined the army except for the two children.

States he has had only minor crimes previously. Was to have received good conduct stripe last September but has never received it. States that he spent his 48 - hour leave in Ghent instead of Brussels and while there took ill. Was afraid to report to an MO and stayed away for two weeks. States he was not aware that this was a serious offence or would lead to an FGCM.

Admits he is rather excitable and irritable at times. Admits that he has had some arguments with his officer but seems surprised at officers statement re his conduct. States there is no hostility between them and that he has always tried to please the officer and thought that he was doing so. Feels there has been no change in his conduct in the past few months.

Impression: There is nothing in this man's history to indicate any psychopathic tendencies except possibly his rather unsatisfactory employment just previous to enlistment and his unconventional domestic arrangement. There is no clear-cut evidence of maladjustment in the army previous to recent misdemeanour other than occasional outbursts or irritability, particularly after drinking. His present tension and anxiety are probably due to present situation. The most unusual features of his present reaction are his vagueness, apparent lack of insight and failure to justify or rationalize his actions in any way. (These may be due to reticence regarding his true motives.) Otherwise he shows no abnormal reaction.

Diagnosis: Situational anxiety.

Recommendation: Fit to stand trial and undergo punishment but should be seen again in two months.

"B.H. McNeel"
(B. H. McNeel) Major
NP Specialist
for DDMS 2 Cdn Corps

"To M.O.

Suggest that this man have Blood Wass. taken.

M.M.M"

Ex. D. "CE Blackburn
Capt. Pres."

CERTIFIED TRUE COPY OF ORIGINAL WHICH IS IN CUSTODY OF 2 Cdn Corps Car Coy.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H.102217	PTE	TIMMINGS, J.J.	2 CDN CORPS CAR COY (RCASC)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 672, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated

	* Within last 12 months.		*Since Enlistment.	
For AWL (A.A. Sec 15(1)	2	times	2	times.
For Four charges under A.A. Sec 40	1	times	1	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, - Nil

or

XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H.102217 Rank Pte Name TIMMINGS, J.J. of 2 Cdn Corps Car Coy (RCASC) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
			EB NIL	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of January, 1945

Captain
O/C 2 Cdn Corps Car Coy (RCASC)

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of years,

In the rank of years

In the rank of years.

NIL

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such records as are available and the paragraph concerned amended accordingly.*)

Lt. C. [illegible] Blackburn Capt RAOC

MFM 6
(AFB 122)
40/P&S/130 (3438)

No. 10221 Name TIMMINGS, S.J. Sqn, Battery, or Company TEMPORARY Unit R.C.A.S.C. Date of enlistment GC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Aug 44	Pte		WOAS/Conduct to the prejudice, etc, in that he at approx 2300 hrs on the 20 Aug did:- (1) Cause a disturbance in Coy Lines (2) Neglected to go to bed when ordered to do so. (3) disch his stengun in camp area contrary to Camp Orders (4) Using indecent language	Sgt Robbins W.T. Pte BOMBOUGH Cpl Martinac	(1) 7 days CB (2) 7 days CB Tot 7 days CB (3) Forf of 7 days pay under FR&I 149 (2).	27 Aug 44	Major E.R. Collins	
Field	11 Sep 44	Pte		WOAS/AWL From 2200 hrs, 11 Sep 44 until 2305 hrs, 11 Sep 44. (TTA 1 hr and 5 min)	L/Cpl Bradley, JM	Forf 5 days under FR&I 153 (b)	13 Sep 44	Major E.R. Collins	

(FIO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Nov 44	Pte		WOAS/AWL in that he was absent without leave from 2200 hrs, 3 Nov 44 until 0745 hrs, 4 Nov 44. (TTA 9 hrs, 45 mins) A.A. Sec 15 (1) WOAS/Neglect to the prej, etc in that he neglected to report for his tour of duty. AA Sec 40	Documentary L/Cpl Redmond	Forf 28 days pay under FR&I 149 (2) and 7 days C.B.	4 Nov 44	ER Collins Major	forf of 1 days pay under FR&I 149 (1) (A)

Certified True Copy..E R Collins.....
(E. R. Collins) JAN Major
Deputy Camp Commandant

STATEMENT IN MITIGATION OF PUNISHMENT

Gentlemen, you have heard Lt. Black, the accused's platoon officer tell you that he was a conscientious and honest workman and that the only offences he committed were petty ones of a minor nature. This is corroborated by his MFM 6 which is before you. Outside of one 28 days forfeiture of pay, Timmings has nothing in his sheet which could be called serious, until the present. I would also ask you to note that this is his first trial by court martial.

You have heard Lt. Black say that he had no trouble with the accused up until August of 1944 when he started to get obstinate. Sirs, I am suggesting that the change in the accused's attitude was due to two causes: (1) worry over family matters which I understand are being looked into and (2) natural resentment at not getting his good conduct stripe when he was entitled to it.

Timmings was given a psychiatrist's examination a short time ago in an effort to determine if his troubles were partly from mental cause but as you can see from the copy of the report there is not much evidence.

Gentlemen, I would ask that you take into consideration the fact that Timmings is not a young man but is almost 37 years old. He has served in the army since 8 Sept 1942 a great deal of his overseas service being with his present unit. Because of his previous comparatively clear crime sheet, I respectfully suggest that a lenient sentence would do more to make this man a better soldier than a harsh one.

SUMMARY OF EVIDENCE

Summary of evidence in the case of H.102217 Pte Timmings, J.J. 2 Cdn Corps Car Coy (RCASC), Canadian Army Overseas, charged with:

(a) Absence without leave from 2359 hrs, 16 Dec 44 until 2330 hrs, 30 Dec 44 (A.A. Sec 15(1).

FIRST WITNESS

A.20104 Sgt Robbins, W.T., 2 Cdn Corps Car Coy (RCASC), sworn, states:

I am A.20104 Sgt Robbins, W.T. of 2 Cdn Corps Car Coy (RCASC). The accused who I now recognize as H.102217 Pte Timmings, J.J. was granted leave from 14 Dec 44 to 16 Dec 44. He failed to return at the appointed time, 2359 hrs, 16 Dec 44. He was not seen by me until the morning of 31 Dec 44. At the morning roll call during his absence I called the name of the accused and he did not answer.

The accused declines to cross examine the witness.

.....W.T. Robbins.....
(Signature of Witness)

SECOND WITNESS

Lieut L. Bake, 2 Cdn Corps Car Coy (RCASC), sworn, states:

I am Lieut Bake of 2 Cdn Corps Car Coy (RCASC). On the night of 30 Dec 44 I was seated in "A" Platoon Office when the accused, Pte Timmings, J.J. entered and presented me with his leave pass which I submit marked as Exhibit "A". Pte Timmings reported to me at 2330 hrs, 30 Dec 44.

The accuseddeclines to cross examine the witness.

.....L. Bake.....
(Signature of Witness)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The accused elects to make a statement on oath.

The accused, H.102217 Pte Timmings, J.J. having been duly sworn, states:

I, H.102217 Pte Timmings, J.J. was granted a forty-eight hour leave pass from the said date, 14 Dec 44 to 16 Dec 44, proceeding to Brussels. On arriving in Brussels there was nobody there that I knew. I knew some friends in Ghent so I proceeded to Ghent. While proceeding on this leave I had quite a cold which developed into a worse stage. I overstayed my leave with the said people owing to the fact that I did not feel well enough to return. I failed to call in an M.O. and I did not go to see one. When I felt better on 30 Dec 44 I returned to my unit at 2330 hrs. I reported to Lieut Bake at Car Coy Office. I gave him the statement that I was absent and handed in the pass for which I was told that I would be under open arrest until I was called. I have witnesses to the effect that I was sick and unable to return to my unit.

.....J.J. Timmings.....
(Signature of the accused)

I certify that R.P.4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 2nd day of January, 1945.

Donald D. Blank Lt

.....

(Signature of Officer taking Summary)

EE·98

PTE TIMMONS E.

EE-98

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Approved
May

On Active Service, this Twelfth day of May, 1943 Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*(I am unable to appoint:~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~for the following reasons, namely:)~~

G.R. Turner
Lt Col
for Brigade Major
28 May 43

(23)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H A Procter	RCAMC HQ 3 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt	R C Garrett	18 Cdn Fd Coy, RCE
Lieut	D M McClymont	3 Cdn Div Sp Bn (C H of C)

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

R.F.L. KELLER Maj. Gen.,
G.O.C. 3rd Cdn. Div.

*Signed C.H. Blackader
(C.H. Blackader) Brig
Commanding 3 Cdn Div
Convening Officer

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C/12267 Pte Emmett TIMMINS 3 Cdn Div Tps Coy RCASC	Army Act Sec 8(2)	not guilty	not guilty	I confirm the finding and Sentence of the Court.
	Army Act Sec 40	not guilty	guilty	
	Army Act Sec 9(2)	not guilty	guilty	
	(See charge sheet att)		120 days detention 13 may 43	

A.A.P. Brock Maj Pres

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) K Blackader (K. G. Blackader) Brig. Commanding 3 Cdn Div — *Convening Officer (e)*

(Signed) H A Procter (H. A. Procter) Major RCAMC HQ 3 Cdn Div — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13 day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable. A.A.P.

Signed this 13 day of May 19 43

A.A.P. Brock Maj

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.)~~

Signed this 17th day of May 1943.

R. F. L. Leckie
R. F. L. LECKIE, Major
G.O.C. 3rd Can. Div.

Promulgated and extracts taken in the case of C12267 Pte Timmins, E.

(*a*) (Dated) MAY 19 1943 (Signed) Geo Baring MAJOR, OFFICER COMMANDING, 3 DIV. TROOPS COY. R.C.A.S.C. 3 CANADIAN DIVISION.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, C.12267 Pte. Emmett TIMMINS of 3 Div Troops Coy, R.C.A.S.C., 3 Canadian Division, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec. 8 (2) A.A.

WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER.

In that he

at MacCaulay House, Cuckfield, Sussex, at or about 2300 hours 8 May 43, when placed under arrest by M55444 Cpl. Code, J.F. of 3 Div Troops Coy RCASC, 3 Cdn Division, cocked and aimed a pistol at M55444 Cpl. Code, J.F. saying, "You can't put me under arrest and you can't make me leave the room", or words to that effect.

Second Charge - Alternative
Sec. 40 A.A.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

In that he

at MacCaulay House, Cuckfield, Sussex, at or about 2300 hours, 8 May 43, cocked and aimed a pistol at M.55444 Cpl. Code, J.F. of 3 Div Troops Coy, RCASC, 3 Cdn Division, the said Cpl. having placed Pte. Timmins under open arrest being in the execution of his office.

Third Charge
Sec. 9 (2) A.A.

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER.

In that he

at MacCaulay House, Cuckfield, Sussex, at or about 2300 hours, 8 May 43, did not switch off the lights and did not leave the room when ordered to do so by M.55444 Cpl Code J.F. of 3 Div Troops Coy RCASC, 3 Cdn Division.

In the field
9 May 1943

(A.E.H. Basing) Major
Officer Commanding,
3 Div. Troops Coy. RCASC.
3 Cdn. Division.

To be tried by FGCM.
12 May '43
a/GOC
3 Cdn Div

MEDICAL OFFICER'S REPORT

I certify that on this date I have examined

No. C12267 Pte. TIMMINS, E. of 3 Div. Troops Coy. RCASC. 3 Cdn. Division

and that he is in a fit state of health, and

fit to undergo Trial by Court Martial.

H. Scott Capt
Medical Officer

Station. In the Field

Date. 13 May, 1943.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at in the Field
on the 13 day of May 19 43 by order of
K. C. Blackader Brig.
A/Commanding- 3 Cdn Division
dated the 12 day of May 19 43

President.
N. A. Procter Maj. RCAMC HQ 3 Cdn Div.

Members.
R. C. Garrett Capt 18 Cdn H Coy RCE.
D. M. McClymont Lt 3 Cdn Inf Bn (Hqrs)

Trial of*
C 12267 Pte Emmett Timmins
3 Div Troops Coy RCASC.

~~* Judge Advocate~~ FAP

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~to serve owing to~~ ~~is not available~~

~~, waiting member takes his place as a member of the Court.~~ FAP

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor, Capt C.S. Pepper 3 Div Troops Coy RCASC

Counsel‡ or defending officer† Capt E.R. Edwards 3 Div Troops Coy RCASC

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W1683/79. 35,000 sets. 6/40. K. & H., Ltd. G667/11. Forms A 9/55.

FAP

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn:~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

1130 hrs

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

not guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

not guilty

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

not guilty

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

~~The accused~~ having ~~pleaded~~ Guilty to _____ charge, the provisions of Rule of Procedure 35 (B) ~~are here complied with.~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. no sir

~~The prosecutor makes an opening address [hands in a written address which is read, marked _____, signed by the President, and attached to the proceedings.]~~ DAP

The prosecutor proceeds to call witnesses.

First witness for prosecution. M 55444 S/sgt Code J.F. 3 Div Troops Coy RCASC

being duly sworn, is examined by the prosecutor.

First witness for the Prosecution.

I am M 55444 S/Sgt Code, J.F. 3 Div Tp Coy RCASC. - at approximately 2300 hrs on 8 May 1943 I was in charge of No 4 Sec - 7 Platoon. At approximately 2300 hrs I switched off the lights and went to bed. Shortly after lights out someone came to the door of our section room & turned on the lights. I recognized Pte Timmins, who is now seated beside Capt Evans. I called him by name & told him to put the lights out & then he did not comply with my order, I got up out of bed & went to him at the door. I told him to leave the room because I was going to put the lights out & then I told him that he replied "Go fuck yourself". I said if that's the way he wanted it, I would place him under "Open Arrest". I placed him under Open Arrest - he swung away from the door, further into the room, drew his pistol & cocked it, at the same time aiming it at me. At this he had done this, he said "You cannot put me under arrest or put me out of the room" I then disarmed him & placed him under "close arrest".

Q - What expression was used when the accused said "You Cannot put me under arrest or put me out of the room"

A He said in a willful & defiant manner.

Q Is there was his pistol when he said that?

A It was pointed at me.

DAP

Q. by defense - Sgt. Code you stated that when Pte. Timmins came into your room, you told him to put out the lights. Did you give it as an order, a definite order?

A. Yes I did Sir.

Q. by defense - At hat form did this order take?

A. I recognized Timmins & said "Timmins put the light out."

Q. by defense - Did you order him at that time to leave the room?

A. No sir I did not.

Q. by defense. - You stated that when you got up you told him to get out of the room, as you were going to put the lights out.

A. Yes Sir.

Q - by defense - You say he swore at you & you answered if that's the way you want it, I'll ~~I am~~ placing you under open arrest?

A. No Sir, I said, I am placing you under open arrest.

Q. - When Timmins entered the room did he address anyone in the room?

A No Sir, he just turned the light on.

Q by defense - Did he have any conversation with a Pte. Wolfe who also slept in that room?

A He had no conversation with him until I had placed him under "Close arrest."

Q. - by defense - At hat time elapsed between the time you ordered Timmins to turn out the lights & get out of the room and the time disarming of which you speak?

A. About 10 minutes

Q. by defense - At was there a Lt Col Robertson sleeping in the room that night?

A. Yes Sir.

Q by defense - Did you notice whether he was awake through the whole episode?

A. Timmins came further into the room & drew his revolver. I noticed Lt Col. Robertson was watching the proceedings.

Q. - Did all this make considerable noise?

A - I would not say it made excessive noise

Q. by defence. Did Timmins, cock & aim his pistol, directly at you?
A. Yes Sir.
Q. by defence. - Was the pistol loaded?
A. When the Orderly Cpl. came up with the escort. asked him to pick up the revolver which was lying on the floor, & examine it. He did so & it was not loaded.
Q. by defence. Did you have to wrestle with Timmins to disarm him?
A. I would not say wrestle Sir. I knocked his arm aside & threw him down, taking the revolver out of his hand.
Q. by Court. Was his pistol carried in his hand or in the holster?
A. When he entered the room his pistol was in the holster.
Q. by court. Does Pte. Timmins know you?
A. Yes Sir.
Q. by defence. - Is it uncommon for lights in your Billets to be on after 2215 hrs?
A. It ~~they are not put out exactly at 2215 hrs.~~ for them
It is not common to be out at exactly 2215 hrs.
Q. by prosecution - When are your lights put out?
A. Within 15 minutes of 2215 hrs.

R. of P. 83(c) complied with.

Second witness for the prosecution:- I am, M-55785 L/Cpl. Robertson E., 3 Can. Inf. Div. Sig. Coy. R.C.A.S.C.
I am L/Cpl. in charge of Switchboard, 7th Bn. - 3rd Can. Inf. Div. Sig. Coy.
About 2300 hrs. on Saturday night. Pte. Timmins came into the room I was in, & turned on the lights. Cpl. Code told him to put the lights out & Timmins refused to do it. I recognize Pte. Timmins as sitting here beside Capt. Edwards. Cpl. Code told him again to put the lights out & he still refused to do so. Cpl. Code got out of bed & told him again. He still refused & Cpl. Code told him he was under Open Arrest. Pte. Timmins then came further into the room, pulled his pistol, aimed & cocked it, pointing it at Cpl. Code. Cpl. Code disarmed him, & put him under Close Arrest.
Q. by Pros. - Was the accused drunk?
A. No sir.
Q. When did you wake up?
A. I wasn't asleep Sir.
Q. Were you fully awake?
A. Yes Sir.
Q. In what manner did Pte. Timmins speak to Cpl. Code?
A. Very offensive Sir.

C. F.

D. by defense. Did you see Pte Timmins come through the door?
A. No sir I did not recognize him until he was standing in the doorway.
Q. Had he his handling his pistol when he came in the door.
A. No Sir.
Q. Did he address any remarks to Pte. Wolfe?
A. Not immediately sir.
Q. When did he speak to Wolfe?
A. After he was placed under close arrest.
Q. Did Timmins swear at Cpl. Code?
A. Yes sir
Q. What exactly were his words?
A. I dont exactly remember.
Q. You heard him swear but you don't know what he said?
A. Yes sir.
Q. Could you see everything that happened in the room?
A. Yes sir, from the moment the lights went on I could see everything.
Q. How much time elapsed between Sgt. Codes order to Timmins to turn off the light & the disarming?
A. Approx 2 minutes
Q. When Timmins replied to Cpl. Codes second order what did he say?
A. I could not give you the exact words sir everything was happening so fast.
Q. Had Timmins noticeably been drinking?
A. He had had a drink
Q. Would you say Timmins who had obviously had a drink, had time to act on Cpl. Codes order, before Cpl Code grappled with him?
A. Yes he had time to act on the order.
Q. What time are lights out in your billets?
A. 2200 hrs sir.
Q. Are all lights extinguished then or shortly afterwards?
A. Yes sir

HH R. of P. 83 6. complied with.

First witness for the Prosecution

H. 100870 Pte. Robbins J.L. 3 Div. Troops Coy. R.C.A. S.C.

I am H. 100870 Pte. Robbins J.L. 3 Div. Troops Coy. R.C.A. S.C.

D. by Defence. - Robbins do you slept in the room of which Cpl. Codie is in charge?

A. Yes sir.

Q. Were you sleeping there on the night of the 14th May '43?

A. Yes sir.

Q. Did you hear any disturbance or occurrence which happened in the room about 2 300 hrs.?

A. No sir, I did not.

Q. Where is your bed in relation to the bed in which Cpl. Codie sleeps?

A. My bed is right next to Cpl Codie.

Q. Can you give any evidence as to what took place that night?

A. No sir, I can not.

Q. by court. Do you know or have you heard what happened on the night of Saturday, 8 May '43.?

A. I have heard stories about it.

Q Did you have a cold about that time?

A. Yes sir, I had a bit of a cold.

R. of P. P3.O.) complied with.

First witness for the Defence. Pte

D1

I am C 12261 Pte. Timmins E. 3 Div Tps Coy. R.C.A. S.C.

At approximately 2 250 hrs 1 May '43, I came out of our Orderly Room and there met Pte. Wolfe who was reading the orders on the Bulletin Board in the hall. I asked Pte Wolfe if he had the necessary equipment to clean my pistol. He said "yes, come up + get it." I answered, "I shall be up in a minute", as I was just going to finish a letter in the Orderly Room. I went up to Pte Wolfe's room, opened the door + switched on the light. From where I stood, in the doorway, the open door blocked my view of the side of the room where Wolfe slept. I shouted his name + asked if he had the stuff ready. He said, "~~yes + get it~~" I then walked toward his bed, drawing my pistol which had been in my belt. As I walked past Cpl Codie bed he shouted "Turn out them lights", then before I could, so much as turn around to him, he grabbed me from behind + threw me to the floor. I thought nothing of it at the time thinking then Cpl. Codie must have been in a fit. I turned to talk to

D 2

Cpl. Code when we got off the floor stooping at the same time to pick up my pistol. The pistol was on the floor, but it was tied to my belt by the Lanyard. I then unbuckled my belt + laid it on the floor with my pistol. I noticed by then sir, that Cpl. Code was not joking when he threw me on the floor. He placed me under "Open Arrest." I then told him I would like to see the Orderly Cpl. as I wished to prefer charges against him. He then placed me under "Close Arrest." The Orderly Cpl. then came up + I asked him to prefer charges on Cpl. Code for myself. I was placed under Close arrest + taken to the Guard house.

Q. by defense. How many times did you hear Cpl. Code order you to turn out the lights + leave the room?

A. I heard Cpl. Code tell me once, to turn out the lights.

Q. Is it your reply to Cpl. Code?

A. I did not sir.

Q. At him you removed your pistol from the Holster,

A. did you aim it at Cpl Code, or threaten him?

Q. My pistol was not in my Holster but was in my belt. I did not aim it at, or threaten Cpl. Code.

A. Had you time to act on Cpl. Codes order to turn out the lights before he took your pistol away from you?

Q. I did not sir.

A. Did you swear at anytime, at Cpl. Code?

Q. No sir.

A.

Q by prosecution. At him do you sleep?

A. I sleep in the N.C.O. room sir.

Q. not in Cpl. Codes room.

A. No sir.

Q. At that were you doing in the Orderly Room at 2230 hrs. on the night of 8 May?

A. I was on duty all day Saturday + the orderly room is my place of business. At 2230 hrs or before that, I was writing letters. I can get the materials there.

Q. At that time did your duty finish on Saturday?

A. It would be before 2230 hrs.

Q. Do you remember what the weather was like on Saturday.

A. Yes sir, it was raining.

Q. In the evening was it still raining.

A. I could not state definitely on that.

Q. Had you made any P.T. runs in the rain that day?

A. Yes sir.

Q. I mean you waited until 2300 hrs that night before you cleaned your pistol.

A. That's right sir.

Q. Is that a normal thing for you to do. - clean your pistol at 11 o'clock

A. I clean it every night.

Q. Cunningham if you clean your pistol every night, how is it that you do not have your own oil + cleaning equipment?
A. I had my own up to them, so at least had always benefit to borrow some.

Q. Is it necessary to go to Lt Alfs room
If by didn't you get cleaning material from someone in your own room?
A. There was no one in the room when I went to get my pistol.

Q by court. What type of belt were you wearing at the time?
A. My web belt.
Q It here was your holster?
A. It was on my belt hanging at the side.
Q Do you know Cpl. Code very well.
A. Yes Sir.
Q. Did Cpl. Code order you to take your belt off + put it on the floor.
A. No sir, he did order me to leave my pistol on the floor.
Q. What was the position of your pistol when you came through the door?
A. The front sight was in my belt, the butt was in my hand.
Q. Did you cock the pistol when you brought it from your belt?
A. No. Sir.
Q. What is the limit order about carrying a loaded pistol while on duty, or unloaded when off duty?
A. I cannot say Sir + have not been issued with pistol ammunition
Q. What did you take your pistol from your belt?
A. For no apparent reason. I was going to clean it in Lt Alfs room + got it out ready to work on it.
Q. Had you used Lt Alfs cleaning material before?
A. I'm pretty sure I have Sir but cannot state when.
Q. You know exactly where Lt Alfs slept in that room?
A. Yes Sir.

R. of P. 83 (a) complied with.

Second witness for defence B. 85278 Pte. Adolfe H.T. – 3 Div. Spec Coy. R.C.A. S.C.

On 8 May 18 at approx 2230 hrs I met Cunningham in the mess + he asked me if I had material for cleaning a pistol. I said yes come on up + get it. He said he'd be up in a minute + I proceeded up to my room. I waited for him for a little while + then turned off the light, + went to bed. No sooner got in bed than the door opened + the light was turned on. He said Hi Alf + I answered yes. As the door opened I could see at the moment that it was him, but he took a couple of paces forward +

he was around the door. I noticed then that he had the pistol in the front of his belt. He had his hand on it. At the same time he was told to turn out the light, but before he could get back to turn it out Cpl. Code jumped on him. He was thrown on the floor & then he was let up. It was he got up he was ordered to take off his belt which he did & put it on the floor. He was then placed under Open arrest & Timmins told Cpl. Code he wanted to lay a charge on him, then Cpl. Code placed him under Close arrest.

Q. by defence. At how timmins first came in the room did he address you first & then ask you for the equipment?

A. Yes Sir.

Q. How many orders did you hear Cpl Code address to Timmins

A. Just the one sir

Q. At last reply did Timmins make?

A. I dont remember him saying anything.

Q. Did Timmins cock his pistol & point it at Cpl. Code, or in any way threaten him?

A. No Sir

Q. At what time elapsed between Cpl. Codes order to Timmins & the disarming episode?

A. Just a few moments

Q. Did you hear Timmins swear at Cpl. Code?

A. No Sir.

Q. At what time did you turn out the light?

A. Around 2300 hrs.

Q. by prosecution. At what are you doing at the moment?

A. serving time and field Punishment Sir.

Q. At why are you serving time?

A. Failure to obey an order Sir.

Q. At he gave you that order?

A. Cpl. Code.

Q. At what time & on what date

A. May 8, 43 — 2300 hrs.

Q. How often does Timmins borrow cleaning material from you?

A. Off & on Sir.

Q. Is it a regular thing?

A. Yes Sir.

Q. How long had the lights been out?

A. About 2 minutes.

Q. Would you draw a diagram showing the position of the beds in your room?

A. — see exhibit "H."

R. of P. 83 B. Complied with

Third witness for the defence.

D.5

Sam. Lieut. S. T. [redacted]son, 3 Div Tpo Coy. R.C.A. S.C.

I am Platoon Officer of No. (Transport) Div Tpo Coy. R.C. Timmins was a S.R. of 2 Lt. of that Platoon. I took over the platoon during the first week of February & have worked with him since then. I would say that he had discharged his duties very well as a S.R. ~~He has~~ My views on this particular man are that I consider he has done a good job and has been efficient. My only fault to find with the accused is that I think he was in with the wrong company. When he is given a job to do he will do it well, but it appears that after his work is done, he gets into company that isn't desirable & that's where the trouble starts.

Q. by prosecution. - I take from your remarks that Timmins was not altogether satisfactory.

A. His daily work was satisfactory but after hours he caused trouble.

Q. Does he drink to excess.

A. It is not to my knowledge.

Q. Is he reliable?

A. In his work yes

Q. And after work?

A. I would say, not as reliable.

Q. by court. Is by duty your group referring to him as being reliable during working hours?

A. There is a group of 4 or 5 who is a bad influence in this platoon & when he gets with them after hours he may get into trouble.

The prosecution declined to make an address

The Defending Officer made a closing address in which he pointed out the minor nature of previous charges against the accused but the belief that the accused would yet make a good soldier.

D

The prosecution is closed.

Defence.

The accused is informed of his rights under R.P. 4 RAP

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. yes

Question. Do you intend to call any other witness in your defence?

Answer. yes

Question. Is he a witness as to character only? *Answer.* no

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

see D1 attached RAP

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

on Charge I - not guilty
on Charge II - guilty
on Charge III - guilty approved
Maj. Gen.

13 May 43

The Court is reopened and the president announces that the finding on the first charge is "not guilty" and that the finding on the second and third charges, being subject to confirmation, will be announced after promulgation.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt G.S. Pippin 3 Bn Troops Coy RCASC is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes AFB 296 + MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 'I' - 'J', signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes sir

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* I have sir

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* They are sir

~~Cross-examined by the accused.~~

[Instruction.—If no notice of the nature of the service of the accused on a substantive charge or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the circumstances of the case in fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* yes

The Court is closed for the consideration of the sentence.

F

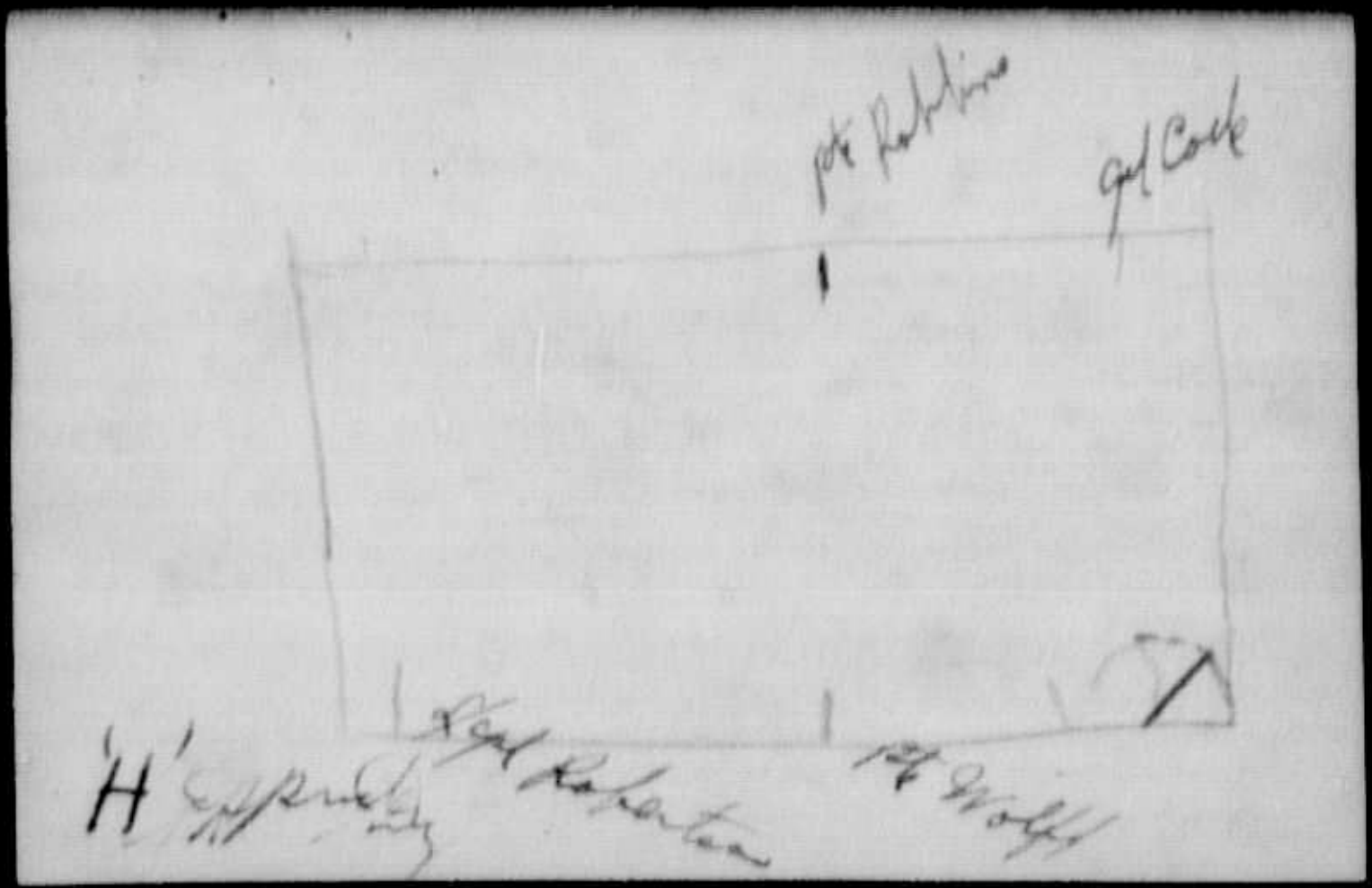
Sentence.

The Court sentence the accused

Sentence.

A 120 days detention.

13 may 43


pt Robertson
gt Cook
'H'

SUMMARY OF EVIDENCE in the case of:-

C.12267, Pte. Emmett TIMMINS of 3 Div Troops Coy. R.C.A.S.C., 3rd Canadian Division, a soldier of the Canadian Army Overseas, is charged with:-

First Charge Sec. 8 (2) A.A.	WHEN ON ACTIVE SERVICE OFFERING VIOLENCE TO HIS SUPERIOR OFFICER.
Second Charge Sec. 40 A.A.	WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.
Third Charge Sec. 9 (2)	WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER.

By direction of the Commanding Officer this SUMMARY OF EVIDENCE IS TAKEN ON OATH.

Approved

In the case of C12267 Private Timmins, E., of 3 Div Troops Coy R.C.A.S.C., 3 Cdn Division.

I desire the convening officer to appoint an officer to defend me at my forthcoming trial be Field General Court Martial.

E. Timmins

C.12267 Pte. Timmins, E.
3 Div Troops Coy RCASC
3 Cdn Division

SUMMARY OF EVIDENCE in the case of
C.12267 Pte. Timmins, E.
3 Div Troops Coy RCASC
3 Cdn Division

LIST OF WITNESSES FOR THE PROSECUTION

M.55444	Cpl. Code, J.F.	3 Div Troops Coy RCASC 3 Cdn Division
M.55785	L/Cpl. Robertson, G.	3 Div Troops Coy RCASC 3 Cdn Division
H.100870	Pte. Robbins, J.L.	3 Div Troops Coy RCASC 3 Cdn Division

LIST OF WITNESSES FOR THE DEFENCE

B.85278	Pte. Wolff, H.T.	3 Div Troops Coy RCASC 3 Cdn Division

First Witness
for Prosecution

M.55444 Cpl. Code, J.F., of 3 Div Troops Coy. R.C.A.S.C., 3 Cdn. Division, having been duly sworn states:-

I am M55444 Cpl. Code, J.F. i/c #4 Sec. #7 Platoon 3 Div Troops Coy RCASC, 3 Cdn Division. At approximately 2300 hours at MacCaulay House, Cuckfield, Sussex, on the 8th May 1943 I was sleeping in a room with my section. It was after hours and the lights were out. Someone came to the door, opened it, and turned on the lights. When the lights were turned on I recognized Pte. Timmins, who is now seated by the escort. I ordered Pte. Timmins to put the lights out. He did not comply to my order. When he did not turn the lights out, I got up out of bed and told him to get out of the room because I was going to turn the lights out. He told me to go "Fuck myself". When he told me that, I placed him under open arrest. He then swung further into the room and drew his pistol and cocked it. At the same time he told me that I could not place him under arrest nor put him out of the room. I then disarmed Pte. Timmins and placed him under close arrest.

The Officer taking summary of evidence then questioned the witness as follows:-

Question 1 — Was the pistol loaded?

Answer 1 — When the Orderly Corporal, 1/Cpl. McDonald, came up I got him to examine the pistol, and it was not loaded.

Question 2 — Was the accused drunk?

Answer 2 — I would say he was not drunk.

The accused then cross-examined this witness as follows:-

Question 1 — When did you first notice 1/Cpl. Robertson was awake?

Answer 1 — When I placed you under open arrest.

M.55444 Cpl. Code, J.F.
3 Div Troops Coy RCASC
3 Cdn Division

Second witness for Prosecution

M.55785 L/Cpl. Robertson, G. of 3 Div Troops Coy. R.C.A.S.C., 3 Cdn. Division, having been duly sworn states:-

I was in bed at about 2300 hours 8 May 1943 when Pte. Timmins came into the room in which I was in. He turned on the lights, and I recognized Pte. Timmins - whom I now recognize beside the escort. Cpl. Code told him to turn the lights out. He said "I don't have to." Cpl. Code again told him to turn the lights out and leave the room. He insisted that he did not have to. Cpl. Code got out of bed and told him again to get out. The accused moved further into the room, drew his pistol, cocked it and aimed it at Cpl. Code. Cpl. Code grabbed the pistol and they went down onto the floor. Cpl. Code disarmed the accused and placed him under close arrest.

The Officer taking summary of evidence then questioned this witness.

Question 1 — When did you wake up?

Answer 1 — I had not been asleep.

Question 2 — Were you fully awake?

Answer 2 — Yes Sir.

Question 3 — Was the accused drunk?

Answer 3 — No sir, he was not drunk.

Question 4 — Did the accused tell Cpl. Code to go fuck himself?

Answer 4 — He was swearing at the Corporal.

The accused then cross-examined this witness as follows:-

Question 1 — Did I fight with Cpl. Code to recover my pistol?

Answer 1 — You went to pick it up. Cpl. Code said leave it there.

Question 2 — Did I resist arrest in any way?

Answer 2 — When placed under open arrest, the accused said that he could not be placed under open arrest.

Question 3 — Would you stay in bed if you thought I was really going to attack Cpl. Code?

Answer 3 — I never suspected you would draw your pistol.

Question 4 — When did you get out of bed, L/Cpl. Robertson?

Answer 4 — When you drew your pistol.

Second Witness
for Prosecution (Continued)

G. Robertson

M.55785 L/Cpl. Robertson, G.
3 Div Troops Coy RCASC
3 Cdn Division

Third Witness for Prosecution

H.100870 Pte. Robbins, J.L. of 3 Div Troops Coy R.C.A.S.C., 3 Cdn Division, having been duly sworn states:-

The Officer taking summary of evidence then questioned this witness as follows:-

Question 1 — Were you in bed in the room that Cpl. Code was Corporal i/c?

Answer 1 — Yes Sir.

Question 2 — Were you awake when Cpl. Code placed Pte. Timmins under arrest?

Answer 2 — No Sir.

The accused declined to cross-examine this witness.

J.L. Robbins

H.100870 Pte. Robbins, J.L.
3 Div Troops Coy RCASC
3 Cdn Division

The accused was then given the statutory warning the following words:-

"Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

After the above caution, the accused elected to make a statement upon oath.

Statement of Accused

C12267 Pte. Timmins, E. of 3 Div Troops Coy R.C.A.S.C., 3 Cdn Division having been duly sworn states:-

On the night of 8 May 1943 I met Pte. Wolff in the hall downstairs at MacCaulay House and asked him if he could supply me with pistol cleaning equipment. He said, "Yes, come up and get it." After I finished writing my letters, I went to my room and got my pistol. As I entered the room locked after by Cpl. Code, my pistol was already in my hand. I turned on the lights, and as Wolff was sitting up in bed, I spoke to him and moved further into the room. At that Cpl. Code jumped out of bed, yelled to me to put out the lights, then within the matter of three seconds grabbed me and threw me to the floor. He knocked the pistol to the floor and we both stood up. I then told him I wished to prefer charges and would like to see the Orderly Corporal. He then placed me under arrest. I went to pick up my pistol from the floor and he said to leave it there. I told the Orderly Corporal to take full particulars about the pistol being unloaded and that the Orderly Corporal could get a statement from Pte. Wolff as to what had happened.

[redacted] behalf.

E Timmins

C.12267 Pte. Timmins, E.
3 Div Troops Coy RCASC
3 Cdn Division

The accused then called the following witness on his own behalf.

First Witness for Defence

B.85278 Pte. Wolff, H.T. of 3 Div Troops Coy R.C.A.S.C., 3 Cdn Division having been duly sworn states:-

I met Pte. Timmins in the hall at MacCaulay House. He asked me if I had cleaning material for a pistol. I said "Yes, come up to my room and get it." I went to bed and Timmins came up to my room and turned on the lights, spoke to me and asked if I had the cleaning materials, then he came over to my bed. Before he got there Cpl. Code jumped him. Cpl. Code threw him down. When he got up he ordered Pte. Timmins to take off his pistol, which he did. Cpl. Code placed him under close arrest.

The Officer taking summary of evidence then questioned this witness as follows:-

Question 1 — Was the accused drunk?

Answer 1 — No Sir.

Question 2 — Were you awake the whole time?

Answer 2 — Yes Sir.

The accused then cross-examined the witness as follows:-

Question 1 — Did I tell Cpl. Code that I wished to prefer charges against him and see the Orderly Corporal before he placed me under arrest?

Answer 1 — Yes Sir.

Question 2 — Did I have my pistol in my hand when I came around the door?

Answer 2 — You had it in your belt.

Question 3 — Did I point my pistol at Cpl. Code?

Answer 3 — No.

Question 4 — Did I swear at Cpl. Code?

Answer 4 — No.

H.T. Wolff

B.85278 Pte. Wolff, H.T.
3 Div Troops Coy RCASC
3 Cdn Division

I certify that Rules of Procedure 4 (c) (d) (e) & (f) have been complied with.

Taken by me in the presence and hearing of the accused this 9th Day of May, 1943, In the Field.

(G.S. PEPPIN) Captain
3 Div Troops Coy R.C.A.S.C.
3 Cdn Division

M.F.M. 6
(A.F.H. 122)

No. C12267 Name TIMMINS, E. Sqn., Battery, or Company R.C.A.S.C. Corps Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Date of enlistment 21 Apr. 41 G.C. Badges Service or Proficiency Pay Signature O.C. Company, etc. N.A. Armstong Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	25 Dec. 41	Pte		Sec. 15(1) A.A. A.W.L. from 0630 hrs. 25 Dec. 41 to 2359 hrs. 25 Dec. 41. Absent 17 hrs. 29 mins. (or 1day) Open arrest.	Cpl.Guindon L/C.McEwan	3 days C.B.	21 Jan.42	T.Harper Lieut.	Total forf. 1 days pay.
In the Field	6 Mar. 42	Pte.		Sec.40 A.A. WOAS. Neglect to the prejudice of good order and military discipline. In that he at 0915 hrs. Friday 1 Mar. 42 when ordered to do fatigues refused. Close arrest.	C12469 Cpl. P.J.O'Connell C12326 L/Cpl. W.E.Clifford	14 days C.B.	6 Mar.42	W.J.Stewart Major	
In the Field	13 Mar. 42	Pte.		A.W.L. from 0630 hrs. 13 Mar.42 to 1400 hrs. 16 Mar.42. Absent 128 hrs. or 6 days) Close arrest. Sec. 15 (1)A.A.	C12388 Cpl. DesJardins A.I. C12469 Cpl. O'Connell, P.	Awarded 28 days 19 Mar. Field Punishment 42		W.J.Stewart	Total forf. 35 days Pay.

(T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field.	14Nov. 42	Pte	Nil	A.W.L. from 1800 hrs 14 Nov.42 until 2230 hrs 15 Nov. 42 T.T.A. 1 day 4 hrs. 30 mins. Sec.15(1)A.A.	L/Cpl.Tobin Sgt. Noel	14 days F.P.	18 Nov. 42	H.P. Bonnick Lt-Col	For 14 days Pay. R.R.& I. 149(1)(b) Forf 2 days pay. F.R&I.149(1)(a) TFP. 16 days.
In the Field.	8 Jan. 43	Pte.	Nil	Sec. 15(1)A.A. A.W.L. from 1840 hrs. 8 Jan.43 to 2230 hrs. 8 Jan. 43. (3 hrs. 50 mins)Coose arrest	C12413 L/C Pugliese,J. C12477 Cpl. Rooney,L.	14 days C.B. 14 days Inst. drill 14 days pay.	11 Jan. 43	H.C.Pattison Major	

CERTIFIED TRUE AND CORRECT COPY

(D.B.Welch)Lieut.
3 Div. Troops Coy. RCASC.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C12267	Private	Timmins, E.	3 Div. Troops Coy. RCASC 3 Cdn. Division

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preponderance being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For Sec. 15 (1) A.A.	Two	times	Four	times.
For Sec. 40 A.A.		times	One	times.
For		times		times.
For		times		times.
For		times		times.

[redacted]

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 24 years 89 days

6. The date of his [redacted] attestation specified in his record of service is 21 April, 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 23 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 year 176 days service.

9. The accused is entitled to reckon 2 years 23 days service for the purpose of determining his pension, etc.

10. [redacted]

11. [redacted]

12. [redacted]

(*[illegible]) Wt.30246/902 75,000 12/40 A.& E.W.Ltd. (Gp.699

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C12267 Rank Private Name TIMMINS, E. of 3 Div. Troops Coy. RCASC. 3 Cdn. Division Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 day of May, 1943

(A.E.H. Basing) Major
Officer Commanding
3 Div. Troops Coy. RCASC.

INSTRUCTION.—If any matter to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck out, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.]

13 [redacted]

CCC-101

PTE TINDALE G·L

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-46534 Pte TINDALE, Gordon Leonard - 4 CGPC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date) ...~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Sixty (60) days.

(Sgd) ... ~~Judge~~ Advocate, if any. 9 Feb/44 Date awarded. (Sgd) ... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Nil

(1. AA 57A. Delete if not used.)

Date 18 FEB 1944 (Sgd) G Francoeur Brigadier Commanding "D" Group (Cdn. Reinforcement Units) C.A. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-46534 Pte. Tindale, G.L.	16 Feb 44	
DO#16 d/18 Feb 44		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CCC-104

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA37) 40/P & S/1658 (2864)

Convened by Order of Brigadier G. Francoeur Comd "D" GP CRU dated 8 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-46534	Pte	Gordon Leonard	TINDALE	4 CGPC

PROCEEDINGS REVIEWED

J. Ruttan Capt. 25 Feb 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offr under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cit~~ation~~s, ~~number of apptmt~~ relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter? Ans~~ ~~The Interpreter is sworn.(1). Do you object to ... as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nosir. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offr under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Lt. Col.	D.L. Redman, V.D.	H.Q. C.R.U.
Member	A/Capt.	W.M. Bennett	4 C.I.R.U.
Member	Lieut.	J.C.A. MacRae	7 C.I.R.U.
~~Judge Advocate~~	Lieut.	J.C. Dennison	3 C.I.R.U.
Prosecutor	Lieut.	J.L. Miller	4 C.S.R.
Defending Offr	Lieut.	C.D. Redstone	4 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (no) ~~(a)~~ plea ... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO-SIR.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

~~Insert Loose Sheets of Record.~~

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....

Do you intend to call witnesses on your behalf? Ans. .....

Are they witnesses as to character only? Ans. .....

(1. *RP 116.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. None.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, and by my Defending Officer. (2) NOTE ATT.

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then seals it, if any.~~(2) 7/6/70

(1. *When several accused tried separately see RP [redacted]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 66-80, 89, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 60(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-46534 Private Gordon Leonard TINDALE, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with:

WHILE ON ACTIVE SERVICE

FIRST CHARGE
SECTION 15(1)
ARMY ACT

Absenting himself without leave,

In that He,

In the Field, Absented himself without leave from 0750 hours, 12 January 1944 until surrendering himself to the Unit Guard Room at 0840 hours, 3 February 1944.

Total absence - 22 days, 50 minutes.

In the Field,
7 February 1944

(J.H. Donnelly) Capt.,
A/Officer Commanding,
4 Cdn Gen Pioneer Coy C.A.(O)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G. Francoeur) Brigadier
Commander
"D" Group, Cdn Rft Units.

In the Field
8 Feb 1944

FIELD GENERAL COURT-MARTIAL

CFA 96 (In lieu of AFA 3)
40/PAS/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-46534	Pte		Gordon Leonard	TINDALE	4 CGPC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 8 Feb 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by CO	4 CIRU
A Lieutenant	to be detailed by CO	7 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England *(Country.)*

C Vanier *(Signed personally. RP 105 fn 2.)* Brigadier *(Rank.)*

Date 8 Feb 44

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

my

MEDICAL CERTIFICATE

K.R. (Can.) para 507

I certify that I have this morning examined No. B46544

Name Pte Tisdale. S.H. and in my opinion he is fit

to undergo trial by Court Martial.

In the Field

Date

Capt.
Medical Officer,
4 Cdn Gen Pioneer Coy C.A.S.C.(O)

Note E-2

PLEA IN MEDIATION F.G.C.M. B46534 Pte GORDON LEONARD TINDALE

COTEAU BARRACKS
TROIS-RIVIERES, P.Q.

This soldier enlisted in Dec 1940 and came overseas in Dec 1941. He is now only 20 having said he was older in order to join the army. Since he came overseas he has seen about 6 months in the field and has been instructed in M.T. work at 4 CIRU having successfully passed courses in Oct 42 & Apr 43. Soon after he arrived in England he became friendly with a young lady & later got her into trouble. A baby was born in Feb 43. He applied for permission to be married in June but because of the delay he got a court license, under the circumstances, & was married on 24 July 43. When he returned he took steps to have the permission to marry granted and produced some of the letters of recommendation & doctors certificate etc. but the forms were not completed. Dr Riddle his wife and mother in law threatened to take the case to court & wrote to Ldn HQ. Apparently this letter did not bring any action. Tindale was given leave in October and while visiting his wife discovered that she had been placed on a year's probation for stealing a pair of shoes because she had no money. There was a considerable amount of blistering scurrilly from his mother in law regarding his not supporting his wife. Mention was made that the baby would have to be adopted by some one who could look after its welfare and Tindale did not take to this suggestion. He has since received a letter from the family solicitor asking him to sign papers for the adoption of his child by an uncle. His reaction is that he wants if possible to look after the child & bring it up with his wife provided the dependents allowance can be arranged.

Tindale is still very young. Before he came overseas he had a motor cycle accident at Grimsby, Ont &

suffered head injuries which have since brought on frequent headaches. He was examined at No 1 Neurological Hospital Basingstoke in 1942 & 1943 when treatments were prescribed for his nervous conditions but which he did not receive. A letter from CO 11 H.Q. dated 31 May 43 recommended his transfer from 4 C[illegible] to the R Corps because of "chronic anxiety neurosis". This transfer was made in June 43. Pte Dale's crime sheet is not good but I believe that this has been caused by worry over the mix up he has made of his family affairs because of his youth. The fact that he is not supporting his wife & child causes him to brood & worry and because the Pathetic hopelessness of the case he went AWL. He finally realized that this action would only bring more trouble on & returned voluntarily on 3 Feb 44.

I would ask the court to be lenient in this case and ask that a recommendation be made to have steps taken for the completion of the required forms so that Dale's wife can receive the dependents allowance for herself & the child. With this worry off his mind the accused would no doubt be a better soldier. He is still shown at 64 A but in view of the above report it would appear that he should be re boarded or given treatment.

9 Feb 44.

B.P. Redston Lt. R.A.S.C. 4 Coy
Defending officer.

4 CANADIAN GENERAL MACHINE COMPANY

1. I hereby acknowledge that I have been served with a true copy of the summary of evidence taken in the Field, preliminary to my Court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

H.E. Lindale

Dated in the Field
this 7th day of
Feb. 1944

2. I hereby acknowledge that I have been served with a true copy of an additional summary of evidence taken in the Field, preliminary to my Court-martial.

3. I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Capt Timms C. if he is available.

Dated in the Field
this 7th day of
Feb. 1944.

H.E. Lindale

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-46534 Private Gordon Leonard TINDALE, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

F-39659 Sergeant Louis Joseph MULOCK, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

On the morning of 12 January 1944 at 0750 hours I found Private TINDALE absent when calling the roll, in that he did not answer to his name. He was absent on every successive day that I called the roll and on 3 February 1944 he was still absent from my Section.

Lgt L.J. Mulock
L.J. Mulock.

The accused declines to cross-examine this witness.

SECOND WITNESS
FOR THE PROSECUTION

M-35125 Private (Acting Lance Corporal) Albert Edwin ICETON, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

On 3 February 1944 at 0840 hours, Private TINDALE came to the Guard Room and gave himself up and said there was no use being "on the loose" and that there was no advantage to it. I put him under close arrest and reported same to the Orderly Room. He was properly dressed and sober.

A.E. Iceton.
A.E. Iceton.

The accused declines to cross-examine this witness.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

my

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-46534 Private Gordon Leonard TINDALE, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas. (Cont'd)

The accused has been duly warned in accordance with Rule of Procedure 4(e) and reserves his Defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d) and (f) have been complied with.

In the Field,

7 February 1944

R.F. Dionne Lieut

(R.F. Dionne) Lieut.,
Officer detailed to take the Summary

LIST OF WITNESSES

List of Witnesses in the case of B-46534 Private Gordon Leonard TINDALE, on the strength of 4 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. F-39659 Sergeant Louis Joseph MULOCK, 4 Canadian General Pioneer Company.

2. M-35125 Private (Acting Lance Corporal) Albert Edwin ICETON, 4 Canadian General Pioneer Company.

FOR THE DEFENCE

N I L

4 CANADIAN GENERAL PIONEER COMPANY

5-4-Discipline

18 Feb 44

Staff Captain,
"D" Group,
C.R.U.

FIELD GENERAL COURT MARTIAL
B-46534 PTE. TINDALE, G.L.

1. Ref your DGHQ 5-4-CM/8 d/16 Feb 44 returned herewith AFA 3.

2. The m/n soldier was paraded and his sentence promulgated and extracts taken. He was notified in writing of the delay in obtaining permission to marry and given a list of certificates required.

3. At the soldier's request I wrote to Mrs. Tindale as he has not heard from her in several weeks.

4. For your information, please.

(J.H. Donnelly) Capt.,
A/Officer Commanding,
4 Can Gen Pioneer Coy C.A.(O)

HQ CDN RFT UNITS

12 Feb 44.

Confirming Officer,
"D" Group,
C.R.U.

F.G.C.M.
B.46534, Pte. G.L. Tindale,
4 C.C.P.C.

1. The F.G.C.M. proceedings of the marginally named are attached hereto.

2. You will observe what the accused says in mitigation with respect to the consent to his existing marriage. During the proceedings I took occasion to bring in the Pay Sergeant, and he informed me that the accused was indebted to the Government in his open account in a sum in excess of $280.00. I also called in Captain Donnelly, his present O.C., and he informed me that the application for the consent had been for some time awaiting the production by the accused of a medical certificate to the effect that his wife is free of venereal disease. Captain Donnelly further informed me that he had properly read correspondence by the accused, first with his wife to the effect that he wished to have nothing further to do with her, and second with another woman that he would like to extend his relations with her. He is, however, actually married to his present wife, and they have a child. I suggest that the accused should be paraded, given notice in writing that the delay in application is caused by his failure to produce the said certificate, and pointing out that if he doesn't produce it that he will have no one else to blame but himself. This will stop him from misrepresenting the position as he did to me on the day of the trial. On the other hand it would appear probable that insufficient attention has been paid to his application for consent, and generally I am of the opinion that it might tend to improve his attitude if his application for consent could be expedited.

(D.L. Redman) Lt.-Col.,
President of the Court.

Encls.
DLR/rl
DLRS/POST (R)

SUPPLEMTARY COMPILED FROM MFM 4

MFM 6 (AFB 122) 40/P&S/130 (3438)

No B-46534 Name TINDALE, G.L. Rgn, Battery, or Company — Corps C.A.(0) — Date of enlistment 18 Dec 40 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet: N/A — No and date of last drunk: N/A — Period not reckoning towards freedom from extra fine: N/A — Sheet No 1 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec. 40	-	14 days C.B. 14 days pay	4-3-42		Forfs 14 days pay 149(2)
Field		Pte		A.A. Sec. 15(1)		5 days C.B.	30-3-42		1 days pay 149(1)(a)
Field		Pte		A.A. Sec. 9(2)		28 days Detn	26-6-42		28 days pay 149(1)(b)
Field		Pte		A.A. Sec. 15(1)		14 days F.P. 20 days pay	27-7-42		1 days pay 149(1)(a) 20 days pay 149(2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AWL from 2359 hrs 14-10-42 to 2350 hrs 15-10-42 AA Sec. 15(1)	-	10 days pay	16-10-42		10 days pay 149(2)
Field		Pte		A.A. Sec.40 Conduct to the Prej	-	28 days Detn	23-10-42		2 days pay 149(1)(a) 28 days pay 149(1)(b)
Field		Pte		A.A. Sec. 15(1)		7 days C.B.	4-12-42		8 days pay 149(1)(a)
Field		Pte		AA Sec. 15(1) AWL 11 hrs		14 days F.P.	28-12-42		14 days pay 149(1)(b)
Field		Pte		AWL from 2200 hrs 26-1-43 to 2240 hrs 29-1-43 (3 days 40 mins) A.A. Sec. 15(1)	-	-	15-2-43		1 days pay 149(1)(a) Total forf 21 days pay.

MFM 6
(AFB 122)
40/P&S/150 (3435)

No B46534 Name TINDALE, G.L. Sqn, Battery, or Company — Corps — Date of enlistment — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	Pte			A.A. Sec. 15(1)	-	10 days F.P.	22-3-43	-	10 days pay 149(2)
Field	11-6 43	Pte		AA Sec 40 Cond to the Prej Failed to halt and did use abusive lang. caused a disturb.	Sgt Thomson Pte. Sanders	6 days pay	14-6-43	Lt-Col. McFerson	2 days pay 149(1)(a) 6 days pay 149(2)
Field	14-7 43	Pte		AA Sec.15(1) AWL 2300 hrs 14-7-43 to 0820 hrs 20-7-43 (5 days, 8 hrs, 21 mins.)	Documentary	Admonished	20-7-43	Major H.E. Goodings	6 days pay 149(1)(a)
Field	22-9 43	Pte		AA Sec.15(1) AWL 2200 hrs 22-9-43 to 28-9-43 (5 dys, 9h 30m)	Sgt Roach	28 dys Detn	28-9-43	" "	28 days pay 149(1)(b) 6 days (FD) pay 149(2)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	6-11 44	Pte		AA Sec.15(1) AWL 2200 hrs 6-11-43 to 1045 hrs 29-11-43. (22 dys 12 hrs, 45 mins)	CplMowat	14 days F.P. 23 " Forf.	30-11-43	Maj H.B. Goodings	23 dys pay 149(1)(a) 14 days pay 149(1)(b)
Field	22-12 43	Pte		AA Sec9(2) Failing to carry out Inst. Failed to go on W/P at 0920 hrs.	CSM Roach	7 days F.P.	22-12-43	Capt.J.H. Donnelly	7 days pay 149(1)(b)

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT IN MY CUSTODY.

(G. Craven) Lieut. & A/Adj.,
for Officer Commanding,
4 Cdn Gen Pioneer Coy C.A.(O)

STATEMENT AS TO CHARACTER & PARTICULAR OF SERVICE OF ACCUSED

1. The following is a fair and true summary of the entries in the Regimental Conduct sheet of the accused, exclusive of convictions by Court Martial or a Civil Court, and of cases in which trial has been dispensed with:

Number..... Rank.....Name.....

.....4 Canadian General Pioneer Coy

SINCE ENLISTMENT WITHIN LAST 12 MONTHS

Number of instances of gallantry or distinguished conduct.....

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court Martial or a Civil Court.

4. The accused has been in confinement, awaiting trial on the present charges for..... days in Civil custody and..... days in military custody, making a total of..... days in custody of which..... days were spent in the hospital.

5. The present age of the accused according to his attestation paper is

6. The date of his attestation specified in his attestation paper is

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of

9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decorations or military reward.

SCHEDULE OF CONVICTIONS BY COURT-MARTIAL

Schedule of convictions by a Court-Martial or a civil court and of cases in which trial has been dispensed with of the accused.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

In the Field
Date: 17 Feb 44

Capt.
A/Officer Commanding
4 Canadian General Pioneer Company.

Trial of B.46534, Pte. G.L. Tindale, 4 C.G.P.C.

Note E-3

Statement by the accused:-

I made my first application for permission to marry immediately after coming back from being married in August, 1943. That was held up because I had been in hospital and the hospital were trying to determine V.D.G. That held up the papers at that time. In any event this condition cleared up.

Later, about October 1943, I made further application for permission through my Company Commander, Major Gooding of 4 C.G.P.C. on a new form. Major Gooding went away on a course. I saw the papers with the Unit subsequently. They didn't go out of our Company office. After Major Gooding had gone away I saw Captain Donnelly. He said he would 'phone up the local officer and I didn't hear anything further about it for a while. About the middle of November, I asked Lieutenant Craven what was being done with my application. He said he didn't know anything about it and they wouldn't have to pay my wife until they got good and ready to pay for it. My wife was bound over on a years probation charge with stealing a pair of shoes. I found out about this about the end of October. My mother-in-law wanted her brother to adopt the baby. I think in November I saw the Paymaster about my application for marriage. He said he could put it through for me. I asked if I could assign $20.00 a month. He said I couldn't. He said the Army didn't consider me married. Inever told any of my officers about the incident of the pair of shoes. I don't think they have heard about it before. My wife is now 20 years of age. It is my child. I last saw my wife in October. I wish to continue to live with her and to get consent to the marriage. My wife is working in a wool factory. She lives with her mother and step-father in Radcliffe, Lancashire. I have about $200.00 deferred pay. I was buying War Bonds up until last October, $100.00 worth and they are paid for. I come from Toronto. My parents are alive. They are separated. I was living in a Working Home in Toronto when I enlisted. I went through Public School. I worked for Diamond Limited in Toronto, lithographers, before I enlisted. I am category "A". I was very happy when I was a motorcycle instructor at 4 C.I.R.U. and at 1 C.D.I.R.U. I think I would feel all right again if I had permission of marriage and Dependent's Allowance paid to my wife and assigned pay to her, and if I were back with my own Reinforcement Unit instead of in the Pioneer Corps.

92 H Gnr. Tinderano. L.W.

O. H. M. S.

M. F. B. 270

"R" C.R. Betstrander Major

1

924

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Twenty-seventh day of April, 19 42.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery 2 Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

*[I am unable to appoint:—

* Omit if not applicable

*(1. ~~Three Officers to form the Court~~)

*(2. ~~A Field Officer as President~~)

*(3. ~~Three Officers having more than one year's service~~)

for the following reasons, namely:—]

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of these rules inconsistent with appendix "A" to S.R.O. 772 on the trial of the person named in the annexed schedule.

PROCEEDINGS REVIEWED.

G.R. Betstrander Major
Brigade Major, 2 Cdn Div. C.M.P.
20 May 42.

President.

Rank.	Name.	Regiment.
Major	C.R. Betstrander	1 Cdn Mt A A Regt.

Members.

Rank.	Name.	Regiment.
Capt.	S.A. Blakely	6 Cdn Fd Regt.
Capt.	R.E. Peabody	5 Cdn Fd Regt.
Lieut.(Waiting Member)	L.J.C. Simpkins	4 Cdn Fd Regt.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.D. Lee Brigadier

Commanding R.C.A. 2 Cdn Div.

Convening Officer.

V

2

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K.21000 Gnr. TINDALAND, L.W. 2 Con A Tk Regt, RCA.	FIRST CHARGE: A.A. Sec. 41(5) Stealing. (see charge sheet att.)	Not Guilty	Not Guilty	Confirmed R.O'Dea Brigadier C.R.A. 2 CON. DIV.
	SECOND CHARGE: A.A. Sec. 40 Conduct to the prejudice of good order and military discipline (see charge sheet att.)	Not Guilty	Not Guilty	

C.Ellstrander Maj
3 Con L.A.A. Regt R.C.A.
30 Apr 42

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*): No

(*Signed*) R.O'Dea Brigadier (*Signed*) C.Ellstrander Maj
Commanding R.C.A. 2 Con Div. *Convening Officer* (*e*) 3 Con L.A.A. Regt R.C.A. *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

I certify that the above Court assembled on the 30th day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~3. The interpreter~~)
*~~(4. The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 30 day of April 1942.

C.Ellstrander
President of the Court Martial.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 6th day of May 1942.

R.O'Dea Brigadier
C.R.A. 2 CON. DIV.
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

46750 Wt. 40112—991 300 7/40 P. St. & Co.

"B 2"

CHARGE SHEET

THE ACCUSED, KE1080 Gunner Tinderland L.W.
of 108 Cdn. A.Tk. Bty., 2 Cdn. A.Tk. Regt.
R.C.A.

is charged with

First Charge
A.A. Sec. 41 (5) When on active service COMMITTING A CIVIL OFFENCE, that is to say,

STEALING

in that he
at Alfriston Sussex between 31 Jan 42 and 28 Feb 42 did steal a barrel of Mead the property of Mr. J.S. Wilson.

Second Charge
A.A. Sec. 40 when on active service is charged with

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
on or about 28 Feb 42 in the Field did write and post a letter addressed to Mr. Fred Walen 31 E 12 Ave. Vancouver B.C. Canada which contained the following false statements " In one of the mansions I came across a locked door in the basement that aroused my curiosity. When I broke it down with a crowbar I found out it used to be the old mans wine cellar. There must have been over 1000 empty bottles and kegs of various contents but I found 6 bottles of good Sherry and a 20 gal. Kegg of Mead that was full. The bottles are consumed and the Barrel is hid in our store, so I take an odd Gallon up to the room every Saturday - that sure is liquid dynamite - made from honey, it is."

Lt.-Col. R.C.A.
C.O. 2nd Anti-Tank Regt R.C.A. C.A

In The Field
This 27th day of Apr 42
To be tried by F.G.C.M.

Brigadier
C.R.A. 2 Cdn Div.

3

MEDICAL OFFICER'S CERTIFICATE

I certify that K21080 Gnr Sinderland L.W. 2 Cdn. Anti-Tank Regiment, R.C.A., is fit to undergo trial by Court-Martial.

Place In the Field

Date 30 Apr 42.

K B Wallen Major
Signature of Medical Officer
RCAMC

APPENDIX "A" 3 7

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

1. Trial of: K21080, Gnr. Tinderland, L.W.
Unit: 108 Cdn. A.Tk. Bty., 2 Cdn. A.Tk. Regt., RCA.
Held At: R.H.Q., 2 Cdn. A.Tk. Regt., RCA. on 3rd day of Apr. 1942.

2. ACTUAL COURT

PRESIDENT: Major C.R. Ostrander - 3 Cdn. Lt. A.A. Regt., RCA.

MEMBERS: Capt. R.S. Peabody - 5 Cdn. Fd. Regt., RCA.
Lieut. J.C. Simpkins - 4 Cdn. Fd. Regt., RCA.

3. PROSECUTOR: Lieut. L.N. Johnson - 2 Cdn. A.Tk. Regt., RCA
DEFENDING OFFICER: Major J.D. Ross - 2 Cdn. A.Tk. Regt., RCA (lawyer)

4. The accused is arraigned and pleads "Not Guilty" to the following charges: (1st charge, 2nd charge)

5. The accused is asked the question at the foot of page 2 of A.F.A. 3 and his answer "no" is recorded by the President.

6. PROSECUTION EVIDENCE

The first witness, Major Quigley, 108 Cdn. A.Tk. Bty., 2 Cdn. A.Tk. Regt., R.C.A., having been duly sworn, states:

Question: Give your evidence.
Answer: I'm not just sure of the date Capt. Pegg reported to me the report of a loss of a barrel of mead.
The mead had been left by Mr. Wilson on requisitioned property.
The approximate date was the 6th or 7th of February.
Question: When did you next hear about the mead?
Ans: When Capt. Risley of the Provost Company came in and produced a letter telling where the barrel of mead was hidden.
I took along the Bty. Capt. and demanded of Tinderland that the barrel of mead be produced. This was done.
Ques: Where was the barrel of mead found?
Ans: In one of our stores.
Ques: Who has access to these stores?
Ans: The Q.M.S. and the storeman, Tinderland.

CROSS-EXAMINED BY DEFENDING OFFICER

Question: This letter told where the mead was?
Answer: Yes, that it was in the stores.
Ques: You asked the storeman where it was?
Ans: Yes.
Ques: You said it was hidden. Was this because something was on top of it?
Ans: Yes.
Ques: Has the accused been honest with you?
Ans: Yes.
Ques: Did the civilian who owned the property mention to you that any of his belongings were still unremoved from the premises?
Ans: Not to me.
Ques: Is the accused a drinker?
Ans. I have never heard of him drinking.
Ques: What was the disposition of the barrel of mead?
Ans: It was returned to the owner and a receipt obtained.
Ques: Was the room containing the barrel of mead so full that it was necessary or desirable to pile anything on top of the barrel?
Ans: No.

EXAMINATION BY THE COURT

2/

9

EXAMINATION BY THE COURT (cont'd)

Question: Was any part of barrel visible?
Answer: No.
Ques: Did you think the accused was an abstainer?
Ans: Yes.

The second witness, Mr. J.E. Wilson of Alfriston, Sussex, having been duly sworn, states:

Question: Do you recognize the accused?
Answer: Yes, I do.
Ques: How did you know him?
Ans: I knew him as Louie.
Ques: Do you own Windgrove Guest House?
Ans: Yes, I do.
Ques: Did you have a barrel of mead in your surgery?
Ans: Yes, I did.
Ques: Give a statement with regard to this barrel of mead.
Ans: This mead was left in the surgery pending the arrival of a lorry which Capt. Pegg had promised me. The lorry did not come for a week or two and my own carrier found the door open and the barrel missing.
Ques: When did you move out of Windgrove?
Ans: Supposed to move out about Jan 15th, but time was extended to probably about 23rd.
Ques: Did 108th Bty. move in when you moved out?
Ans: Yes.
Ques: Was the 108th Bty. living in Windgrove Guest House when you noticed the mead wasmissing?
Ans: Yes.
Ques: What action did you take on noting its loss.
Ans: I reported the loss to Capt. Pegg. He said he would investigate. I asked a couple of times after, but no report, until he returned it to me one evening after dark.
Ques: Did you recognize this as your own barrel of mead?
Ans: Yes, undoubtedly it was my own.

CROSS-EXAMINED BY DEFENDING OFFICER

Question: What is this surgery?
Answer: It was a veterinary surgeon's part for horses, in an outhouse.
Ques: Had it been requisitioned?
Ans: I wasn't clear whether it had been requisitioned or not.
Ques: Did you tell Capt. Pegg or Major Quigley whether you left any property in buildings?
Ans: Yes, I told Capt. Pegg.
Ques: What property did you tell Capt. Pegg was left on the premises?
Ans: Two chicken houses and some things in the surgery.
Ques: Did you tell him there was a keg of mead?
Ans: I don't know.
Ques: You knew it was there, and you would normally mention it if anything important was left?
Ans: Yes, the keg of mead was the most important thing in the surgery and if I mentioned anything, which I am not sure that I did, I would have told him about it.
Ques: Did Capt. Pegg send men over to help move any of your goods?
Ans: Yes, the soldiers did carry sacks to help move out.
Ques: After two weeks elapsed, you investigated and found mead gone and reported to Capt. Pegg?
Ans: Yes. He promised an investigation but didn't claim to have been warned of mead being left.
Ques: Did you have any difficulty with Capt. Pegg in taking over property
Ans: Yes, I had discussion and arguments with Capt. Pegg on other details re amount and number of buildings.

3/

EXAMINATION BY THE COURT

Question: Are you going to lay any civil charge?
Answer: No. I consider the matter closed as far as I am concerned.

The third witness, Capt. Pegg, D.M., 108 Cdn. A.Tk. Bty, 2 Cdn. A.Tk. Regt, RCA, having been duly sworn, states:

Question: When did you first hear about barrel of mead?
Answer: About two weeks after moving in about 31 Jan 1942.
Ques: Give your evidence in the case.
Ans: Our requisition included Wingrove House with one main building and all the out-buildings. At time of requisition we assisted Mr. Wilson to move his personal effects by supplying fatigue parties. On the date our troops moved in, on 31 Jan. to the best of my knowledge, all of Mr. Wilson's effects had been moved with the exception of some portable chicken houses, quantities of bottles and bundles of newspapers piled at rear of main building. Consequently, with Mr. Wilson's consent, we moved our troops in on this date. First heard of barrel of mead approximately two weeks after this date, when Mr. Wilson approached me and stated that a barrel of mead which had been left in one of the outbuildings had been removed. I drew to Mr. Wilson's attention at that time, that this was the first time I heard about the barrel of mead. These outbuildings of which there are five, we had planned to use at a later date. I knew they contained quantities of bottles and papers but that was all, to the best of my knowledge. This was reported to Major Quigley. I next heard of a barrel of mead on 18 March when Capt. Risley of 2 Cdn. Div. Provost Corps called and handed a letter to Major Quigley. I was present when Major Quigley interviewed Gnr. Tinderhand, whose christian name is Louis. Major Quigley, in my presence, ordered Gnr. Tinderhand to take us to the barrel of mead.

Question: When you walked into store, could you see barrel of mead?
Ans: No, I could not.
Ques: Was this the letter (Exhibit "A") that Capt. Risley brought in?
Ans: Yes, this is the letter.

(Letter submitted as Exhibit "A")

CROSS-EXAMINED BY DEFENDING OFFICER

Question: This room Mr. Wilson refers to as surgery was a part of requisitioned property. Was there any doubt about taking it over?
Answer: There was no doubt whatsoever. All buildings on premises were requisitioned.
Ques: Did Mr. Wilson make any mention of barrel of mead?
Ans: No.
Ques: Was there any unpleasantness between Mr. Wilson and yourself? Did you think he was friendly to the Battery?
Ans: I think his feelings were lukewarm to Battery.

EXAMINED BY THE COURT

Question: What was the building in which the mead was found, used for?
Answer: It was used for engineer's stores.
Ques: Did you examine the door to the building that was alleged by Mr. Wilson to have contained the mead?
Ans: Yes.
Ques: Could you state whether it had been forced?
Ans: No.

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13

The fourth witness, M131 R.S.M. (W.O.II) Sharp, F.E., 108 Cdn. A.Tk. Bty., 2 Cdn. A.Tk. Regt., RCA., having been duly sworn, states:

Question: In what capacity has Gnr. Tinderland been employed since mobilization?
Answer: As a storeman for almost two years
Ques: What has been your employment?
Ans: I was B.Q.M.S. for 18 months.
Ques: Does the large "L" in signature of Exhibit "A" look like signature of accused?
Ans: I wouldn't say for sure.

CROSS-EXAMINED BY DEFENDING OFFICER

Ques: Did I understand you were B.Q.M.S. before being R.S.M.?
Ans: Yes.
Ques: Accused was your storeman?
Ans: Yes.
Ques: Do you know him quite well?
Ans: Yes.
Ques: What kind of a man is he?
Ans: He is trustworthy and reliable.
Ques: Did you ever know him to do a dishonest act?
Ans: No.
Ques: Did he ever drink?
Ans: I've never known him to be intoxicated and if he drinks, it must be very slightly

NO EXAMINATION BY THE COURT

The case for the Prosecution was closed and the defence made a motion to have the case dismissed on the ground that no prima facie case had been established.

Points brought out by Motion of Defense:

(a) A letter has been produced in Court supposedly written by accused.
The only evidence of this is that it is signed "Louis" and no one has been able to identify it.

(b) Gnr. Tinderland, when ordered to take Major Quigley to the barrel of mead, did so willingly. The mead was in the storeroom and it is to be expected that the storeman would know of its existence there. No evidence has been given to show Gnr. Tinderland put it there.

(c) I maintain the Prosecution have made no case of stealing against the accused.

(d) I also maintain that the Prosecution have not proved that this letter "Exhibit "A" was written by the accused, or even if it was, how the statement mentioned could be construed as conduct to the prejudice of good order and military discipline.

The Prosecutor submitted no new evidence.
On the request of the Court the Prosecutor recalled Major Quigley.

EXAMINED BY THE COURT

Question: Tell the Court all you know of this letter, Exhibit "A".
Answer: This letter was shown to me by Capt. Risley and as Mr. Wilson had reported the loss of the mead, I called my storeman whose name was Louis and ordered him to show me where the barrel of mead was.
Ques: There is a 2nd A.Tk. Regt. Orderly Room stamp on the envelope. Was that there when Capt. Risley gave you the letter?
Ans: No.

5/

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Question: When was it placed there?
Answer: I reported this matter to Regtl H.Q. and when I next saw the letter, it was stamped with the Orderly Room stamp.

7. The Court is closed for finding.

8. The Court is re-opened.

9. The Court uphold the motion of the Defense and the finding of "Not Guilty" in all charges is read in open Court and the accused is Honourably Acquitted.

CERTIFIED THAT THE FOREGOING PAGES NOS. 1 to 5 IS A TRUE RECORD OF THIS TRIAL

3 b day of April 1942.

Signed C R Ostrander Major President.

Our Unit is fairly good considering. Every morning we go to one of the local teaplaces for tea, toast and jam. We do our routine work and it is keeping me very busy.

Ella writes me regularly and I replay regularly twice a week. How do you fare in the Blackout in Van.? After a while you get so used to it you don't mind. Hope this letter reaches you in best of health, would be you do good work this summer, Enid.

Give my regards to Mrs. McEwan, and the rest of my aquaintances. Cheerio, Enid, and again thanks a lot for the tobacco you sent. I am alright, and hope to continue so indefinitely.

The best from nephew

Lauri.

it down with a crowbar I found out it used to be the old mans wine-Cellar. There must have been over 1000 empty bottles and Kegs of various contents, but I found 6 bottles of good sherry and a 20 Gal. Kegg of Mead that was full. The bottles are consumed, and the Barrel is hid in the Store, so I take an odd Gal. up to the room every Saturday. That sure is liquid Dynamite. - Aside from honey, it is.

One of our officers rode a motorcycle into our Garage and rode down the greasingpit, when he came to he walked into the piquet, and when he failed to halt on the order they hit him over the head with the barrel of a Tommy gun. That time he stayed out for good. But he won't get drunk again for a while.

4.

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My hair is getting very thin and grey though, but that's nothing.

I suppose longshoring isn't a paying proposition any more. If you make enough to get by on, a person can be lucky now-a-days.

Have you heard anything from Dorothy lately? She owes me a letter, and I'll be stubborn enough to refrain from writing her until I get a reply to my last letter. Do you'd old enough to be in the Army?

Rostinuk is with us yet, but not very well liked by anyone. He is driving a truck, - same as ever.

We took over some new Billets for our Troops not long ago. In one of the Mansions I came across a locked door in the Basement that aroused my curiosity. When I broke

3.

'34

We are stationed at a very english and very small village. 3 Pubs., 1 chemist, 2 butchers, 1 Green grocer, and 3 gen. stores, 2 Cafes and 3 Hotels, plus about 50 houses that's the Village. No show, no dances no social centre, just the Y.M.C.A. for the troops, when films are shewn by the "Sally Ann" once a week. But there is large and small cities not far in the distance, a bare matter of 3/4 hour Bus-ride, so we can do our shopping, seeing shows and amuse ourselfs there. Just the same, I like this place and will be sorry to leave, - if and when...

I run about 2 miles every morn. to keep myself in shape, as otherwise I don't get any exercise. I look after myself good, and consequently haven't had a Cold this winter.

Civilians here are used to the unheated rooms, not so us. Most of us huddle in front of fireplaces when comminit to do so. I, and another chap, the one that lives with me, we have one nice room over the Stores. I think we're probably the best fire-place in England. It goes day and night, so we dont suffer from cold days. And of course I'm a heater in the R. N. Store. Perhaps you know this chaps father. His father is Harry Platt from N. Van., used to Longshore with the Empire up'til about 6 years ago when he got to be an inspector with the Govt. for fruit and vegtables. Still visits the ships, I suppose. This boy's name is Gordon Platt, and i/c of the technical Store for our Battery.

Feb. 28. 1942.

Hallo Fred.

Thanks a lot for the lb. of Fine Cut Tobacco and the letter I received from you a while ago. I know I ought to have written before, but I keep on putting things off, mainly because I am quite busy here, - and you know how it is putting things off; they never seems to get done. In fact I've kept very well this winter, I've put on quite a bit of weight, in spite of the army food. Am heavier now than when I joined up as a matter of fact. This winter has been one of the severest on known in England. Freezing at nights, and cold wind at daytime, not much snow though as most days are clear.

Hdqrs. Army Overseas.

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E. Alexander
Major

Mr. Fred Walin
31 E. 12. Ave.
Vancouver, B.C.
Canada.

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A STATEMENT ON OATH by the Case of [illegible]

Lieut. L.A. Robson is directed by the O.C. 2 Cdn. A.T. Bde. to take an abstract of evidence in connection with D.R.P. 77720

FIRST WITNESS - Mr. C.A. Wilson of Alfriston, Sussex, stated:

The 10C Cdn. A.T. Battery requisitioned my property, WINDROVE COURT HOUSE, the latter part of January. Captain Pegg sent some soldiers to my house to assist me in moving. I had moved everything but two chicken houses and some [illegible] at the time the house was taken over.

At this time I asked Capt. Pegg for assistance in moving the contents of my cellars to a safer place. Chicken Houses. He replied that he would be about at the time and help me with this work in the morning.

As the help was not forthcoming, by our Senior Officer, I eventually got my cellars cleared out. I found that the barrel of Mead which I had left there was missing.

I immediately found Captain Pegg in the R.C.A. Stores and reported my loss to him.

At a later date the barrel of Mead was returned to me and I considered the matter closed.

SECOND WITNESS - Capt. D.H. Pegg, 10C Cdn. A.T. Bty., 2 Cdn. A.T. Bde. Regt. R.C.A. stated:

WINDROVE COURT HOUSE, including all outbuildings was requisitioned by 10C Cdn. A.T. Bty., R.C.A. and occupied by troops on 31 Jan 40. Previous to moving in we had given assistance to Mr. Wilson, owner, by way of fatigue parties to help move his furnishings.

On the date of the move some portable chicken houses were still in the garden and large quantities of bottles and papers were accumulated outside the back of the house. Other than these [illegible] effects and I understood that all of Mr. Wilson's had been removed with the exception of items covered by the requisitioning. Consequently with Mr. Wilson's consent we moved the troops in on this date.

Approximately two weeks later Major Quigley, [illegible] looked out outbuilding along with [illegible] bottles and stacks of paper, [illegible] removed. Examination showed the door [illegible] to use but outbuilding is one of two which we [illegible] had not formally required. It is approximately 6 - ft. by 10 Ft. in size. This was the first time I heard of the existence of the barrel of Mead which Capt. I pointed out to Mr. Wilson at that time. I reported this matter to Major Quigley. I heard about the barrel of Mead was on the afternoon of 16 Mar 40. I was present when Capt. Risley of 3 Cdn. Div. Provost Coy. called at our Orderly Room on that date and handed Major Quigley a letter returned by courier which a barrel of mead was referred to. Capt. Risley

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Sheet 2.

I do further ~~state~~ swear that I will duly & faithfully perform all such duties as may be required of me by law.

I produce this letter as Exhibit "A"

Sworn at [illegible] this 16th day of April 1942

Before me

Lyphuson Lieut RCA

(L. [illegible] Johnson) Lieut. R.C.A.
100 Coy. A.M. Bn. R.C.A.
Adjt.

40-43

Pte. Tingley J. E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G-27354 Pte JOHN EDWARD TINGLEY CYR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 9 (2) AA	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of Six (6) months

(Sgd) ..... Judge Advocate, if any

26 JAN 45 Date awarded.

(Sgd) John Edward Tingley President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 29 Jan 45 (Sgd) E Renatchey Brigadier

Commanding 3 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G21354 Pte Tingley J.E.	31 Jan 45	CYR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 22 FEB 1945 CMHQ

RECORDED AT CMHQ IN AB 160 471-93

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) 40 P & S 1/1608/1/3864

Convened by Order of Lt-Col AP BELL-IRVING DSO A/Comd 3 CDN INF BDE dated 25 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 27354	Pte	John Edward	TINGLEY	CYR

PROCEEDINGS REVIEWED

REVIEWING OFFICER (JUDGE ADVOCATE) 25 NOV 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (~~country~~) Italy on (date) 26 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0830 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ as shorthand writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	L.F. TRUDEAU DSO	R22eR
Member	CAPT	F. PEACOCK	WNSR
Member	Lieut	G RIVA	CYR
~~Judge Advocate~~			
Prosecutor	CAPT	WT McGRATH	CYR
Defending Offr	Lieut	JR LAPORTE	CYR

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused G-27354 Pte JOHN EDWARD TINGLEY CYR before arraignment make(s) (no) No plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

Pte 95

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AG/1

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ▶ 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Yes I wish to give evidence as a witness. Do you intend to call witnesses on your behalf? Ans. Yes Sir. Are they witnesses as to character only? Ans. No they are witnesses to the facts.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)~~

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s).(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes on both [illegible] of punishment.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

(5)

Charge Sheet

The Accused G27554 Pte John Edward Tingley, Carleton & York Regiment, a soldier of the Canadian Army (Overseas), Central Mediterranean Force, on Active Service, is charged with:-

First Charge
Sec 3 (z) A.A.

WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO A SUPERIOR OFFICER

in that he

IN the Field, in Italy, on 26 Dec 44, after having been ordered to return to his billets by Capt. J.M. Barsey, said to Capt. J.M. Barsey, "I will not go, I am in a civilian house and you are exceeding your authority." cautionary post towards & that effect

In the Field,
Date 5 Jan 45

Lt.-col.
Comd Carlt & York R.

to be tried by Field General Court Martial

In the Field,
Date 25 Jan 45

Lt-Col
A/Comd 3 Cdn Inf Bde.

A/Pres.

(6)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G27354	Pte		John Edward	TINGLEY	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 25 Jan 45 endorsed by me, (~~an Offr of my rank or upwards~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I also appoint (a) three Offrs to be the Court, (b) a Fd Offr as President for the reasons I have marked hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate the Officer detailed hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L F Trudeau DSO	R22R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F Peacock	WNSR
Lt	G Riva	CYR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	L Turcott	R22R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 25 Jan 45

(Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

A/ Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAOS (1) (Rev of AFA3) 40/P & S/1607 (4-43))

(See overleaf for oaths and notes for use on trial.)

H/Pres.

MEDICAL OFFICERS CERTIFICATE

A.F.(C/M) 357

(7)

I certify that I have this morning examined

No. G.22357 Pte. Tingley, J. C.

of the Carleton & York Regiment and in my opinion he is

Fit to undergo Trial by Court Martial

Station In the field

Date 26th Jan. 1942

H. Wald, Capt.,
Medical Officer
R.M.O. Carlt & York R.

(8)

CASE OF

G-27354 PTE John Edward TINGLEY

PROSECUTION

1st WITNESS CAPT J.M. FORSEY C.S.R. D.C. CARRIERS PL. having been duly sworned. states:

On the 26 of December 1944, approximately 1700 hrs. I was in my quarters talking to major D.W. Italian lady who had a room in the same house, came to my room complaining a soldier was scaring her children. I went to her room and found Pte Tingley there. I ordered him to return to his billets and went back to my room

A few minutes later, noise still continuing. I went back to the room and found Pte Tingley had not left. I again ordered Pte Tingley to return to his billets and he reply: "I will not. I am in a civilian home and you are exceeding your authority" I then sent down for my pl sgt. to have Pte Tingley place under arrest

(9)

CROSS-EXAMINATION BY THE DEFENSE

Q. A 1 No. I did not remark anything unusual about Pte Imsley on the night of the arrest.

Q-A 2 All I know I walked in there the children were screaming and the mother complaining he was scaring the children.

Q. A 3 He was in my pl. for sometimes

Q. A 4 The accused had been drinking that night, in my opinion he was not drunk.

R. P. 83 (B) complied with

(10)

2ND WITNESS MAJOR W. C. OTT C.Y.R.
O.C SUPPORT COY having
been duly sworned, states:

I am major W.C. OTT, on the 26 of December 1944 I was O.C. support coy C.Y.R. at about 1700 hrs on the 26 of December 1944 I was sitting in my room with capt J. H. Pinsey, when civilian at the house we were staying came in the room, and ask to have a troublesome soldier remove from the kitchen as he was scaring children from the house. Capt Pinsey went to the kitchen and then found Pte Ingley whom I recognised.
I heard capt Pinsey order Pte Ingley to leave and return to his billets or words to that effect, and he then return to the room in which I was. Pte Ingley did not leave, but remains in the house creating disturbance. Capt Pinsey then returned to the kitchen, and ordred again Ingley to leave. I heard distinctly Ingley say: "I will not leave, this is not your house, you have no right to order me from it."

On hearing this I ordered capt Pusey to place the accused pte Ingley under arrest

CROSS-EXAMINATION BY THE DEFENCE

Q-A-1- I do remember to have order pte Ingley to leave the house, when he was standing in the doorway

Q-A-2 I distinctly heard capt Pusey order pte Ingley to leave the house and go to his billets.

Q-A-3- No I did not noticed anything anormal about the accused that night.

Q A 4 To my knowledge of a drunk pte Ingley was not drunk that night

Q A 5 yes I believe pte Ingley to have been drinking that night.

R. P. 53 (B) complied with

(12)

DEFENSE

1ST WITNESS G-32062 SGT. ARGYLE W.E. C.Y.R.
having been duly sworned, states:

I am G.32062 Sgt Argyle W.E.
C.Y.R. in charge of a section in
Carrier pl.
At 1500 hrs on the 26 of December.
I ordered the accused to stop
drinking, at 1700 hrs he was still
drinking so I placed him under
~~arrest~~ R.P.s. open arrest,
On or about 1800 hrs a runner came
to my billets, sent by Capt Pusey
telling me to get an escort of two
men, and take the accused to the
guard house,
When I picked up the accused I could
see he was unable to walk to the
guard house himself, so I took
him down on a dun gun carrier.
I had to bring the accused, back
from the guard house and keep him
with me all night, as the R.P.'s were
away on duty at the time,
At 0915 hrs the 27. I took back the
accused, to the guard house and
turn him over to the R.P.s.

The prosecution declines to cross-examine the witness

R. P 53 (B) complied with.

2ND WITNESS G-27554 PTE TINGLEY J. L having been duly sworn, states:

Q. A 1 I have been drinking all day the 26 of December

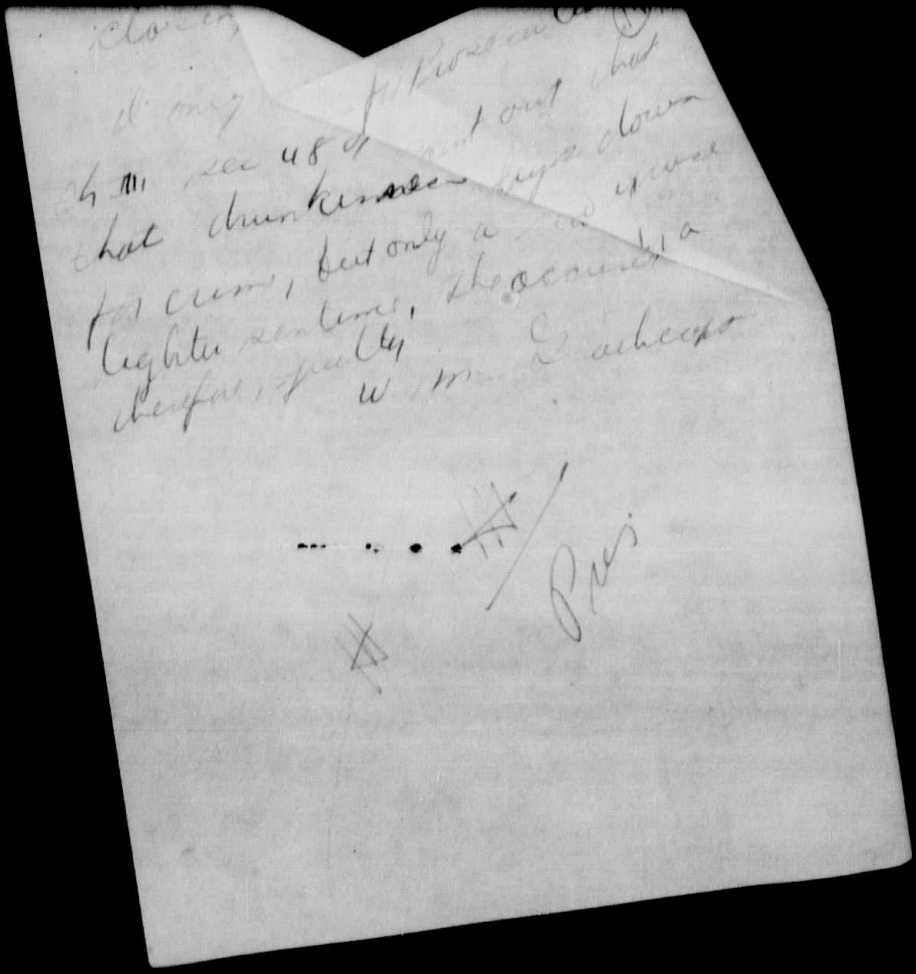
Q A 2 yes I drank on Christmas

Q A 3 The only thing I remember that evening was ~~that, Sgt~~ Argyle put me under arrest.

Q A. 4 We had washy and jim that was issued to the regiment

The prosecution declines to cross-examine the witness

R. P 53 (B) complied with



closing address - for those who
(14)
I may well be to point out that
the section of the Act says clearly
that drunkenness is no excuse
for crime, but only a reason for a
lighter sentence, the accused was,
therefore, guilty

W. M. Acheson

A

A

Pres

Closing address for Defiance.

(15)

E-8

In the field 3 January 1945 (16)

Plea for mitigation of sentence in the case of

O-223541 Lt. John Edward Tingley

The President and members of the court

The accused is 31 years old. He has been in the army since 1941 and joined this unit in 1939 in England.

He came ashore with the First U.S.A. He landed in Italy for the landings at Salerno. He has been with the unit in all the battles since the beginning of the campaign. Shortly after coming ashore he developed trench foot and was sent to the rear. He returned to duty against his express desire to the court to judge the facts regarding this case and the sentence of this court according to the evidence.

[illegible]
Defense Officer.

Ex "A"

(17)

Army Form B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
G27354	Pte	Tingley, J. E.	Carleton & York Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron (battery or company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

• The numbers herein stated should correspond with the number or entries in the conduct sheets, etc., mentioned under clause 1 to the most serious offences in each entry, and to any recorded special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	• Within last 12 months.	• Since Enlistment.
For Sec 40 AA	(1) time	(2) times.
For Sec 15 (1) AA	(-) time	(5) times.
For Sec 15 (4) AA	(-) time	(1) ~~time~~
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, ~~or~~ WTM

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted, or~~ I (PLACE) THE DEATH Previous convictions† of the accused by a court martial WTM civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not~~ under sentence at the present time, *or* The accused at the present time is under sentence for ~~_____~~ beginning on the WTM day of ~~_____~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 30 days in military custody, making a total of 30 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~_____~~ record of service ~~_____~~ is WTM

6. The date of his ~~WTM~~ attestation specified in his ~~_____~~ record of service ~~_____~~ is 20 Oct 39 WTM

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 3 mos

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 3 mos service.

9. The accused is entitled to reckon 5 yrs 3 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)) CVSM & Clasp – 1939-43 Star.

~~11. (*If the accused is a warrant officer.*)~~ The accused before he was made a warrant officer last held the regimental rank of WTM ~~_____~~, dated ~~_____~~

~~12. (*In the case of an officer.*)~~ The accused holds in the army the rank of ~~_____~~, dated ~~_____~~

and in his regiment (*or* corps *or* department) the rank of WTM ~~_____~~, dated ~~_____~~

(81228) W.15852/144 125,000 6/41 A.A.F.W.Ltd Gp.498

WTM

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. G27354 Rank Pte Name Tingley. J. E. of C Y Y Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field-20apr44	Sec 18(4)AA - Stealing public property.	To be imprisoned with hard labour for six months.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Jan 45

W Mc Grath Capt
Offr i/c Records
Corps York Regt

48. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years ..... Date of Promotion .....

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.*)

No. 6273[illegible] Name Tingley J.E. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Place	Date of Offence	Rank	Cause of drunkenness
In the Field	30-Aug-41	Pte	
In the Field	30-12-41	Pte	
In the Field	13-1-42	Pte	
In the Field	20-6-42	Pte	
In the Field	27 March 43	Pte	
In the Field	2 March	Pte	

Act to the Prej- etc
on the 24th
A.W.L. from 0830 hrs 29 D
0825 hrs 30 Dec 41 (Tues
A.W.L. from 2313 hrs
2315 RELEASED
A.W.L. from
RELEASED
A.W.L. from
RELEASED
EXPIRED
earned

No. G27354 Name Tingley J.E. Sqn., Battery, or Company Spt. Corps Ex "B" Date of enlistment 20-10-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/F & /8138 /29687

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	30-Aug-41	Pte		Act to the prej-etc did urinate on the Street	Major Neuroth	14 days CB	2-Sept-41	Lt-Col Lawson	
In the Field	30-12-41	Pte		AWL from 2000 hrs 29 Dec 41 until 0825 hrs 30 Dec 41 (Sec 15 (1) AA	Sgt Gillen	forf 1 days pay 7 days FP	7-1-42	Lt-Col Lawson	
In the Field	13-1-42	Pte		AWL from 2315 hrs 11-1-42 to 2315 RELEASED FROM CLOSE ARREST by Field Punishment Remission Order	Cpl Garoney	28 days FP with loss of pay	13-1-42	Lt Col Lawson	
In the Field	20-6-42	Pte		AWL from 2200 hrs 20-6-42 to 21-6-42 CLOSE ARREST	Cpl Dickson		2-7-42	Lt-Col Iwachiw	forf 7 days pay
In the Field	27-Mar-43	Pte		See 40 AA Dealing from a contacle earned under ARO for Detention	Pte Hampton PSM Thomson	25 days FP with loss of pay	27-Mar-43	Lt-Col Longman	
In the Field	2-Mar-44	Pte		See 18 AA Using "Certain Words" Publicly & Property	Pte Capelli Pte Salmon Pte Pinkham Pte Rogers	To be imprisoned ~~for~~ with hard labour 20 days FP.44 for 6 months	PCM F.T.	forf 39 days pay under FR & I 1940 (CC).	

(OVER)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					Certified true copy of M.F.H.Q.				
					227354 PC Tingley J.E.				
					~~D.E. Smith Capt~~				W/Mc Hewitt Capt.
					Adjt and Lt/Col Fenwick				
					Can't find Cpl. R.				
					10/Dec				

(19)

Summary of evidence in the case of G27354 Pte J.E. Tingley, a soldier of the Canadian Army (Overseas), on strength of the Carleton & York Regiment.

The Commanding Officer directs that the evidence be taken under oath.

First Witness For Prosecution — Capt. J.M. Bursey, commander carrier platoon Carlt & York R. having been duly sworn states:-

I am Capt. J.M. Bursey, commander carrier platoon Carlt & York R., On 26 Dec 44 at approximately 1700 hrs I was in my billets, A lady from the Italian family living in the same house came to my room stating that a soldier was scaring her children, I went with her to the room she was occupying where I found Pte Tingley, I ordered him to return to his billets, I returned to my room , a few minutes later the noise still continuing I returned and again ordered Tingley to return to his billets, He replied that he would not go stating that he was in a civilian house and I was exceeding my authority, shortly after that I had Sgt Argyle, place Tingley under arrest and take him to the guard room.

J.M. Bursey Capt

The accused declines to cross examine this witness.

Second Witness For Prosecution — Major W.C. Ott, Comd Support Coy Carlt & York R. having been duly sworn states:-

I am Major W.C. Ott, Comd Support Coy Carlt & York R. At approximately 1700 hrs 26 Dec 44 I was sitting in my room talking with Capt Bursey when the civilians of the house in which we were staying came into the room and asked to have a troublesome soldier removed from their kitchen. Capt Bursey looked into the matter and found Tingley to be scaring the youngsters. I heard Capt Bursey order Tingley to leave the premises and proceed to his billets, Capt Bursey then rejoined me, The noise continued and Capt Bursey returned and again ordered Tingley to leave, Tingley made the statement I will not go, this is not your house and you have no authority to order me out of it, I told Capt Bursey to have Tingley placed u under arrest.

W.C. Ott Major

The Accused declines to cross examine this witness.

(2)

(20)

Question to the Accused

Do you wish to make a statement on oath? You are not obliged to do so. Any evidence you give or any statement you make will be taken down in writing and may be given in evidence.

Answer by the accused

No.

I certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure (c) (d)(e) and (f) have been complied with.

W.M. Leathead
Officer taking Summary

In the Field,
Date 6 Jan 45

List of Witnesses

In the case of G27354 Pte Tingley, J.E. a soldier of the Canadian Army (Overseas) on the strength of the Carleton & York Regiment.

For the Prosecution

Capt. J.M. Bursey Carlt & York R.
Major W.C. Ott Carlt & York R.

For the Defence

NIL

In the case of G27354 Pte Tingley, J.E. a soldier of the Canadian Army (Overseas), on the strength of the Carleton & York Regiment.

NIL

Certificate by the Accused

I certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses, and list of exhibits pertaining to my trial by Court Martial.

I desire the services of [illegible] to defend me at my trial.

J.E. Tingley

Date 7 Jan 45

LLL-57
PTE TINGLEY J E.

RECEIVED 27 MAY 1944 JAG BRANCH C.M.H.Q.

Correspondence to be FINNED to

RECORDED AT CMHQ IN AB 163, 222-57

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

967

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Tenth day of April, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to superior authority~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I cannot conveniently appoint~~
* ~~the Officer next in command~~
* ~~a Field Officer specially~~
~~for the following reasons, namely~~

PROCEEDINGS REVIEWED 30 May 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

CANADIAN ARMY 5 MAY 1944 HQ 2nd ECHELON

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J R Cameron	West NSR

Members.

Rank.	Name.	Regiment.
Captain	W H P David	West NSR
Captain	W R Pell	Carlt & York R
Lieut	H A Record	Carlt & York R
Waiting		

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

G61

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G27354 Pte John Edward TINGLEY, Carlt & York R	First Charge Sec 15(4) AA	Not Guilty	Guilty except that he stole one can of rice pudding & two cans of corned beef To be imprisoned with hard labour for Six Months J.H. Cameron Maj 21 Apr 44	
	Second Charge (Alternative) Sec 40 AA	Not Guilty	Not guilty	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No

(Signed) ..... Brigadier (Signed) ..... Major
Commanding 3 Cdn Inf Bde — Convening Officer (*e*) — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The Interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 21st day of April 1944.

J.H. Cameron, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1939.

*~~I certify that~~ the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ..... day of ..... 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 27 day of April 1944

H. Kennedy Brig
Confirming Officer.

Promulgated and extracts taken in the case of G27354 Pte J E Tingley

(*a*) (Dated) 28 Apr 44 (Signed) Major
Comd Carlt & York R.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2066) W.t.38300/411 60,000 12/42 A.& E.W.Ltd. Gp.698

Charge Sheet

The accused, [illegible] 27354 Private John Edward Tingley, a soldier of the Carleton and York Regiment, Canadian Army Overseas, when on Active Service, is charged with:

First Charge
Sec. 18(4) A.A.

When on Active Service stealing public property

in that he

in the Field at about 2200 hrs. on 2 Mar 44 stole two cans of rice pudding, two small cans of meat and beans, one large can of beans, one package of American biscuits, two large cans of shipping, two small cans of cheese, three cans of corned beef, one large can of margarine, two cans of tea, one can of fish, public property, from a vehicle of the 48th. Highlanders of Canada.

Second Charge
(alternative)
Sec 40 A.A.

When on active Service Conduct to the Prejudice of Good Order and Military Discipline

in that he

in the Field at about 2200 hrs. on 2 Mar 44 was unlawfully in possession of two cans of rice pudding, two small cans of meat and beans, one large can of beans, one package of American biscuits, two large cans of shipping, two small cans of cheese, three cans of corned beef, one large can of margarine, two cans of tea, one can of fish, public property.

In the Field
Date 4 Apr 44

[signature]
Lt. Col
Comd Carleton and York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Date 4 Apr 44

[signature]
Brigadier
Comd 3 Can Inf Bde

A

Army Form A 9.

***Any printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a ~~Field General~~ Court-Martial held at Feltham

on the 20th day of April 1944 by order of

Brigadier I G Gibson

Commanding 3 Cdn Inf Bde

dated the 10th day of April 1944

President.

Major J R Emerson, West N S R

Members.

Capt W H P David, West N S R

Capt W R Bell, Lond. York R

(Waiting) Lieut H A Record, Lond. York R

~~, Judge Advocate~~

Trial of* G 27334 Pte John Edward Tingley,

a soldier of the Carleton & York Regiment

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt GA Crutcher, Lond. York R

Counsel‡ or defending officer† Capt LA Copland, Lond. York R

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked A 2, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

30057 W.L.W4182/2/21 10,000 pds. 12/41 K. & S., Ltd. G467/11. Forms A9/55.

Medical certificate produced admitted in evidence marked exhibit P 1 attached to proceedings.

B

The President, members and ~~judge-advocate~~ are duly sworn. C

~~The following officers under instruction are duly sworn.~~ C

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having ~~pleaded~~ Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with. C

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

J. H. Thomas Maj. Pro.

A3

I certify that ... this soldier enlisted

No. G27254 Pte John ... Tingle

of the Carlisle & York ... at the time of his conviction he is

liable to undergo Trial by Court Martial

Station ... the Field

Dated ... 27th ... 1917

... Colonel

Commanding ... Carlisle & York Regiment

C.E.A.

MEDICAL OFFICERS CERTIFICATE

AR(C.N) Para. 527

I certify that I have this morning examined

No. C27354 Pte John Edward Tingley

of the Carleton & York Regiment and in my opinion he is

fit ~~unfit~~ to undergo trial by Court Martial

Station [illegible]

Date 21 Apr 44.

A.W. Williams Capt., R.A.M.C.

160 (N) LIGHT FIELD AMBULANCE.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor ~~makes an opening~~ address [hands in a written address which is read, marked ● , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

Evidence attached.

First Witness
Prosecution

B-72504 Pte Smith AE having been sworn

Q. What is your name?

A. 4th Kings Own

Q. What is your job

A. I am an M.T. driver

Q. Do you remember when you were captured

A. About 200 yds from the Spit Brickets

Q. ~~What quantity~~ What was the contents of the case of your truck at that time

A. There was a wooden box [redacted] emergency ration for the vehicle, 1 woollen sweater, 1 kit bag & some rope, ground sheet & other small articles.

Q. Could you identify these articles if you saw them

A. Yes Sir

Q. I produce 1 tin of bacon, 1 tin of beans, 2 tins of tea sugar milk, 1 tin margarine, 1 tin rice pudding, 2 tins meat & beans, 1 tin Farmers, 2 tins fatty beef, 2 tins dumpy, 3 tins cheese, 1 tommy cooker, 1 packet American type biscuits, 1 tin of tea, 1 sweater. Do you recognise these articles as being the articles or identical to the articles you left in your truck

A. I recognise certain articles as being placed by me in the vehicle namely ① The tin of tea
② The sweater
③ The two tins of meat & beans

There were other articles of a similar nature to the other exhibits in the truck at the time

Exhibits marked 'A' and admitted in evidence by

I am certain all these articles where in the vehicle on March 2nd 44. I never saw these articles

Q. When was the last time you saw these articles

A. In the Provost Billets when I came back from leave on March 9th or 10th I was called to identify the exhibits.

Cross-examined by defense.

Q You remember these two cans of M & V as being in your truck

A. Yes

Q. Was there any other tea beside the tea in your truck

A. Yes sir

Q What was it in

A In one of those canvas water carriers

Q That's all the tea there was

A Yes sir

Question by court

Q Did you discover these articles to be missing from your truck

A. yes on the evening I came back off leave I found the articles were not in the truck.

Q The articles were in my charge & I last saw them on March 2nd when I went on leave. I was around my vehicle on March 2nd 44.

Second Witness for Prosecution.

L 84016 Pte Canham, S. being duly sworn.-

Q. Do you recognise the accused as Pte Tingley

A. Yes

Q. Tell the court the circumstances under which you first saw Pte Tingley.

A. On March 2nd 44 at approx 2200 hrs I was on guard & was called upon by a 48th Highlander guard to assist in the arrest of Pte Tingley Pte Tingley was walking down the main road out of Ortona when we went after him. We hollered at him to halt, he did not halt. We finally caught up to him & Pte Cchman & the 48th Highlander guard ordered him to return to our guard room. He refused to return & kept on going on his way at which time Pte Cchman fired a shot over his head & then persuaded him to come back with us when we got back with him the Sgt of the Guard took over. The accused had been drinking but was not drunk.

Cross examined by defence

Q. At the time did you know why you were stopping the accused

A. No sir, we were told to assist the other guards

Q. Was he attempting to run away

A. No just walking.

J.L.P. Cameron Maj

Q Was far from the Work Hyde

Q Was Where was Tenzley when you first saw him

A About 75 yds west of Seabirth Square.

Q Did Tenzley look as if he had been away.

A No Sir

~~Q Did you observe~~

Q What makes you say the accused was not drunk but had been drinking

A I smelt liquor on his breath sir

Q Did he behave in any manner different from the normal

A I would say he was quite normal.

Q Did he resist arrest

A No sir

Q Did he ask why he was being arrested

A Yes sir

Re examined by prosecution

Q Was the command to halt given loudly enough for him to hear

A Yes sir

Q Was Tenzley carrying anything at the time of his arrest

A He was carrying nothing in his hands. He had on a black cape which covered him & I could not say if he had anything in his hands.

Third Witness Prosecution

B/28873 L/Cpl Templeton S.R. having been duly sworn;

I am L/Cpl Templeton S.R. B/28873 of C.I.B. workshop R.C.O.C. I recognize the accused as Pte Tingley. On the night Mar 7 I was Cpl of the guard at 7 C.I.B. workshop in Orleans at approx 1100 hrs. two of our guards, Pte Dohman, Pte Canham with a guard from the 48th Highrs brought Pte Tingley into the guardroom They said that they had tried to stop him when he was walking out of our lines, and that he had refused to stop. The guard from the 48th Highrs stated that Pte Tingley had been seen by one of their trucks which was parked on a side street just off the main road. I accompanied the guard of 48th Highrs to the vehicle in question and found a sack lying on the ground by the open door of the cab. I looked in the sack and noticed a sweater and some rations; I then called the orderly Officer of the day then returned to the guard room; when the Orderly Officer came to the guard room, and told me to keep the accused under arrest until the morning. The accused had a black cape on similar to capes worn by the Italian men. Pte Tingley was not drunk when brought to the guard room.

Q. I produce sweater Exhibit A Do you recognize it?

A. I do not recognize it as the same sweater.

Cross-examined by the defence.

Q. Do your lines include 100 yds West of Seaforth Square.

A. yes.

Q. Are there any rules to your knowledge prohibiting anyone from entering the side street where that truck was parked

A. No sir.

Q ... Shortly after Singley was brought into the guardroom was Singley perfectly normal

A yes he was. he talked but did not talk as if he was drunk.

Q Do you remember making a statement under oath on a certain day [illegible] "The man was quite abusive at the time but was not drunk."

A yes sir.

Fourth Witness for Prosecution

B 87998 L/Cpl Rogers S R being duly sworn;

I am L/Cpl Rogers S R 45th Regt Inverness R.P.

I recognize the accused as Pte Singley. On the morning of the 3rd inst I was ordered by the Sgt I/c mail to pick up Pte Singley at the R.E.O.C Workshops across from the 48th Highlanders Transport and also the articles which had picked up the previous night; at 0800 hrs I picked up Pte Singley and turned him over to our guard. Pte Capell ~~and myself~~ took note of all articles in the bag and I handed them over to the Sgt I/c mail. I have a note of articles; they are; two I picked up articles from the R.E.O.C guardroom; They were in a long brown bag, These articles listed were; two cans meat pudding; one can meat & beans; one small can beans; two cans shipping; two small cans cheese; two cans corn beef; one package Lunch assent; one large can Margarine; two cans soup; two cans tea; one can fish Lenkist brand; one roll rope; one sweater; two bags.

I produce here one can salmon Lenkist brand and one brown sweater.

Do you recognize these articles

Yes

Q

A

As soon as Pte Smith returned from leave he came to me to identify the articles and I was present at the time ~~he received they were~~ Cross-examined by defence

Do you know if Pte Smith went to his truck first or came down to identify these articles

A I do not know

Question by Court ①

Q. From whom did you receive this bag?

A. From the Cpl of the Guard.

The Court is adjourned at 1105 hrs 28 Apr 44 until 0900 hrs. 29 Apr. 44.

Court re-opens.

Medical Certificate produced admitted in evidence and marked "A 4" and attached to proceedings.

B 7647 Pte Capell S. M. 48th Highs having been duly sworn

Prosecution

I am Pte Capell S. M. 48th Highs Comde. a transport driver: I identify the accused Pte Tingley. On my tour of duty 2 Mar. I was making my rounds on guard. As I came up to the corner I heard a scraping of metal. The corner was approx 60 yds from the transport office. This scraping drew my attention to take a quick look reading my rifle I approached the trucks; there I saw the accused standing by the right front door of the third truck was open. I gave him the challenge he did not answer. As I approached closer he then asked me if the password was "Coffee & tea" to I said "I did not make any difference I wanted to know what he was doing around the truck" At his feet there was a bag; at that time I did not know what was in the bag. Then he said "Good show" and started to walk away. As I was by myself I could not do much about it so I called two of the Ordnance Corp. guards which helped me take him to the Ordnance Corps Guard room and we left him in charge of the Ordnance Corps. It was a fairly dark night. The accused wore a dark cloak that came down to his knees and a balaclava. The driver of the truck he was near was Pte A.E. Smith. I left the bag of rations where it was until after the accused was in the guardroom then I and the R.S.M took the

bag of rations to the guardroom. I saw what was in the bag when the R.S.M dumped it out and there was a coil of rope, rations and a sweater.

Q I produce Exhibit A to D. Do you recognize this sweater?

A It was a brown turtle-neck sweater similar to this sweater.

I could not identify the rations.

The accused did not appear to be drunk, he walked and talked alright. I was certain that the bag of rations which was at the accused feet was the same bag I took over to the RCOC guardroom. After I saw the accused in the guardroom I can recognize him now as the same person. I was certain that the man we apprehended was the same man I found at the door of the truck I had seven or eight vehicles to guard with a beat of 70 to 80 yds. It would take three minutes to go from one end of the beat to the other. The truck was at the end of the beat. There was very little traffic or no traffic on the street at this time

Cross-examined by the Defense.

Q Did the man you saw at the cab that night have anything in his hands or anywhere about him which did not belong to him

A No sir.

Q How far away from his feet was the bag

A Right beside his feet.

Q How long were you away from that bag with the accused before you came back to it.

A Approx 15 minutes

Q Was that man out of your sight at any time until you overtook him.

A No sir.

Q Did you at any time accuse the man of taking anything

A No sir!

Q But as you thought he was taking something

A Yes.

Q But you did not actually see him take anything

A No.

Q. Had there been any stealing going on in the 48th Highrs that you know of.

A Only from the trucks.

No Re examined by the Prosecution

Sixth Witness Prosecution. 5117440 P.S. M Thompson H.H having been duly sworn.

I am P.S. M Thomson H.H. a Pl Sgt (D) in the mortar Platoon Carleton & York Regt I recognize the accused as Pte Langley. on the 2nd inst. he was in my platoon. I was senior N.C.O. in the mortar platoon. Our billets were roughly (1/2) two thirds of a mile from Seaforth Square.

Pte. As nearly as I can recall & remember Pte Langley had permission to be in Ortona that evening; I cannot say that definitely

Cross examined by the Defence.

Q On the night (D) & inst. were you positive you were with your Platoon

A Yes I was.

Q Do you remember any night when Sgt. Dright gave Pte Langley permission to go see a friend that he had just found out about in the N.B. Horse

A I cannot rightly say.

Prosecution closed.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. Yes

Question. Do you intend to call any other witness in your defence ?

Answer. Yes

Question. Is he a witness as to character only ? *Answer.* Yes

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says† :

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Just. Wolfers for Defence.

G 47354 Pte Longley J. E. being duly sworn

I am the accused Pte Longley J. E. a member of Motor Platoon Canadian York Regt. On the night of 2nd Mar. I was in Ortona. I was in Ortona with a few of the boys, having had a few drinks. I do not remember the exact time I started for my billets but I was walking along the road towards H.Q. Units I heard some body shouting: I did not know they were shouting at me at the time and they came up to me shouting at me to stop. I thought at first it was only a joke and they fired a rifle at me or in the air. I asked them what they were trying to do and they said they wanted me to go back with them. I was quite aware I was a bit abusive I did not think I should be taken. They took me back to the Ordnance Corp guardroom. A C S M brought a bag in and asked me where I got it I told him I had never seen it before and the C S M took my name and number and I remained there all night and the 48th Provost took me into the 48th guardroom and I was returned to my Company under open arrest.

Cross examined by Prosecution

Q Are the events of that night clear or hazy in your own mind

A The events I outlined were very clear

Q What part of Ortona were you drinking with these men

A. I cannot say not being familiar with the streets

Q How long did you live in Ortona while at all

A. Only a short time in the outskirts

Q. Were you wearing anything not army uniform at that time

A Yes Sir. I wore a black jumper as far as I can remember, it started to my hips. I was wearing a balaclava.

Q Did you have permission to be in Ortona that night

A. Yes sir.

Q Do you remember being near any vehicles during the time you were drinking

A Yes sir, I remember being near vehicles

Q. Were these vehicles anywhere near the location described by the witness in the case.
A. No sir.
Q. Did you or did you not open any cab doors that night
A. No sir.

S 17440 P.S.M. Thomson H.H. having been recalled as character witness

I P.S.M. Thomson H.H. have known Pte Singley for some time and since he has been in my platoon has done an excellent job. I always found him a good worker and any job he was given was always well done.

The Defense is closed

Closing addresses by the Defense marked D2; and the closing address of the Prosecution marked D3. attached to the proceedings

Maj

H.H. Thomson

Closing address by Defence. Dr

The man is accused of stealing or alternatively of being in unlawful possession of public property. The Prosecution has definitely failed to prove that he was at any time in possession of any of the articles which he is supposed to have stolen.

The only article identified as being in the bag, of which he was in possession is a sweater which he is not accused of stealing, the theft of which [illegible] cannot be denied, he proved to the Court that he never saw either Spell or this bag of goods until apprehended and taken to the Guard Room.

It was a dark night and Spell although he went for help, says he never lost sight of the accused. That, Sir, is ridiculous.

It has been shown that Pte Ivy is a good, trustworthy soldier and is of great value to the army. To convict an innocent man of a crime like stealing would be very harmful to the army at this time and alone all would probably ruin the man for life. I strongly feel, Sir, that the man should be acquitted.

L. A. Humphries Capt.

Closing Address of the Prosecutor D3

in the case of

G 27354 Pte John Edward Tingley

The evidence adduced from the witnesses in this case is summarized hereunder:

1 The accused was found at the open door of a truck belonging to the 48th Highlanders of Canada. At his feet was a pack of rations which had only been in the car. When challenged by the guard he gave answers to questions. That was natural since he did not know the reason for being there at that time. He was dressed in a black cape which would assist, not only in hiding his identity, but would aid in blending with the darkness of the night. Hence he kept his presence to the guard.

2. The accused resisted arrest. This would indicate that he had something to fear from questioning. A man with the northern spear does not resent questioning.

3 The accused was not drunk. While he may have been drinking, his actions would indicate that he still had possession of his faculties and knew what he was doing. In fact all his reactions throughout the events of the evening were perfectly logical, unlike those of a drunken man.

4. The rations produced before the Court have been identified as those which were left in the car of Warwick on the 2nd of March, and which were found in a sack at the feet of the accused that night, and stood disguised beside the open door of the car. It is inconceivable that anyone but the accused placed them there, when all the evidence is

taken into consideration. Is it likely that the victims were placed in the sack in the brief interval that elapsed between the challenging of the accused and the consequent apprehension, and the recovery of the sack by Pte Capell and the R.S.M. of the R.C.O.C.

5. The accused admits being in Ottawa that night without leave; he admits being dressed in a black article of clothing which fits the description of the one worn by the person found at the side of the truck in question; he remembers very clearly the events of that night which are not incriminating; and claims no knowledge of what happened before the apprehension. However, on cross-examination he stated that he definitely was not near the vehicle in question. It is evident that he remembers just what he chooses to remember.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused C 27354 Pte John Edward Tingley is Guilty as charged.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt G A Lawther, Staff Yorks R. is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E 2, E 3 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* They are

Cross-examined by the accused.

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

(5)

Instruction.—If in respect of the nature of the service of the accused in a disciplinary unit or otherwise, the finding of the Court renders him liable to any exceptional punishment he must be duly warned by the prosecutor prior to the Court, the prosecutor must call the attention of the Court to the fact, and the Court must require that additional punishment.)

F

Sentence.

The Court sentence the accused ~~C 27334 Pte~~ John Edward ~~Sgt~~ Tingley of the Canadian York R to be imprisoned with hard labour for Six months

Major

J L R Cameron

Summary of Evidence in the case of
G 27354 Pte John Edward Tingley, a soldier of the
Carleton and York Regt, Canadian Army
Overseas CMF ~~charged with stating~~

By direction of the Commanding Officer the evidence is taken on oath.

First Witness for Prosecution B 72647 Pte Capell G.M., 48th Highlanders of Canada, having been duly sworn, states:

"On the night of 2 March 44 I was on guard over our trucks which were parked outside the Transport Office at Ortona. At about 2200 hours, I heard a noise near one of the trucks. I found the accused, whom I now recognize, at the cab of the truck. The cab door was open, and there was a sack of rations on the ground at his feet.

"When I challenged him, he said, 'I know the password is sugar and tea'. I demanded to know what he was doing around the truck. He said 'It's a good show', and started to walk away. As I was by myself, I called on two other guards of the RCOC workshops nearby to assist me. We caught up to him and he still wouldn't come to the guard room. However, after some persuasion, he did come to the guardroom of the workshops.

I then went to where the bag was left, and looked in it. There was

nations, a sweater, and a coil of rope. I turned the box over to the provost of the R C O C. There was no indication that the accused was drunk. At the time, he was wearing a black cape over his uniform. The accused declines to cross-examine this witness.

G M Capell.

Second witness for Prosecution

A 59408 Pte Ochman, S. J. R C O C; 2 C I B Workshops, having been duly sworn, states:

"On the night of 2 Mar 44 I was a guard with Pte Canham. At about 2200 hours, we were asked to assist a guard of the 48 Highlanders, who was having trouble in apprehending a soldier. We ran up the road to catch up to him, and ordered him to halt. He halted for a moment, muttered a few words, and began to walk away again. When I saw that he was not going to halt, I fired a shot in the air. After some hesitation, he accompanied us to the guard room. The man was the accused whom I now recognize. He appeared to have been drinking but I would not say that he was drunk."

Question by accused: "You say I kept mumbling all the time?"

Answer: "You said so much that I can't remember your exact words."

Question by accused: "Where were you when you fired the shot?"

Answer "I was about three yards away from you on the road south of Orsogna."

Question by the Accused "How far from Jasper Junction were you at the time?"

Answer "We had to run some distance, but we were not out of the town limits."

J. J. Ochman

Third witness for the Prosecution L 84016 Pte Cameron, D. RCOC, 2 CIB workshops having been duly sworn, states:

"On the night of 2 March 44 I was on guard with Pte Ochman. At about 2200 hours, we were called on to stop the accused, Pte Tingley. He was down the road a few yards, but we caught up to him. Pte Ochman ordered him to ~~stop~~ return to the guard room. After refusing several times, he decided to head back to his barracks. Pte Ochman fired a shot to try to persuade him to come back with us. We took him to the unit guard room. I would say that he had been drinking, but he was not drunk."

Question by accused "How many yards down the road was I?"

Answer "I can't tell you the distance"

D. Cameron

Fourth witness for Prosecution B 2823 L/Cpl Templeton J. R. RCOC on strength of the 2 CIB workshops, having been duly sworn, states:

"At approximately 2200 hrs on the night of 2 March 44, a soldier of the Carleton and York Regiment was brought into the guard room, wearing a black cap.

2. was the N.C.O in charge of the guard that night. I found out from this Pay Book that the man was G 27354 Pte G. E. Tingley. I put him under arrest.

"I then went to where the 48 Highlanders parked their vehicles. The guard and I examined the sack left by the accused, and found rations, and a sweater in it. The sack had been left by the open door of the cab of the truck.

"After I saw the bag and the contents, and heard the complaints of the guard of the 48th Highlanders, I called our Orderly Officer of the day, who ordered me to hold Pte Tingley in close arrest. The man was quite abusive at the time, but was not drunk."

The accused declines to cross-examine this witness

J R Templeton Lt/Col.

Fifth Witness for Prosecution B 87498 L/Cpl Rogers S R, 48th Highlanders of Canada, having been duly sworn, states:

"I am with the provost section of the 48th Highlanders of Canada. At about 2200 hrs on the night of the 2nd of March I was informed that the accused whom I now recognize, had been caught stealing from one of our trucks. I went to the R C O C guard room next morning and took the accused into custody, and also a bag of goods which was turned over to me by a corporal of the R C O C.

"The bag was an Italian grey grain bag and contained the following articles:

2 Cans rice pudding
2 Small cans meat and beans
1 Large can of beans
1 Package of American biscuits
2 Large cans of dripping
2 Small cans of cheese
3 cans of corned beef
1 large can of margarine
2 cans of tea
1 can of fish (Icekist Brand)
1 coil of rope
1 sweater
1 small bag besides the large one in which the goods were found

"I was present when Pte Smith returned from base and identified the goods as those which he had left in the front seat of the truck on March 2."

13 Rogers.

The accused declines to cross-examine this witness

Sixth Witness for Prosecution B 73504 Pte Smith G. E., 48th Highlanders of Canada having been duly sworn, states,

"I am the driver of a three ton truck number C L 4236180 which is attached to B echlon of the 48th Highlanders. On the 2nd of March I parked the truck near the Transport Office. At that time I left in the cab my emergency rations, a

a sweater, some rope, and several other articles. I went on leave that day. On my return, I was called upon to identify certain articles which were at the unit provost section. I found them to be the articles, sweater and rope in the German grain bag which I had left in the cab of my truck on march 2." V.C. Smith

The accused declines to cross-examine this witness.

The accused was cautioned as follows:

"Do you wish to make any statement, or give evidence on oath? You are not obliged to say anything or to give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

Certified that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused this 14th day of March 1944.

G.A. Crutcher Capt.

Officer detailed to take summary

List of witnesses in the case of G27354
Private John Edward Tingley:
For the Prosecution:

B 72647 Pte Cahill G.M.
A 59408 Pte Ochman S.J.
L8 4016 Pte Canham S.
B 2823 L/Cpl Templeton J.R.
B 87998 L/Cpl. Rogers S.R.
B 73506 Pte. Smith A.E.

For the Defence: NIL

List of exhibits in the case of G27354
Private John Edward Tingley.

NIL

Certified that I have received free of charge a copy of the Summary of Evidence and all other documents stating to my trial by Court Martial.

Certified that I have received free of charge a true copy of the charge sheet upon which I am being brought before Court Martial.

I desire the services of an officer to represent me at my trial.

J.E. Tingley
G.27354 Pte Tingley J. E.

Army Form B.122

Sheet No.

No. 27334 Name Tingley J. E | Sq., Batty., or Company | Dpt Corps G.C. Badges | Long Service and G.C. Pay | Date of enlistment 20-10-39. | Signature O.C. Company, etc.

Date of last entry in Company Conduct Sheet | No. and date of last drunk

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Field	30-Aug 41	Pte		Act of omission to good order etc did wilfully neglect his duty in that he did	Major W J Renwick	14 days C.B.	2 Sept 41.	Lt-Col Lawson.	
In the Field	30-Dec 41	Pte		Absenting himself without leave from 20.30 hrs 29 Dec to 0825 30 Dec.	Sgt Gillon A. Cpl Clark L.	7 days F.P.	7-Jan 42.	Lt. Col Lawson.	
In the Field	15-Jan 42.	Pte		41 Sec 15 (1) AA a W.O. from 1900 hrs. 2-6-42. 6 2215 hrs while a defaulter		28 days F.P. with loss of pay.	13-1-42	Lt Col Lawson	
In the Field	20-6-42	Pte		a W.O. from 1900 hrs 20-6-42. 6 0700 21-6-42. Sec 15 (1) AA	Lcpl Cochran T.C.	7 days pay.	2-7-42	Lt Col Inverclyde	
~~Depot~~ Base Field	27 Nov 43	Pte		Sec 40 AA - Stealing from a fellow comrade	Pte Shamper FSM Thomson	25 days F.P. with loss of pay.	27 Nov 43	Lt col JEC Pangbon	

Certified true extr of MFM 6 of 27334 Pte Tingley J.E.
D. S. Smith Capt O/c Records

E.3

[P.T.O.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

M.F.B. 355

Number G27354 Rank Pte Name John Edward Tingley Regiment(or unit) Carleton & York Regt

1. The following is a fair and true summary of the entries in ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act ~~Air Force Act~~ and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Sec. 40. A.A. ..... (1) times	Sec. 15(1) A.A. ..... (3) times
For	..... times	Sec. 40. A.A. ..... (2) times
For	..... times	..... times
For	..... times	..... times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused. ~~or,~~

NOTE. - ~~If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted. ~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 3.3.40 days in Military custody, making a total of 59 40 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs 8 mos

6. The date of his ~~enlistment~~ attestation specified in his record of service is 20 Oct 39

7. The service which the accused is allowed to reckon towards discharge is 3 1/2 yrs

8. The accused is entitled to reckon 3 1/2 yrs. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~ military

10. (If the accused is a warrant officer.) ~~The accused before he was made a warrant officer last held the regimental rank of .....~~ Air Force

CVSM & Clasp

E.2.

11. (In the case of an O.R.) The above-named was appointed to the Royal Canadian Air Force the ... day of ... 19..., and was granted the rank of Pilot Officer on probation.

12. The above-named has served as a non-commissioned officer continuously without reduction, to the present date:

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

Note: If there is any of the above paragraphs covering a shorter period than the entire service of the accused, the paragraph must be struck through.

SIGNATURE.

Of commanding officer.

Section 47 of the Army Act and corresponding sections of the Air Force Act and Naval Discipline Act.

Abstract from the regimental books of summary awards and of courts-martial, in which trial and conviction of accused, Number ..... Rank ..... Unit .....

Name ..... of ..... Regiment

Note: A variation in the form of abstract from the regimental books stating the particulars of convictions and discharges in cases where trial must be inserted.

Description of accused when tried	Date & Place of Trial	Offence charged and on which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and discharges with trial is a true extract from the regimental books in my custody.

Signed this 24th day of April 1944. D. E. Smith Capt

The above statement (with the schedule of convictions and of cases in which discharged with) is read, marked ..... and signed by the president, and admitted to the proceedings.

..... Major (or Lieut.-Colonel)

54-86

Mt. Tinney, N.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C4743 Pte Norman Franklin Tinney 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1) This

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 90 days.

(Sgd) ..... Judge-Advocate, if any. 20 April 45 Date awarded. (Sgd) F.M. Orge Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~ No

(1. AA 57A. Delete if not used.)

Date 23/Apr/45 (Sgd) J.H. Stewart Brigadier
Commanding 10 C. Cdn Sec 1st Echelon
Confirming Officer. AFHQ

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C4743 Pte TINNEY 2 Cdn NETD	26 Apr 45	D.M. Burgoyne Maj OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 24 MAY 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 [illegible] G486

CFA96 (In lieu of AF B 1068 (2nd))

FIELD GENERAL COURT-MARTIAL

Convening Officer Col. S.A. LEE A/Comd Cdn Sec 1 Ech AFHQ dated 18 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4743	Pte		Norman Franklin	TINNEY	2 Cdn NETD

PROCEEDINGS REVIEWED 14 May 45 [illegible] Lieut-General
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 20 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ Ans ~~—~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer~~ Ans ~~—~~

~~The shorthand writer is sworn.(1)~~ No

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L. M. ORGE	(Gen List)	Cdn Sec 1 Ech AFHQ
Member	~~Capt~~	D. L. WATTS	(CIC)	~~2 Cdn NETD~~
Member	Capt	T. B. HARRISON	(RCA)	2 Cdn NETD
~~Member~~ ~~Judge Advocate~~	~~Capt~~	G. Clerk	(CIC)	2 Cdn NETD
Prosecutor	Capt	D.M. Burgoyne	(RCA)	2 Cdn NETD
Defending Offr	Capt	F.A. King	(CAC)	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~—~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

0.101

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ (1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : ~~Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. Do you intend to call witnesses on your behalf ?

Ans. Are they witnesses as to character only ? Ans.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Yes; written statement of character attached as appx "B"

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" and Ex "B" respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes by my defending officer

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C.4743, Private Norman Franklin TINNEY, No 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

[redacted] field in Italy, at approx 1200 hrs 30 Jan 45 absented himself without leave until about 2155 hrs 7 Apr 45.
(Total Absence: 67 days, 9 hrs, 55 mins).

In the Field
13 April 45

D J Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No 2 Cdn N.E.T.D.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Italy
18 Apr 45

S. A. Lee
(S. A. Lee) Colonel
A/OIC Cdn Sec 1 Ech AFHQ

Due to the exigencies of the Service, Capt. D.L. WATTS, CIC, 2 Cdn NETD, was not available. The waiting member, Lt. C. CLERK, CIC, 2 Cdn NETD, was sworn in as a member of the Court.

Major
President of the Court.

APR 20 1945

CFA95 (In lieu of AFA33)
40/FA8/1697 (2958)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
C4743	Pte	Norman Franklin TINNEY	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 16 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	L M ORGE	(Cen List)	Cdn Sec 1 Ech AFHQ

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	D L WATTS	(CIC)	2 Cdn NETD
Capt	T B HARRISON	(RCA)	2 Cdn NETD

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	G CLERK	(CIC)	2 Cdn NETD

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*)

Date 16 Apr 45

(*Signed personally. RP 105 fn 2.*)
(S. C. LEE)
~~Commanding~~ A/CIC Cdn Sec 1 Ech AFHQ
Convening Officer.

Colonel (*Rank.*)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL OFFICER'S CERTIFICATE.
(F.R.(CAN) 557)

I certify that I have this morning examined No. C.4743
Rank. Pte NAME. TURNEY, N.F. of No. 2 Cdn N.E.T.D.
1 C.B.R.Gp and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

In the Field
DATE. 20.APR.45

(Medical Officer).

Plea of Mitigation in the case of C.4743 Pte. Tinney, N.F.

President and members of the court.

Pte Tinney pleads guilty to the charge of A.W.L. and as a soldier of long standing that he is he stands ready to accept his punishment. However in arriving at the sentence I would ask the court to review the past service of the accused very carefully.

The accused is 41 years of age. He served 18 years in the Permanent Force of Canada, in the Royal Canadian Horse Artillery as a bombadier. He enlisted on the 13th of September 1939 and arrived in England in December of that year. During his service in England he has one charge, in 1940, and two charges in 1942. That is all that is on this man's sheet in over five years of service during this war.

Pte. Tinney came to Sicily in July 1943 but on the way was torpedoed and returned to Algiers, his party was brought back and went into action with their Regiment, The P.P.C.LI. at D plus three. Fought through the Sicily campaign, and then landed in Italy with the invasion forces in the straits of Messina. He was wounded at Vincetura, in the hospital for eight days and then back into action with his regimer He has fought through all the battles that his regiment was committed during the Italian campaign. During this time the accused had Malaria twice but refused to leave the line for treatment.

After all this fighting the accused was given his first leave in this theatre in January of this year after the regiment had come out of the line for the last time. He went to Rome with a party of nine men with a corporal in charge. The corporal left with five of the men two days before the expiration of the leave and as all the names were on the same warrant the remainder were unable to get authorised transport back to the regiment. So he hich-hiked back up to the fron t but was unable to locate his regiment. Then he very foolishly, as he has told me in his own words returned to Rome. Where they spent a few days seeing the sights. He then realised that what he was doing was wrong so he went up to Leghorn to see if his Regiment were embarking from there. He was told by Americaan Police that his regiment was likely down in the south and that it had probably left the country. So he then beat his way down to this camp and turned himself into the Regimental police here.

About the previous charge of A.W.L. in 1942 I think I should enlighten the court. The Accused Divorced his wife in 1940. His four children were supposed to have been taken care of by the Army Welfare Branch. In 1942 he was informed by his mother that his children were not in the shelter where they were supposed to be being taken care of. He asked for leave on compassionate grounds at that time but it was refused and was promised that an investigation was being made. However no word was received by the accused so he tried to get home and staighter things out on his own hook. He was unable to get back so he returned to

his Unit. I would like to inform the court that since the date of his divorce in 1940 he has not received one word about his children other than the letter of his mother's telling him that the children were not being taken care of. His chances for rotation leave at the completion of the five years and four months was prejudiced because of his past three crimes.

The accused has informed me that he is anxious to get back to his regiment and fight and I beleive the court would only be fair in giving this man with such a long and good service record a very light sentence and let him get back to his regiment and take up where he left off.

I also bring the attention of the court to the fact that the accused holds the 1939-43 Star and the Long Service and good conduct medal for 18 years P.F. Service.

F.A.King.....
(F.A. King)Lieut.
Defending Officer.

appx "A" Exhibit

SUMMARY OF EVIDENCE

In the case of C.4743 Private Norman Franklin TINNEY, No. 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

A.104046 Cpl. Wells, H.K., having been duly sworn states:-

"I am A.104046 Cpl. Wells, H.K. employed as clerk in the Legal Office No. 2 Cdn. NETD and as such I have custody of regimental documents. I present a certified true extract from the Princess Patricia Canadian Light Infantry Regt. Part II Order No.84 dated 26 Feb 45 (Appended hereto as Exhibit "A") and a certificate in accordance with the Army Act Sec. 163(1)(jj) purporting to be signed by D.J. Burgoyne, Major, O.C. No. 2 Cdn. NE.T.D. (Appended hereto as Exhibit "B") both these documents pertaining to C.4743 Pte. Tinney, N.F."

H.K. Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

R.D. Russell
(R. D. Russell) Capt.
Officer detailed to take
Summary of Evidence.

In the Field.
12 April 45.

PART II ORDER EXTRACT FORM

TO: Officer Commanding,
2 Cdn NETD,
Cdn Army, CMF.

99/20/

17 April 1945

EXTRACT FROM: Unit PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY

Part II Order No. 24 dated 26 Feb 45

Strength Decrease

SOS as a Des. 22 Feb 45, having been declared illegally absent by a Ct-Inq from 1200 hrs 30 Jan 45. Deficiencies in kit to value of $24:11:7

C4743 Pte Tinney N.F.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF
C.4743 Pte. Tinney, N.F.

(R. D. Mutrell) Capt.

Officer detailed to take Summary of Evidence.

Certified true extract. 17 Apr 45 (J B D Sword) Capt
Date of certification: Officer having custody of the original
Cdn Sec 1st Echelon AFHQ

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, G.H.Q., 2nd Echelon

TCH—6
40/P & S/1276 (3209)

THIS IS EXHIBIT "B" REFERRED TO BY ME IN THE CASE OF C-4743 PTE. TINNEY N F

(A.D. Mitselly) Lieut. Officer detailed to take Summary of Evidence.

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC. 1[illegible] (1)

I certify that

No. C.4743 Rank Pte. Name TINNEY, N.F.

of the 2 Cdn N.E.T.D.

was arrested at Avellino at 2155 hrs

on the 7th day of April 1945

Signature of P.M., A.P.M. or other Officer into whose custody the above named person was taken on arrest

D.J.Burgoyne
(D.J.Burgoyne)
Rank Major
O.C.
(Appointment (if any)
Commanding 2 Cdn N.E.T.D.

Date 14 Apr 45

Exhibit "B"

Character Witness for the Accused

In the case of C 4743 Pte. Tinney, N.F.

Mr. President and Members of the Court I, Lieut. D.A. Gower, served as 2 i/c Anti-Tank Platoon P.P.C.L.I. from 26 Dec, 1943 until 14 Aug. 1944.

Pte. Tinney joined the platoon early in July 1944. During the time I knew Pte. Tinney he was always a hard working conscientious soldier of outstanding Character.

D.A. Gower
(D.A. Gower) Lieut.

No objection to the admission of this evidence

Nicholson Lt
Offr for Prosecution.

Appt C.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.4743	PTE	Norman Franklin TINNEY	# 2 Cdn N.E.T.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the character for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	times	# 2 times.
For A.A. Sec 40	times	1 times.
For	times	times.
For	times	times.
For	times	times.

[redacted] Nil or [redacted]

2. [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or [redacted] Nil [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 12 days in military custody, making a total of 12 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 40.

6. The date of his attestation specified in his record of service is 12-9-39.

7. [redacted]

8. [redacted] Nil [redacted]

9. [redacted]

10. The accused is [redacted] entitled to (*state any military decoration or reward*) CVSM & CLASP. '39-'43 STAR. LONG SERVICE MEDAL

11. [redacted] Nil.

12. [redacted]

(22647) Wt.21703/1977 10,000 10/45 A.& E.W.Ltd. Gp.498
(24481) Wt.12827/481 80,000 3/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C.4743 Rank Pte Name TINNEY, N.F. of 2 Cdn NETD. Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
Civil Court	12-6-42	Larceny and house-breaking.	4 Months Imprisonment	
FGCM	30 Oct 42	AA Sec 15(1) AWL-- from 2300 hrs 17 Sep 42 to 1930 hrs 20 Oct 42 (Absent: 32 dys, 20 hrs, 30 mins).	120 days Detn. Stoppages of £1-4-0.	Released 16 Jun43. Remission earned 60 days.

Geo

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20TH day of APRIL 45

Geo W Akehurst Capt & Adjt.
(G.W.Akehurst) Officer i/c
Regtl Books & Records, 2 Cdn NETD.

Geo

If the accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books this paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph considered amended accordingly.)

MFM 6
(AFB 122)
40/PAS/136 (3438)

No C.4743 Name TINNEY, Norman Franklin — Sqn, Battery, or Company — Corps CIC. — Date of enlistment 12-9-39. — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-9-40	Pte		Conduct to Prejudice, AA 40		168 hrs Detn.	19-9-40		Forf 7 days pay. Forf 9 days pay.
Field	18-6-41	Pte		Sec 15(1) AWL		144 hrs Detn.	18-6-41		
Field	8-6-42	Pte		Sentenced Civil Court with hard labour for larceny and House-breaking.		4 Mons imprisonment.	8-12-6-42		
Field	17 Sep 42	Pte		AWL-2300 hrs 17 Sep 42 to 1930 hrs 20 Oct 42.(A: 32 dys,20 hrs, 30 mins).		120 dys detn. Stoppages £1-4-0.	30 Oct42	FGCM	Forf 120 days pay FR&I 149(1). Forf 10 days Pay FR&I 149(1) (c)(1). Forf 33 dayys pay FR&I 149(1)(a)

Released from Detn Bks June 16 45, Remission of 60 days. 13 Apr 45.

Total forf 163 dayspay (ZERO)

"Certified to be a true copy from the Regtl Books in my Custody.".

..... Capt & Adjt.

(G.W.Akehurst) Officer i/c Regtl Books & Records, 2 CdnNETR

I, C.4743, Private Norman Franklin TINNEY, request that my Commanding Officer appoint 2/Lt. A. King to defend me at my forthcoming trial by Field General Court Martial.

DATE 16 Apr 45 N F Tinney
(N.F. Tinney).

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, C.4743, Private Norman Franklin TINNEY, acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 16 Apr 45 N F Tinney
(N.F. Tinney).

Ells

LIST OF WITNESSES.

In the case of C. 4743 Private Norman Franklin TINNEY, No 2 Canadian Non Effective Transit Depot, a soldier of the Canadian Army Overseas:-

---

FOR THE PROSECUTION

1. A. 104046 Cpl Wells, H.K. -- 2 Cdn N.E.T.D.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS.

1. Exhibit "A" -- A certified true extract from PPCLI Regt Part II Order # 24 d/26 Feb 45.

2. Exhibit "B" -- Certificate in accordance with the Army Act, Sec. 163 (1)(jj) purporting to be signed by D.J. Burgoyne, Major, O.C. No. 2 Cdn N.E.T.D.

V-96 (case #2)

Pte TINNEY N.F.

(See Q-115 for 1st case)

Y-96

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A."
Order convening the Court.

On Active Service, this FOURTEENTH day of FEBRUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable for the trial the trial for reference by a superior qualified officer~~.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*~~I am unable to appoint~~

*~~(a) Three Officers to form the Court~~

*~~(a) A Field Officer as President~~

*~~(b) Three Officers having more than one year's service~~

for the following reasons, namely:—]

* Omit where Convening Officer is a Commanding Officer of Field Rank.

* Omit if not applicable.

Proceedings Reviewed
Reviewing Officer
Date

Major Capt
1 Mar 43

(6)

President.

Rank.	Name.	Regiment.
Major	F.J. GILMOUR	HQ 2 CDN DIV RCA

Members.

Rank.	Name.	Regiment.
One ~~Major~~ CAPT.	to be detailed by OCRRegt C	R Regt C
One Capt or Lieut	to be detailed by OC RHLI	RHLI
WAITING MEMBER One Lieut	to be detailed by OC RHLI	RHLI

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (M.R.S. PENHALE) Brigadier,
4 CDN. INF. BDE.

Commanding *Convening Officer.*

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
No.C4743 Private Norman Franklin TINNEY, 1st Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army (Active).	FIRST CHARGE A.A. Sec. 15 (1) ABSENTING HIMSELF WITHOUT LEAVE. (SEE CHARGE SHEET ATTACHED)	~~Guilty~~ Guilty	~~Guilty~~ Guilty 8 Months detention Stoppages of £3/10/9 in respect of Cost of return to Unit 17 Feb 1943 Hard. 18 Feb 43.	I confirm the finding and sentence of the Court, but remit two months detention.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.H.S. Penhale Brigadier,
(W.H.S. PENHALE) Brigadier,
Commanding 4 CDN INF BDE
Convening Officer (*c*)

(Signed) F.J. Tilmour Major
R.C.A.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column. Initials are sufficient.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
~~3. The interpreter~~ NIL.
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 17th day of February 1943.

F.J. Tilmour Maj
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this ~~17~~ day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be ~~fulfilled~~ where a sentence having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this Eighteenth day of February 1943.

W.H.S. Penhale Brig
Commanding Officer

Promulgated and extracts taken in the case of C.4743 Pte Tinney N.F.

(*a*) (Dated) 19 Feb. 43 (Signed) Capt. R. H. Lod.
Adjt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(12758) W/L 40133—891 500 m 3/40 P. St. C. Ltd.

- MEDICAL CERTIFICATE -

I certify that I, this morning, have examined No: C 4743

(Rank) Pte (Name) Tinney N.F. (Unit) R.H.L.I.

and find him fit/~~xxxxx~~ to undergo trial by Court-Martial.

Date: 17 Feb. 43. S.W. [illegible] Lieut

(Medical Officer)

CHARGE SHEET.

The accused C4743 Private NORMAN FRANKLIN TINNEY, 1st Bn Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas, is charged with;

FIRST CHARGE
Section 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2045 hrs 2 Nov 42 until 1030 hrs 7 Feb 43.
Expenses incurred in return to unit £3-10-9.

In the Field
13 Feb 43.

.....Lt Col.
1st Bn., Royal Hamilton Light Infantry,

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field.
14 Feb 43.

.....
Fourth Canadian Infantry Brigade.

Bde Major

I desire to have the Adjutant of the R.H.L.I.

appoint an officer to represent me at my trial by F.G.C.M.

C.47743 Pte N.P. Young

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field-Genl Court-Martial held at Sutton Veny on the 17 day of Feb '43 1943 by order of Brigadier M H S Penhale Commanding 4 Cdn. Inf. Bde dated the 14 day of February 1943

President.

Major J S Gilmour RCA. attd H.Q. 2 Cdn Div.

Members.

Capt. N. T. Ben-Oliel R. Regt C.

Lieut. L.K. Amos R.N.V.R.

Trial of *C 4743 Pte Norman Franklin Tenney, 1st Bn R.N.V.R.

, ~~Judge Advocate~~.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ is not available ~~to serve owing to~~

~~. waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. A. C. Brett R.N.V.R.

Counsel‡ or defending officer† Major J. T. Bell R.N.V.R.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q13b1. WLW&SON/982. 40,000 pds. 2/40. R. & H., Ltd. G657/11. Forms A 9/39.

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lt. Col E. Elliott Oxford Rifles
Lieut W. L. Coleman R.H.L.I.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

J. H. Elliott
May 10.

CC

Proceedings on Plea of Guilty.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused C4743 Pte Norman Franklin Tenney is found guilty of the charge

†The summary (or abstract) of evidence is read, marked G signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No Sir

~~The accused in mitigation of punishment says:~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

W. Tilmour
Major
Pres

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? No Sir.

Question to the accused.

Answer.

Evidence as to character.

The defending officer reads a statement in Mitigation which is handed in marked 'M' & attached to the proceedings.

H. Gilmour
Maj
Pres

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ F.G.R.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Capt A.C. Brett is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* A.F.B. 296 + Court Copy of M.F.M.6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked K.1., signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. Yes + the entry in A.F.B. 296 corrected.

[Interrogatories as to answers to the number of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court, receive was held to any punishment pronounced in addition to that to be awarded by the Court, the prosecutor may call the attention of the Court to the fact, and the Court must inquire into the nature and amount of such additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

(5)

J.J. Gilmour Major Pros

F

Sentence.

Sentence

The Court sentence the accused to undergo detention for 8 months & to be placed under stoppages of pay until he has made good the sum of £3/10/9 in respect of costs of return to his unit.

17 Feby 1943.

J J Gilmour
Major
Pres

SUMMARY OF EVIDENCE.

In the case of C4743. Private NORMAN FRANKLIN TINNEY, 1st Bn., Royal Hamilton Light Infantry, a soldier of the Canadian Army Overseas,

THE ACCUSED IS INFORMED OF HIS RIGHTS.

THE C.O. DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS FOR THE PROSECUTION.

B36518. Sgt. PORTER. G. R.H.L.I., having been duly sworn states;

"On 30 Oct 42, Pte Tinney was awarded 120 days detention by F.G.C.M. On 2 Nov 42 about 2045 hrs Pte Tinney did escape from the Gd House. He has been A.W.L. until apprehended at Whitefield on 7 Feb 43. He was placed under close arrest on 12 Feb 43, when he was returned to the unit.

THE ACCUSED DECLINES TO CROSS EXAMINE.

Sgt Porter G

B36518. Sgt. Porter. G.

SECOND WITNESS FOR THE PROSECUTION.

B37345. Cpl. McDERMOTT. G.A. R.H.L.I. having been duly sworn states;

" On 30 Oct 42 Pte Tinney was sentenced to 120 dys detention by F.G.C.M. He was detained in our Gd Room. At 2045 hrs 2 Nov 42 Pte Tinney did escape and he was absent until he was turned over to me at Littlehampton by 2 Div Provost Coy at 1443 Hrs 12 Feb 43. I brought him back to the unit and placed him under close arrest.

THE ACCUSED DECLINES TO CROSS EXAMINE.

H.T. McDermott

B37345. Cpl. McDermott. G.A.

The accused having been duly cautioned in accordance with R.P. 4 (E) says;

"I was not apprehended, I gave myself up."

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.

In the Field.

13 Feb 43.

H.E.G. Bull

(H.E.G.Bull) Lieut.

Officer detailed to take the Summary.

"A"

LIST OF EXHIBITS

1. Army Form O 1617 Certificate of surrender to the Civil Police of a deserter or absentee without leave.

2. Occurrence Report, Lancashire Constabulary

3. CMHQ Form 1000:55, Expense Voucher

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.1021 McCulloch,

at Whitefield at (hour) 1030 hours on the 7th. day of February as being No. C.4743

(Rank and Name) Private Norman Franklin TINNEY

~~deserter~~ (or absentee without leave) from R.H.L.I. Hastings.

and it appears to me from his confession that he is a ~~deserter~~ or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 34 Height 5 Feet 7½ Inches

Complexion fresh Hair Dk brown Eyes brown

Marks -

In uniform or plain clothes in uniform.

Probable Date and Place of Attestation	11th. September, 1939. Picton, Ontario.
Probable Date of Desertion or beginning of absence, and from what place	1st. December, 1942, West Croydon.

Signature of Officer of Police in charge of Whitefield. P.S.750 Station.

7 th February, 1943. Date of Signature.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C4743 Rank Pte Name Twiney, M.F. Unit R.H.L.I.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Radcliffe, Lowes

Date	Particulars	Amount £	s	d
11th.43	Escorts return fare from LONDON To Radcliffe, Lowes.	1	9	4
	Prisoners single fare to LONDON From Radcliffe		14	8
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		15	8
	Total £	2	19	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

9/6

[signature]

~~Issue~~

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-5-55
40/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C.Y.743 Rank Pte. Name Twiney, N.F. Unit R.H.L.I.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount £	s	d
12 Feb 19	Escorts return fare from LONDON To Littlehampton (5 portion		6	4
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Littlehampton		4	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

5/2/19

[signature]

[signature]
Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

M 7/9

The accused Pte Tinney has had an unhappy life. His father was gassed in the last war and became such a physical wreck that the accused left home at the age of 11 to find work. He has therefore had very little education and not much parental guidance. When he was 15 his father died and shortly afterwards his mother remarried. The accused could not get along with his step father and went back to work in the mines. Against the advice of his mother he married a girl whose family had a bad reputation and by her he had three children.

The accused came to this country with the 49 PER early in 1940 and [redacted] years as his conduct sheet shows he got into practically no trouble and did his job in a soldierly manner. In the spring of 1941 the accused was suddenly paraded before the unit paymaster and asked to sign over the dependent allowance to the Childrens Aid Society of Belleville. You can imagine his feelings. He immediately tried to find out what was happening at home. Before he had received a reply his brother who was with an AA Bty near London Eng was killed in an air raid. He then heard that his wife had left his children and was living with another man. Up to this time the accused had been living a very quiet army life but he decided that if his wife could play around so could he. He got into bad company and became involved in a civil charge for which he received quite a stiff sentence.

When he was released he was sent to the holding unit where he continued to receive disturbing reports about what was happening to his children. While at the holding unit he applied for transfer to the R.C.E.

where he believed his training experience would be of some value. Just as he was expecting his transfer to come through he was without any explanation at all shipped off to the R.H.L. field unit. This coupled with a letter he had just received telling him that his wife had the children broke with, how caused him to go AWL. When he surrendered he was fined £2 before an FGCM which awarded him 120 days detn. While he was awaiting transfer to the detn barracks in the Unit Guard Room, opportunity presented itself for him to escape in the form of a wide open door with no guard. As he felt that he had been very severely dealt with in view of his trouble at home and here, he decided to walk out. After he had been away some time, one morning he saw a policeman checking army personnel for passes, and that he wanted to wipe the slate clean, so he gave himself up.

Although his worries at home are far from cleared up, as his most recent letter from his mother states that his wife is now living with an RAF man, the accused assures the court that this is his last offence and the only thing he desires is to clear up his troubles at home and to get back to soldiering with a chance at active service with the least possible delay

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

C 4743 Pte TIMNEY H.F. of the 1st Bn. ROYAL HAMILTON LIGHT INFANTRY

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

	*Within last 12 months.	*Since Enlistment.
For AWL	#1 DN. times	2 times.
For Conduct to Prejudice etc.	— times	1 times.
For	times	times.
For	times	times.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, promotions being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

Number of instances of gallantry or distinguished conduct, nil.

or,

~~There are no entries in the Conduct sheets of the accused.~~ A&L

~~2. The accused has not been previously convicted.~~ A&L

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42648/564 50,000 6/40 W. S. Ltd. 61—6004

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th. day of February 1903.

A.S. Lovelace Capt. & Adjt.
R.M.L.I.

3. ~~The accused is not under sentence at the present time.~~

or,

The accused at the present time is under sentence for [illegible] AWL (~~and has undergone the punishment~~) beginning on the 30 day of OCTOBER 1942

4. The accused has been in confinement, awaiting trial on the present charges for 4 days in Civil Custody,

and 5 M 6 days in Military Custody.

Total 5 10 days.

Of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~commission~~ record of service attestation paper is 34

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11 SEPT 39

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ years' service.

9. ~~The accused is entitled to reckon~~ years' service for the purpose of determining his pension, &c.

10. ~~The accused is in possession of, or entitled to, no military decoration or military reward for is in possession of or entitled to -~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or corps or department*) the rank of , dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "K", signed by the president, and annexed to the proceedings.

28

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name C/Sgt 3 Pte TINNEY, N. F. of the ROYAL HAMILTON LIGHT INFANTRY

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
CIVIL	IN JUNE 42	LARCENY AND HOUSE BREAKING	4 MONTHS IMPRISONMENT.	

(*Continued overleaf.*

No. [illegible] Name TINNEY, H. F. Sqn., Battery, or Company D Corps BAD. Date of enlistment 14-9-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 17554—7-41 (1213) 305 H.Q. 1773-34-1403

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-9-40	Pte		Conduct to Prejudice		168 Hrs Detn	19-9-40		Forf 2 days pay
Field	18-6-41	Pte		250 C.B. (1) AWL		14 Days Detn	19-6-41		Forf 9 days pay
Field	8-10-42	Pte		SCHEDULED CIVIL COURT. LARCENY. THEFT OF BICYCLE		6 Months IMPRISONMENT	13-10-42		
Field	17-5-43	Pte		AWL 23 hrs 17-5-43 to 19-5-43 AWOL 1-6-43 (2 days, 2 hrs, 30 mins) AWOL		28 Days Detn 2 Days FPCO	3-6-43	C.O. 2 M	Forf 1 day pay (1-6) 1 day pay (2-6) 1 day pay (3-6) 1 day pay (4-6) Total forf 4 days pay
2-7-43				CERTIFIED TRUE COPY				(H. E. STINSON) CAPT. ADJT. 1 BN R.H.C. CDN ARMY	

115. Q.

PT. TINNEY. N.F

O. H. M. S.

M. F. B. 270
HAROM-12-40 (8998-09-70)
M.Q. 1772-20-67

115 Q.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this Twenty-ninth day of OCTOBER, 1942. — Order convening the Court

Whereas it appears to me, the undersigned, an officer in Command of FOURTH CANADIAN INFANTRY BRIGADE Canadian Army Active., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[redacted]

In my opinion, military exigencies, namely the dispersion of units, and the difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named on the schedule.

	President.	
Rank.	Name.	Regiment.
Major	A.A. Duncanson	R.Regt.C.
	Members.	
Rank.	Name.	Regiment.

One Capt or Lieut to be detailed by O.C. R.H.L.I.

" " " " " " Essex Scot

Waiting member. One Lieut to be detailed by O.C. Essex Scot.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (M.H.S. PENHALE) Brigadier

Commanding 4 CDN. INF. BDE.

Convening Officer.

PROCEEDINGS REVIEWED:

[redacted]

12 Pages

123

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C.4743 Private, Norman, Franklin, TINNEY, 1st Bn. ROYAL HAMILTON LIGHT INFANTRY a soldier of the Canadian Army (Overseas) is charged with:-	FIRST CHARGE A.A. Sec 15 (1) Absenting himself without leave. (See Charge Sheet attached).	Guilty	Guilty	Confirmed [illegible]
	SECOND CHARGE A.A. Sec. 24 (2) Losing by Neglect his equipments, clothing and regimental necessaries. (See Charge Sheet attached)	Guilty	Guilty 120 days Detention Stoppages £1-4-0 30 Oct 42 A.A. Duncanson Major	Confirmed [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] (M.H.S. PENHALE) Brigadier,
Commanding 4 CDN. INF. ~~BDE.~~
Convening Officer (*e*)

(Signed) A.A. Duncanson Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th. day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
~~*3. The interpreter~~
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 30th. day of October 1942

A.A. Duncanson
President of the Court Martial Major

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this. day of ~~19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2nd day of October 1942

[illegible]
Confirming Officer. Brigadier Comd 4 Can Inf Bde

Promulgated and extracts taken in the case of Private Tinney, N.F.

(*a*) (Dated) 2 Nov 42 (Signed) Jos Rockingham Major
for O.C. Royal Hamilton Light Infantry

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41739) Wt. 40113—893 500 m 1/40 P. St. G. Co.

CHARGE SHEET

The accused, No. C4743 Private NORMAN FRANKLIN TINNEY, of the 1st Battalion, ROYAL HAMILTON LIGHT INFANTRY, a soldier of the Canadian Army (Active) is charged with:

First Charge
Army Act
sec 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 2300 hrs, 17 Sep 42 until apprehended by the Military Police at CROYDON at 1930 hrs, 20 Oct 42 incurring expenses of apprehension and return in the sum of seven shillings and eight pence (7/8).

Second Charge
Army Act
sec 24 (2)

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

in the field on 18 Sep 42 was deficient of the following articles:

	£	s.	d.
one pr Anklets, Web, valued at		2	6½
one Wallet, Anti-Gas valued at		1	1
one Cape, Anti-Gas, vauled at		9	9½
one Knife, Clasp, valued at		3	10½
Total Value	0.	16.	4.

28 Oct 42

John Rockingham Major
A/Commanding,
Royal Hamilton Light Infantry

To be tried by Field General Court Martial

29 Oct 42

Brigadier
Commanding, Fourth Canadian Infantry Brigade

B2
A.A. Duncanson
Major

Squadron / Battery / Company / Detachment — Royal Hamilton Light Infantry — Unit or Battalion

30 October 19 42

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
84743	Pte Tinney N. F.	35	CE	Pris.	M		

I have examined this man to-day and find him free from communicable diseases and physically fit to undergo Court Martial.

A.A. Duncanson Major

Orderly N.C.O.

J. P. Fletcher Capt. R.C.A.M.C.

M/O R.H.L.I.

(OVER)

M. F. R. 292
4,500 M-3-41 (9688-3-00)
H.Q. 1772-39-248

CHARGE SHEET

The accused, No. C4743 Private NORMAN FRANKLIN TINNEY, of the 1st Battalion, ROYAL HAMILTON LIGHT INFANTRY, a soldier of the Canadian Army (Active) is charged with:

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Army Act
sec 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

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Total Value	0.	16.	4.

28 Oct 42

John Rockingham Major
Commanding,
Royal Hamilton Light Infantry

To be tried by Field General Court Martial

29 Oct 42

Brigadier
Commanding, Fourth Canadian Infantry Brigade

By
A.A. Duncanson
Major

" I do / do not desire an officer to be detailed to defend me at my trial".

Signed _____

I desire that Lieut H.E.G. Bull be detailed to defend me at my trial by Court Martial.

Singed_____

Squadron / Battery / Company / Detachment — Royal Hamilton Light Infantry — Unit or Battalion

30 October 19 42

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
B4743	Pte Tinney N. F.	35	CE	Pris.	M		

I have examined this man to-day and find him free from communicable diseases and physically fit to undergo Court Martial.

A. A. Duncanson Major

Orderly N.C.O.

J. P. Potter Capt. R.C.A.M.C.

M/O R.H.L.I.

(OVER)

M. F. H. 292
4,500 M-3-41 (D698-3-39)
H.Q. 1772-39-248

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at In the field on the 30th day of October 19 42, by order of Brigadier H. W. S. Penhall, Commanding 4th Canadian Inf. Bde., dated the 28th day of October 19 42.

MAJOR A. H. DUNCANSON, President.
ROYAL REGT. CANADA.

LIEUT. W. H. WHITESIDE, Members.
ROYAL HAMILTON LIGHT INFANTRY

LIEUT. R. H. LUND,
ESSEX SCOTTISH REGT.

, Judge Advocate.

Trial of* No. H-743 Pte. Norman, Franklin, Tinney
1st Bn. Royal Hamilton Light Infantry

The order convening the Court, the charge-sheet and the ~~summary~~ and abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available.~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lt. W. H. Brougham, R.H.L.I.

~~Counsel or~~ defending officer† Lt. H. E. G. Bull, R.H.L.I.

At 10 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. "No, Sir."

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lt. E.L. Cohen, E.S.R.

Charge-Sheet

Instruction. If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

"Guilty" *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

"Guilty" *Answer.*

D. ~~Are you guilty or not guilty of the third charge against you, which~~ you have heard read? *Question.*

Answer.

D. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to both charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty

*To be struck out with. — no plea of

Q. *[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him.]

The accused is found guilty of both charges.

Q. *The [summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—"No, Sir"

Q. [or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character? No. Sir

Question to the accused.

Answer.

Evidence as to character.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

Q. The Court find that the accused

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

Q. ~~The Court being re-opened, the accused is again brought before it.~~

Lieut. H.A. Broughall, R.H.L.I. is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* A.F.B. 296 and M.E.M. 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B4, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes, Sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes Sir.

Cross-examined by the accused. ——— None.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No. (See over)

Q. ~~The Court is closed for the consideration of the sentence.~~

F

~~Sentence~~

Sentence.

~~The Court sentence the accused~~

Pte. Tinsley is an old soldier as stated. Old soldiers, serving in War. 1914. 1918. This is his first Court. Award ignore.

Pte. Tinsley has his trade as bone with his wife.

R.A. Duncanson
Major.

ABSTRACT OF EVIDENCE

In the case of No. C4743 Private NORMAN FRANKLIN TINNEY, 1st Battalion, ROYAL HAMILTON LIGHT INFANTRY, Canadian Army (Active).

1st CHARGE — 1st WITNESS B36817 L/Cpl. Douglas, R.E.
C.O.S. on 18 Sep 42 and reported accused's absence.

2nd WITNESS B36595 CSM Williams, G.E.
Accused reported absent 18 Sep 42 and reported absent daily until the date of his return.

3rd WITNESS B36518 Sgt. Porter, G.
Sgt. of Regimental Police.
Accused handed over to his custody by the Military Police on his being returned to the unit.

2nd CHARGE — 4th WITNESS B36573 C.Q.M.S. Semple, C.H.
Will give evidence as to deficiencies in kit shown in charge sheet.

Documentary Evidence - Certificate of Arrest
Certificate of Costs of Return

W.H. Broughall Lieut.
W.H. BROUGHALL, Lieut.
R.H.L.I.

B3
A.A. Duncanson
Major

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No C-4743 Rank Pte. Name Tinney, M.F.

Unit "D" Coy. R.H.L.I. was arrested at Croydon (Place)

at 1930 (Hour) on 20-10-42 (Date) and that at the time of his arrest he was wearing (Military Uniform) ~~(Civilian Clothes)~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)'

W. Lowland Lieut.
Officer i/c Detention Room
No. 6 Cdn. Provost Coy.

London.
21-10-42

Ashcroft
Major

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C4743 Rank Pte Name Quinney, N.F. Unit R.H.L.I.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount		
22/10/42	Escorts return fare from LONDON To Pulborough (½ portion)		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Pulborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H W Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

Acknowledged
Major

M.F.M. 5
A.F.B. 122
(M—8-39 (1708)
H.Q. 1772-49-18

No. C4743 Name Tinney, N.F. Sqn., Battery, or Company } "D" Corps Hqst. P.E. Date of enlistment } 12-9-39 G.C. Badges } Service or Proficiency Pay } Character Major

Certified true copy

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } "D.J. Fletcher"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-9-40	Pte		Conduct to prejudice		168 hrs detn	19-9-40		Forf 7 days pay.
Field	10-6-41	Pte		Sec 15 (1) AWL		144 hrs detn	10-6-41		Forf 6 days pay.
Field	8-6-42	Pte		Sentenced Civil Court with hard labour for larceny and house-breaking.		4 months imp-risonment	18-6-42		

Certified true copy of [illegible] Certified true copy

(A.J. O'Donohoe) Capt. & Adjt.;
1st Hn., R.H.L.I., C.A.A.F.

Advanced May 1st 41

(Substitute for AFB 236 or MFE 355)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No. C-4743 RANK & NAME Pte TINNEY, H.P. UNIT R.M.L.I.

AGE ? MARRIED OR SINGLE Married NO. OF DEPENDENTS 4 children

DATE OF ATTESTATION 12 Sep 39

NO. OF DAYS SPENT AS UNDER ARREST (TO DATE OF TRIAL)

CIVIL nil DESERTION 10 HOSPITAL ____ TOTAL 10

DATE OF PROMOTIONS, APPOINTMENTS & CONFIRMATION OF RANK, IF ANY.

nil

A CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records) W H Broughall (UNIT) Lieut

DATED AT FIELD

THIS 30 DAY OF Oct 1942

(TO BE DATED AND SIGNED AS AT DATE OF TRIAL)

By A Strachan Major

REVIEW SHEET

F. G. C. M. - Trial: C 4743 Pte Tinney, N.F., RHLI
B37364 Pte Spencer, N., RHLI

Date of Trial: 30 Oct 42

President of Court: Major A. A. Duncanson, R Regt C

1. For the information of the Officers asked to sign below the following irregularities are noted:

(i) The Medical Certificate is not in proper form (See K.R. Can 557)

(ii) Only one minute of confirmation is required

(iii) The abstract of evidence is far too sketchy. It should contain all the evidence that each witness will give

(iv) A.F.A. 3104 does not indicate where accused is or is to be committed (See appendix to O/S R.O. 2591)

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this H. Q., please

O.C. _____

Adjutant _____

President _____

Staff Officer for Convening Officer _____

Staff Officer for Confirming Officer _____

W.M.W. Shaw
(W.M.W. Shaw), Capt.,
A.D.J.A. 2 Cdn Div

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SGN. TINSTON D.C.

WW/132

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Not Guilty.	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~Beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Not guilty.

(Sgd) ..... Judge-Advocate, if any. 15 NOV 43 Date awarded. (Sgd) W. D. Hutchinson Lt Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~Direct that the accused be duly committed to prison or detention barracks until further orders~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) H.R. Lyons Col

Date ..... Commanding ~~Field Force~~ Con. Ath. Unit. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. B 32184 Sigm Winston, David Cyril. Date. 17 Nov 43. Signature of Offr. R. Dungey Sigm A/O.C. Records Wing 201 C.S.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CPA56 (In lieu of AFA3) 40/P.& S./1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col H.R. Lyons Comd B Gp CRU, dated 13 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 32184	Sigm	David Cyril	Winston	1 CSRU.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 15 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member(s) A, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to~~ ..... as interpreter ? Ans .....

~~The Interpreter is sworn.(1). Do you object to~~ ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 181, MML p 742.)

A7. The President, Members, ~~Alt Member~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col	W.D. Hutchinson	1 CSRU.
Member	Capt	P.D. Huxley	1 CSRU.
Member	Lieut	S.H. Colosimone	1 CSRU.
~~Member~~	~~Lieut~~	~~M.B. Pool~~	
Judge-Advocate	Lieut	N.B. Dutt	1 CSRU.
Prosecutor	Major	R. Dayyan	1 CSRU.
Defending Offr	List of Offrs under instruction		attached.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment makes no plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form .....

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission ~~is dismissed on the.....charge(s)~~, and allowed on the.....charge(s), ~~and that, accordingly, the trial will proceed on the former, but~~ the accused is (are) found Not Guilty on the ~~latter~~ charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) ~~Any statements~~ which have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The findings(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the findings~~ of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith,~~ and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 8. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 3019, 3222, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, B-32184 Signalman TINSTON, David Cyril, (Royal Canadian Corps of Signals) on strength of the No. 1 Canadian Line of Communication Signals Unit, attached to No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas,

is charged with

FIRST CHARGE

Section 40 Army Act.

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the field, on or about the 5th July 1943, was in improper possession of a Smith and Wesson .38 calibre revolver, Number 926620, the property of the Canadian Government.

R.J. Burgess

(R.J. Burgess) Major,
a/Commanding,
R.C. Sigs Training Wing,
No. 1 Cdn Signal Reinf Unit.

Delville Bks.,
Cove, Hants.,
23 October 1943.

To be tried by Field General Court Martial.

H.R. Tyner

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

13 Nov 43

W.D. Fletcher Lt-Col.
A.A.G.

Medical Officers' Certificate
K.R.(Can) para 557.

I certify that I have this morning examined No. B.32184 (rank) Sigmn. (Name) TINSTON, D.C.

of No. 1 C.S.R.U. and in my opinion he is ~~Unfit~~ Fit to undergo trial by Court Martial.

Station

Date Nov. 15, 1943

Sgd. [illegible] (Medical Officer)

7

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB)
40/PAM/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-32184	Sigmn		David,Cyril,	TINSTON	1 CSRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 13 Nov 43 (*date*) endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	W.C. Fletcher	1 CASCRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by	1 CSRU
Lieutenant	to be detailed by	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(Signed personally ~~RP 105 (c) (i)~~) H.R. Tyner Col (Rank.)

Date 13 Nov 43

A/Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

W.C. Fletcher Lieut-Col Pres.

First Witness for the Prosecution

7

J Marshall

I am a detective constable of Hants. joint police force. At 10 a.m. 16 Jul 43 I made inquiries into possession of a .38 revolver. Upon examination I found that the number had been filed off in two places, but one set of numbers had been overlooked

I interviewed Sgmn. Croft made a statement and as a result I saw Sgmn Label at Borden camp At first questioning Label denied any knowledge of the revolver but later admitted seeing it

On 27 Jul 43 with Sgt. I visited the Canadian detention camp at Hedley were I saw Sgmn. Tinlston and informed him I was police officer making enquiry into relating to revolver found in the possession of Sgmn Croft whe he denied any knowledge

On 31 Jul I was present when an identification parade was held at the same detention camps and here Sgmn Croft was able to pick out Tinlston as the man who had sold him the revolver Sgmn. Label then entered and identified Tinlston as the man he had seen with the revolver

(over)

I identify this "Exhibit A" as the revolver in question
I did not at any time see it in the possession of Sigmon. Finston

In the opinion of the Court R.P. 838 [illegible] complied with

Second Witness for the Prosecution

C 31808 Sigmon ~~&~~ Exhibit A.

One night I saw Sigmon Finston cleaning a revolver which I figured he wanted to sell I asked Sigmon Croft if he wanted to buy it and he said he might later

A few days later I saw Sigmon Croft with a revolver and thought he had bought it from Croft Later I seen Sigmon Finston and he said he sold it to Croft but that the revolver he was fixing was for a man going on draft

I cannot identify 'Exhibit A' as the same revolver.

In the opinion of the Court R.P. 838 [illegible] complied with

7 Third Witness for the Prosecution

D 52023 Sgmn Croft. Ed.

Sgmn Label wanted to know if I could tell him where to sell a revolver. Then Sgmn asked same question I said I did

Sgmn Tinston went and got the revolver out of the kit bag. I took it to Sgmn Dunkelow and got £3/10/0 I gave Sgmn. Tinston £1/0/0 and pocketed the remainder

I did not know Sgmn Tinston by name. However I identified him in a line up on 31 Jul 43 at Hedley Detention camp

I recognize the accused as the same I cannot identify 'Exhibit A' as the same revolver

I was never before involved in any transaction concerning a revolver. In the opinion of the Court R.P. 833 need not be complied with

---

~~Fourth~~ Witness for the Prosecution

H 102957 Sgmn Dunkelow, Charles

On 5 Jul 43 I bought a .38 Smith & Wesson from Sgmn Croft for £3/10/0

I recognize Exhibit 'A' as the same because of filed off numbers on the butt and on the back of the chamber and 2 small filings on the bulge of chamber

The number on it is 926680

I have known Sgmn Tinston 30+ months I have been tried and convicted by a D.C.M. for improper possession of revolver ~~Smith~~ # 926620. I can further identify this exhibit # and cylinder will not turn without pulling trigger

RP 830 Amd

Fifth Witness for the Prosecution

H 34012 A/Sgt. Mc Grath J.M. RCCS

I have been in O.M. stores 4 or 5 month previous to June 43.

This revolver (Exhibit A) is a Smith & Wesson .38 calibre #926620 and is the Property of the Government.

I do not produce Can. R.P. 638 and will be supplied with

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-38184 Signalman TINSTON, David Cyril, (Royal Canadian Corps of Signals), on strength of the No. 1 Canadian Line of Communication Signals Unit, attached to No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the A/Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS for the prosecution

Detective Constable S. Mascall, of the Hampshire Joint Police Force, stationed at Farnborough, Hants., having been duly sworn states:

" I am Detective Constable S. Mascall of the Hampshire Joint police Force, stationed at Farnborough, Hants. At 11 a.m. on Friday, 16th July 1943, I was making inquiries in Deverille Camp, Cove, when I came to my knowledge that Signm. Dukelow had been found in unlawful possession of a revolver. I took possession of this weapon and found that an attempt had been made to obliterate the numbers in two places, but the third set of numbers, which were not exposed to view, had apparently been overlooked and were still readable. I made inquiries and found that Signm. Dukelow had purchased this revolver about three weeks previously from Signm. Croft. I interviewed Signm. Croft who made a statement admitting selling the weapon to Signm. Dukelow, which I produce (Appendix "A"). As a result of this statement I made further inquiries inquiries and interviewed Signm. Label at Eordon Camp. At first he denied all knowledge of the revolver and of the transaction relating to it. I questioned him further and he then admitted seeing the revolver. On Tuesday, 27th July 1943, in company with Sgt. Latta of the Canadian Provost Corps. I visited the Canadian Detention Barracks, Headley, where I saw Signm. Tinston. I informed him that I was a police officer and that I was making inquiries relative to a revolver which had been found in possession of Signm. Dukelow and which I had reason to believe he knew something about. He denied all knowledge of the revolver. I cautioned him and he stated that we had got the wrong man.

On Saturday, 31 July 1943, I again visited the Canadian Detention Barracks at Headley in company with Sgt. Latta. A military identification parade was held and Signm. Croft was able to pick out Signm. Tinston as the man who had sold him the revolver. Signm. Label then entered the parade room and identified Signm. Tinston as the man he had seen with the revolver. The number of the revolver was 926620.

S. Mascall
(Detective Constable S. Mascall)

The accused declines to cross-examine this witness.

SECOND WITNESS for the prosecution

C-31808 Sigmn. Label, A., on strength No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

" I am C-31808 Sigmn. Label, A. (ROCS), on strength No. 1 Canadian Signals Reinforcement Unit. One night, I don't know the date of it exactly, I came into my hut, Spider 3 Room 5, and I saw Sigmn. Tinston with a revolver. He was fixing it, and he had it apart. I had been drinking that night. As I was sitting on the bed, I took it for granted he wanted to sell it, from something we were talking about or something. That night I approached Sigmn. Croft and asked him if he would like to buy a pistol. Well, he said something about he could sell it, but not right now. About three days later Sigmn. Croft happened to mention that he had bought the pistol and I took it for granted that he had bought it from Sigmn. Tinston. A few days later I left for C.B.G.D., Bordon, and I had forgotten about the whole thing when Captain of the Provost and the C.I.D. man called for me and spoke about a pistol and I made a statement I thought was true (Appendix "B"). Sigmn. Tinston returned from Headley and was posted to L. of C. Signals about September 15th, 1943, where I was stationed. I spoke to him about the pistol. He told me that the pistol wasn't his that night, it belonged to a fellow who was going on draft and he had to take it apart and fix it for him.

A. Label
(C-31808 Sigmn. Label, A.)

The accused elects to cross-examine this witness.

QUESTION 1: Can you identify this pistol as the pistol I had that night?

ANSWER 1 : I'm pretty sure it isn't because when I walked in here and saw the pistol on the table, it looked very different to the Army Pistol. The pistols we had were different somehow. The butt was corrugated. I think I would have noticed the smooth butt.

QUESTION 2: Do you know anything about pistols?

ANSWER 2 : Nothing at all. I've only fired them once.

A. Label
(C-31808 Sigmn. Label, A.)

THIRD WITNESS for the prosecution

B-52023 Sigmn. Croft, C.D., on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:

" I am B-52023 Sigmn. Croft, C.D. (ROCS), on strength of No. 1 Canadian Signals Reinforcement Unit. I Can't remember the date, but it must have been about 1st July 1943. Sigmn. Label came up to me and asked me if I knew anywhere I could sell a revolver and I didn't at that time. He approached me two or three times asking me the same question, and then Sigmn. Tinston approached me about the same thing. I recognize the accused as Sigmn. Tinston.

Sigmn. Dukelow asked me if I knew where he could purchase a revolver and I said I did. He asked that I get it and he would buy it from me. I went to Sigmn. Tinston and told him I had found a purchaser for a revolver. He went to his kit bag and got one and handed it to me. I took the revolver to Sigmn. Dukelow for which I got three pounds ten shillings (£3-10-0). Before this Sigmn. Tinston told me that he wanted one pound (£1-0-0) for the revolver and that I could have any amount of money over that sum which I sold the pistol for. Directly after the sale of the revolver to Sigmn. Dukelow I went right to Sigmn. Tinston and paid him one pound (£1-0-0). The rest of the money I kept. This arrangement was satisfactory to Sigmn. Tinston.

x C. D. Croft.....
(B-52023 Sigmn. Croft, C.D.)

The accused elects to cross-examine this witness.

QUESTION 1: Were you drinking that night?

ANSWER 1: No, I was sober.

QUESTION 2: Is there anyone you have ever taken for me in the camp?

ANSWER 2: No.

x C. D. Croft.....
(B-52023 Sigmn. Croft, C.D.)

FOURTH WITNESS for the prosecution

B-102257 Sigmn. DUKELOW, Charlie, on strength of No. 1 Canadian Signals Reinforcement Unit, a Soldier of the Canadian Army Overseas, having been duly sworn, states:

"I am B-102257 Sigmn. DUKELOW, C., on strength of No. 1 Canadian Signals Reinforcement Unit. On or about 2 th July 1943 I had made enquiries about purchasing a pistol. I had heard Sigmn. Croft had one to sell. I asked him if he could sell me one and he said yes. I bought a Smith & Wesson .38 calibre pistol from him for £3-10-0. I recognize the pistol now present as the one I bought from Sigmn. Croft by the filed serial number on the butt, the filed serial number on the cylinder and the two small filings on the hinge of the cylinder. I now see that the number on the pistol is 926620.

C. Dukelow.....
(B-102257 Sigmn. Dukelow, C)

The accused declines to cross-examine this witness.

FIFTH WITNESS for the prosecution

B-34012 A/Sgt. MC GRATH, J.M., on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

"I am B-34012 A/Sgt. McGrath, J.M., on strength of No. 1 Canadian Signals Reinforcement Unit. I have been employed in Q.M. Stores since June 1942, and at other units in Q.M. Stores previously. I recognize Smith & Wesson .38 calibre revolver, no. 926620 as the property of the Canadian Government by the broad arrow and the "C".

J.M. McGrath
(B-34012 A/Sgt. McGrath, J.M.)

The accused declines to cross-examine this witness.

The accused was cautioned as follows:- "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

FIRST WITNESS for the defence

The accused, B-32184 Sigmn. TINSTON, David Cyril, on strength of the No. 1 Canadian Line of Communication Signals Unit, attached to No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, elects to give evidence on oath, and having been duly sworn, states:

"I am B-32184 Sigmn. Tinston, D.C., on strength of the No. 1 Canadian Line of Communication Signals Unit, attached to No. 1 Canadian Signals Reinforcement Unit. I wish to state that I have no knowledge of this pistol or of selling one to Sigmn. Croft, but there was a pistol I fixed for a fellow who was going on draft. He had it apart and couldn't put it together and I put it together for him.

D.C. Tinston
(B-32184 Sigmn. Tinston, D.C.)

I certify that the foregoing Summary of Evidence, consisting of four (4) pages, and two (2) appendices, was taken by me in the presence and hearing of the accused, and that R.P. 4 (c), (d), (e) and (f) have been complied with.

(W.M. DePoe) Lieut., RCCS
Officer detailed to take
the Summary of Evidence.

Cove, Hants.,
23 Oct 43.
and 11 Nov 43

WOF

APPENDIX "A"

B-52023 Signm. CROFT, C.D., R.C.C.S., No. 1 Coy, R.C. Signals Wing, No. 1 Cdn Signals Reinf Unit.

B-52023 Signm. CROFT, C.D., states:-

About four weeks ago I was in Spider 3, Room 2 when Signm. Label, A. spoke to me and asked me if I knew anyone who wanted to buy a revolver as his chum had one to sell. I told him that I did not know anyone who wanted one. He inquired two or three times after that but I still did not know of anyone who wanted one. About three weeks ago Dukelow came up to Dolville Camp from Pepper Harrow and he asked if I knew of anyone who had a revolver to sell. I told him that I did. I went to the fellow who had the revolver, I don't know his name, and got the revolver from him. I told him that I knew someone who wanted one and he told me that I could have all I could get over one pound (£1.0.0.). I sold the revolver to Dukelow for three pounds, ten shillings (£3.10.0). I paid one pound (£1.0.0) to this fellow and kept two pounds, ten shillings (£2.10.0) for myself. I could identify this man again. I have been cautioned and make this statement voluntary and of my own free will and have been allowed to make any corrections I wish. I got the revolver at 6.30 P.M. but I cannot remember the date.

C.D. Croft.

(C.D. Croft) Signm. B-52023

APPENDIX "H"

C-31808 Signm. LABEL, A., R.C.C.S., on strength of No. 1 Cdn Signals Reinf Unit, attached to No. 4 Sub Depot C.B.C.D.

C-31808 Signm. LABEL, A., states:-

I am Signm. Label, attached to No. 4 Sub Depot, C.B.C.D. Between six and eight weeks ago, whilst I was stationed at Delville Barracks, Cove, Hants, in Room 5, Spider 3, I saw Signm. Tinston of my Unit with a revolver. He informed me that he had a revolver to sell, and I told him that I would speak to someone to see if he would sell it for him. I approached Signm. Croft and told him that I knew someone who wanted to sell a revolver. I was later told by Signm. Tinston that he had sold the revolver to Croft. Croft came into my room whilst Tinston was present and they got into conversation, and I then left the room and the next thing I knew was that he had sold the revolver to Croft. It was approximately a week later that Tinston told me that he had sold the revolver.

(signed) (A. Label) Signm. C-31808.

I hereby certify that the above evidence was taken under oath, also that oath was administered by me and evidence taken in my presence, 31 July 1943.

(Signed) (W.A. Miles) Capt.,
A/Adjutant
No. 4 Sub Depot 1 CBCD

LIST OF APPENDICES

APPENDIX "A"- Statement made by B-52023 Sigmn. Croft, C.G., R.C.C.S., No. 1 Coy., R.C. Signals Wing, No. 1 Canadian Signals Reinforcement Unit.

APPENDIX "B"- Statement made by C-31808 Sigmn. Label, A., R.C.C.S., No. 1 Cdn Signals Reinforcement Unit.

STATEMENT OF THE ACCUSED IN ACCORDANCE WITH R.P. 14 (B)

I, B32184, Sigmn. TINSTON, D.C., desire an officer be assigned to defend me at my trial by Field General Court Martial.

I desire the services of Lieut Simpson R.C.C.S 2ech if he is available.

.....
(B32184, Sigmn. Tinston, D.C.)

LIST OF WITNESSES

Witnesses for the Prosecution

Detective Constable S. Mascall of the Hampshire Joint Police Force, stationed at Farnborough, Hants.

C-31808 Signm. Lavel, A., R.C.C.S., No. 1 Canadian Signals Reinforcement Unit.

B-52023 Signm. Croft, C.D., R.C.C.S., No. 1 Canadian Signals Reinforcement Unit.

H-102257 Signm. Dukelow, C., R.C.C.S., No. 1 Canadian Signals Reinforcement Unit.

H-34012 A/Sgt. McGrath, J.M., R.C.C.S., No. 1 Canadian Signals Reinforcement Unit.

Witnesses for the Defence

[redacted] Washington, D.C., R.C.C.S., No. 1 Canadian Line of Communication Signals Unit, attached to No. 1 Canadian Signals Reinforcement Unit.

Officers under instruction

Lieut. P. M. Oakley CERU
Lieut. H. Vodden No 1. C.E.R.U.
Lieut. A. Hadyn Lewis No 1. C.E.R.U.
Lieut. J. M. Cummerson #1 CERU.
Lieut. K. W. Hyde #1 CSRU
Lieut. [illegible] #1 C.E.R.U.
Lieut. Jas. H. Alexander #1 C.E.R.U.
Lieut. [illegible] #1 CASC RU

Not

II-149

SGMN TINSTON D.C.

B-32184 Sigmn Tinston, D.C.
R.C.C.S. 1 CSRU
BGHQ 5-6-2/256

F.G.C.M.

Army Form A.8.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this Nineth day of July, 1943. — Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior command officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—
*(1) Three officers to form the Court.)
*(2) A Field Officer to President
for the following reasons, namely:—]

* Omit if not applicable.

Rblankley Capt

B GROUP HQ 13 JUL 1943 CDN REINFORCEMENT UNITS

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-Col	D.L. Redman	HQ CRU

Members.

Rank.	Name.	Regiment.
Capt	from	1 CSRU
Lieut	From	1 CASCRU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.R. Tyner (H.R. Tyner) Colonel
*Commanding B Gp Cdn Rft Units.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-32184 Sigmn TINSTON, David Cyril RCCS. - 1 CSRU	First Charge A.A. Sec 15(10	Guilty	Guilty	Confirmed PDTyner Brig
	Second Charge A.A. Sec 15(1)	Guilty	Guilty	13 July 43 Brig
	Sentence To undergo detention for a period of ninety (90) days and to be put under stoppages of pay until he has made good £1-4-0 the expense of his current return 13th July 1943 WM			
	See Attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) P.D.Tyner (H.R. Tyner) Colonel A/Commanding B Gp Cdn Rft Units. *Convening Officer (e)*

(Signed) WM *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of July, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 13th day of July 1943

WM

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19 .

President of the Court Martial.

D. Confirmative

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 13 day of Jul 19 43.

P.D.Tyner Brig

Confirming Officer.

Promulgated and extracts taken in the case of B 32184 Sigmn Tinston DC

(*a*) (Dated) 14 July 43 (Signed) [illegible] Capt PTI 14/7/43 D/13 July 43

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.—47767/1937 50 M. 5/41 K.H.,S.265(2) Gp. 698/2

CHARGE SHEET

The accused, B-32184 Signalman TINSTON, David Cyril (Royal Canadian Corps of Signals) on strength of the No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas,

is charged with

FIRST CHARGE
Section 15(1)
Army Act

WHILST ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE,

in that he,

at Delville Barracks, Cove, Hants., did absent himself without leave from 2200 hours 19 June 1943 until 2220 hours 21 June 1943. (Absent 2 days 20 minutes.)

SECOND CHARGE
Section 15(1)
Army Act

WHILST ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE,

in that he,

at Delville Barracks, Cove, Hants., did absent himself without leave from 0915 hours 22 June 1943 until he surrendered to the Birmingham Police, at 0810 hours 30 June 1943. (Absent 7 days 23 hours 5 minutes.) (Cost of Return to Unit £1-4-0)

(W.O. Peffers) Lt-Col
Commanding
R.C.C.S. Training Wing
No. 1 Cdn Signals Reinf Unit

Delville Bks.,
Cove, Hants.,
8 July, 1943.

To be tried by Field General Court Martial.

9 Jul 43

(H.R. Tyner) Colonel
A/Comd B Gp
Cdn Rft Units.

No.1 Canadian Signals Reinforcement Unit

13 July 43

1. I certify that B-32184 Sigmn Tinston, D.C. is fit to undergo trail by Court Martial.

B W Cameron Capt.

Medical Officer

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT GUILLEMONT BRKS, COVE HANTS
ON THE 13 DAY OF JULY 1943

B-32184
The accused...SIGMN...TINSTON...D.S...Unit.....I.C.S.R.U..

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23;

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President...~~Lt.Cdr.~~...D.H. KERMAN...Unit...H.Q. C.R.U..

Members...CAPT. W.S.P. CRESWICK...Unit...I.C.S.R.U.

...LT. H.B.STRINGER....Unit...I.C.A.S.C.R.U.

The officers under instruction are duly sworn:-

~~Three Officers Sworn~~...Unit.....

.....Unit.....

Prosecutor...LT. J.N.PINDER-MOSS...Unit...I.C.S.R.U

Defending Officer...LT. R.CHARLES...Unit...I.C.S.R.U

The charge sheet is signed by the President and the accused is arraigned.
The Accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

MM (a) Makes a statement in mitigation of punishment.
MM (b) ~~Calls witnesses as to character.~~
MM (c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

O/S R.C. was complied with. No 3262
The Court is closed ~~to consider~~ the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by accused in mitigation is in the Reverse.
Plea in mitigation is attached

The accused stated in mitigation I got leave on Nov 26th last. I have had no leave since although I tried 3 times to get it. I was annoyed. I took a week end. 20 & 21st June come home My Monday night I must away My Tuesday morning the 22nd June and took 7 days leave end surrendered. I felt justified this but now I realize it was foolish.

" . . .

DMG

#1 C.E.R.U. 14 Jul 43

Plea for mitigation of sentence
Sgtmx. Tinsdox, S.C.

Whereas the a/m sgtmx. is being tried by Field General Court Martial at #1 C.E.R.U. this 14 Jul 43, and whereas he is pleading guilty to two (2) charges of being A.W.L. from #1 C.S.R.U., Lieut. R. Charles of #1 C.S.R.U. do hereby plead for mitigation of his sentence for the following reasons:

1. Sgtmx. Tinsdox has, as will be attested by his M.F.M.G., committed no major crime during his Army Career. He has been found guilty of a number of minor misdemeanors for which, in his own mind he had just cause. This is

the result of insufficient and improper training, inspection and advice in the Army. He was not adequately informed of the advisability of following the course of duty.

2. The immediate reason for his recent absences without leave are consequent upon three refusals of leave, with no apparent or given reason. His last privilege leave was in Nov. 1942. He applied for leave in March, April and June and each time was refused, being given no reason except that leaves were not being granted. For this reason he took his leave irregardless, if he had sufficient money to do so.

3. He asked for a transfer to Infantry and was refused.

4. On the occasion for which the first charge is being laid, he received a cheque, and as it was too late to apply for a week-end, he left on Saturday afternoon, hoping that his absence would not be noted and intending to return Sunday night. He did not find it possible to return until Monday morning, when finding that he would be punished in any case, he determined to leave again the following morning, as he knew that now it would be sometime before he saw the outside of barracks again. When his money was gone, he surrendered and was returned to his unit to face

punishment

3. Sigmn. Tinston is a despatch rider and intend the service with an active career in view. He has been known as a good worker with his machine, and a good rider. His desire is to ride.

However, since February, when he came to this unit, he has had one week on his motorcycle - on a large scheme. Other than that he has had no riding at all. As in the case of scores of others in the unit in the same circumstances, he has been very dissatisfied and followed the course of numerous other D.R.s.

4. When Sigmn. Tinston returned to the unit from

Detention Barracks, where he spent a great deal of his time in the parade square and the rest on fatigues, he found that instead of being allowed to ride and do his job again, he returned to the parade square and innumerable fatigues and sundry tripling duties.

Again, as in the case of the rest of the despatch riders who are penalised and awaiting posting, he was given just cause for discontent.

This situation, incidentally, is the result of insufficient equipment for continued training of qualified men, and is unavoidable at the present time. The problem of keeping these men occupied is acute.

5. While Signor Tinston was in detention his own pay was cut off but his assigned and deferred pay continued on with the result that, when he was released, he found himself almost hopelessly involved in a debt which was forced to repay to the government. Under these conditions it is not surprising that he felt that an addition to this debt would scarcely alter his plight. Hence his increased lack of self-control when he opportunity to go P.W.L presented itself and seemed attractive.

6. Signor Tinston feels that he has had a number of unjust and unfortunate circumstances in his disfavour.

He has not had the benefit of certain "treats" that are allowed and favours granted for satisfactory conduct to the average soldier. His career has consisted of a series of disheartening setbacks in the last 6 months. Each has added to his discontent. He has not had adequate opportunity to reconstruct his way of behaviour and life - and had little desire to do so, as a result.

His present attitude seems to be that he has involved himself too deeply in the past, that he has forfeited enough money, and that it would pay him well to do his duty as laid down and to try to extricate himself from his poor record and wipe off his

debts for time wasted in detention. He has assured me that he does not see any advantage in his former behaviour and that he intends, on release, to make an honest attempt to soldier to the best of his ability.

7. One further assertion by the accused that speaks in his favour is that he wishes to continue in the Army, to perform his job, and to be sent to the Field. Here he will lead an active and interesting existence. He is not like a number of others who, in the same circumstances, feel that the Army has nothing but fatigues, regimentation and restrictions to offer them, and who are willing to go to almost

any leg he to get a discharge
or release from service. The
accused wishes to remain
in the Army, and to do a job
of work — particularly that
for which he has been trained.
He feels that he has wasted
enough time in the past and
wishes a chance to show
that he can be a good soldier.

For these reasons, sir, and
from the advice of others who
have told me that the accused
is competent to do a good job,
I plead for mitigation of
the sentence in order that
he may return as soon as
possible to the proper fulfillment
of his duties.

J. Charles Lieut.
#1 C.S.R.U. Defending Officer

SUMMARY OF EVIDENCE

Summary of evidence in the case of No. B-32164 Signalman TINSTON, David Cyril, Royal Canadian Corps of Signals, on strength of the No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on Oath.

FIRST WITNESS for the prosecution

No. B-24114 Sergeant Kerr, William Norman, Royal Canadian Corps of Signals, on strength of No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I was No. 1 Company Orderly Sergeant during the period of 19 Jun 43 to 30 Jun 43. On the evening of June 19th I received a report from L/Cpl Meads that Signn Tinston was absent. I made a check at 0615 hrs 20th Jun and Signn Tinston was not in his quarters, and to have orders to have his kit collected. To the best of my knowledge Signn Tinston was continuously absent until the evening of 21st Jun when he reported in at 2220 hrs. I produce Absentee Report at Tattoo on 19th Jun (Exhibit "A") and Absentee Report on 22nd Jun, which shows the time of his return (Exhibit "B"). On 22nd Jun Signn Tinston was again reported absent from No. 1 Company Parade at 0915 hrs, which I verified and found to be correct. This was shown in Absentee Report of Jun 22nd (Exhibit "C").

The accused declines to cross examine the witness.

W.N. Kerr Sgt

B-24114 Sgt Kerr, W.N. (RCCS)
No. 1 Cdn Signals Reinf Unit.

SECOND WITNESS for the prosecution

C-36061 Cpl Stone, E.J. (RCCS)

Certified that the attendance of this witness cannot readily be procured, as he has been despatched to No. 1 Canadian Special Base Depot. Absentee Reports, signed by Cpl Stone are attached as exhibits "A", "B" and "C".

D.E. Ley

D.E. Ley, Lieutenant.

I do not demand the attendance of this witness at the Summary of Evidence for cross examination.

D. Tinston

B-32164 Signn Tinston, D.

THIRD WITNESS for the prosecution

Lieut G.H. Castles, Royal Canadian Corps of Signals, strength of the No. 1 Canadian Signals Reinforcement an Officer of the Canadian Army Overseas, having bee duly sworn states as follows:

I, Lieut G.H. Castles, produce certificate of surre Exhibit "D", purporting to be signed by H. Worden, 20, in charge of Victoria Road Station, Birmingham I also produce certificate of arrest, Exhibit "E", porting to be signed by W. Fern, Captain R.A.P.C. area, relating to the accused.

G.H. Castles

(D... [illegible]

The accused declines to cross examine this wit...

The accused was cautioned as follows: Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do s o, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

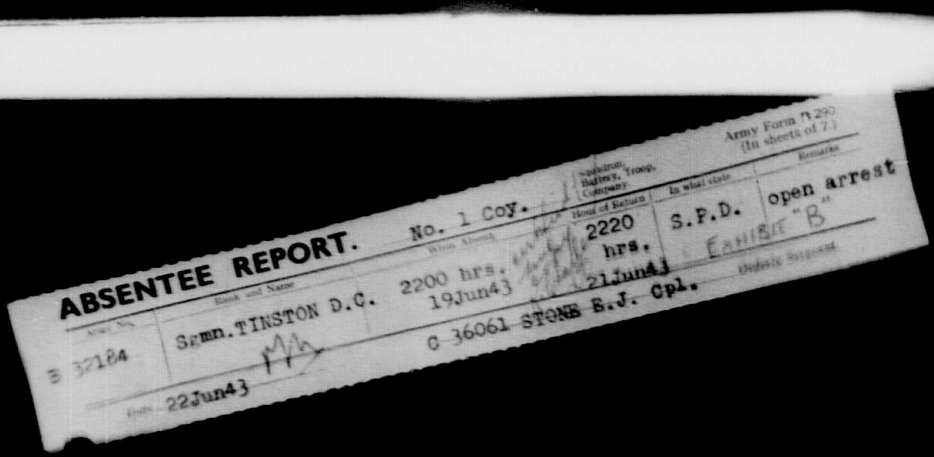
The accused declines to make any statement at this time.

I certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

D.W. Eley

(D.W. Eley) Lieutenant
RCCS Training Wing
No. 1 Cdn Signals Reinf Unit
Officer detailed to take this Summary.

Cove, Hants.,
8th July 1943.



ABSENTEE REPORT.

No. 1 Coy.

Army Form B 200
(In sheets of 72)

Army No.	Rank and Name	When Absent	Squadron, Battery, Troop, Company	Hour of Return	In what state	Remarks
B 32184	Sgmn. TINSTON D.C.	2200 hrs. 19Jun43	C 36061 STONE E.J. Cpl.	2220 hrs. 21Jun43	S.P.D.	open arrest Earlier "B"

Date 22Jun43

Ordnly Sergeant

I CERTIFY that the man whose personal description is given below surrendered himself to* PWR.D.607 Poultney, at Birmingham at (hour) 8-10a.m. on the 30th day of June, 1943, as bearing No. B.321804 (Rank and Name) Sgmn. David Cyril Tinston, a deserter (or absentee without leave) from Inverness, Can. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 20 Height 5 Feet 4½ Inches
Complexion Fresh Hair Dk. brown
Eyes Brownish green
Marks Scar on right knee.
In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	2.9.41. Toronto.
Probable Date of Desertion or beginning of absence, and from what place	30th June, 1943. (6.30 a.m.) Royal Canadian Corp of Signals, no.2 C.S.R.U. Inverness. Can.

A Worden

Signature of Officer of Police in charge of Victoria Road Station. Birmingham.6.

30/6/43 Date of Signature.

CERTIFICATE IN ACCORDANCE WITH P.O. 2797 of 10 Apr 42. EXHIBIT

I CERTIFY that No. B-32484 . Rank Sjmn. . Name . TURTON, D.C. . . . .

Unit 1.C.S.R.U. . . . . was arrested at BIRMINGHAM . . (Place)

at .0810. . .(hour) on 30 June 43 .(date) and that at the time of his arrest he was wearing (Military Uniform) ~~(Civilian Clothes)~~.
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London.
1 July 43.

. . . . . Capt.
(W. Forn) D. A. P. M.,
London Area

CHARGE

Army Form B 252
(See King's Regulations)

1.C.B.R.U. Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. B-32184 Rank Sign.

Name TINSTON, C.D.

Place BIRMINGHAM Date of Offence 30 June 43

OFFENCE W.O.A.S. Was A.W.L. from ?
until apprehended by the Civil Police at BIRMINGHAM
at about 0810 hours on the 30 June 43.

Names of Witnesses :—

P.W.R. D 607 Poultney, Civil Police, BIRMINGHAM.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment
Awarded

By wi
Award

Adjutant.

W1.W2[illegible] 100,000 7/41. K. & H., Ltd. 665743

P.T.O

Expense Voucher Re—:

Reg. No. B.32184 Rank Sgt. Name Texas

The following expenses were incurred in apprehend

Unit From London Particulars

Date	Particulars	£	s	d
	Escorts return fare from LONDON To Bc			
2 July 41	Prisoners single fare to LONDON From Bc To		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Rail~~ Meals, Bus fares			
	Total £	1	4	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

M.H.Q. 1000/55
P & S/483

Expense Voucher Re—

Ref: K.R. & O. (Can) 539

Reg. No. B-32184 Rank Sgmn Name Tiverton, H.C. Unit 1 C S R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit ~~From~~ London from Birmingham

Date	Particulars	Amount £	s	d
	Escorts return fare from LONDON To Birmingham	1	7	0
2 July 42	Prisoners single fare to LONDON From Birmingham		8	6
	To			
	Prisoners fare from		8	6
	Escorts & Prisoners expenses for ~~Bed,~~ Meals, Bus fares		~~6~~	~~6~~
	Total £	1	~~6~~	~~6~~

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

M.H.Q. 1009/55
F & S./483

LIST OF EXHIBITS

Exhibit "A" - Absentee Report at Tattoo.

Exhibit "B" - Absentee Report.

Exhibit "C" - Absentee Report at Tattoo.

Exhibit "D" - Certificate of Surrender.

Exhibit "E" - Certificate of Arrest.

LIST OF WITNESSES FOR THE PROSECUTION

D-24114	Sgt. Kerr, W.N.		No. 1 C.S.R.U.
	Lieut. G.R. Castles.		No. 1 C.S.R.U.

FOR THE DEFENCE

NIL

M.F.M. 6
A.F.B. 122
40/P&S/130 (2657)

No. B-32187 Name TINSTON D.C. | Sqn., Battery, or Company | Corps R.C.E.S. | Date of enlistment 2-4-41 | G.C. Badges | Service or Proficiency Pay NA | Character

Date of last entry in Company Conduct Sheet NA | No. and date of last drunk NA | Period not reckoning towards freedom from extra fine NA | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service					Last entry 2 Mar 42. No cases of drunkenness S. G. Jones Lt				
Field	23 Mar 42	Sgmn		Sec 15(2) Failure to appear on Staff Parade	Lt Bailey	2 days forfeiture of pay	3-3-42	Capt T. R. Evans	
"	23 Mar 42	"		" 15(1) AWL (2 days 17 hrs)	Lt/Lt Holcroft T. D.	14 days detn	31-3-42	Lt/Col T. R. Evans	7 days pay
"	27 Mar 42	"		" 15(1) AWL (3 days 12 hrs 30 mins)	Lt Mackrell A.H.				
~~"~~	~~"~~	~~"~~		~~" 15(1) AWL (3 days 12 hrs)~~	~~Lt Mackrell A.H.~~				
"	4 May 42	"		" 15(1) AWL (2 days 1 hr)	Documentary	14 days C B	7-5-42	Lt/Col T. R. Evans	7 days pay
"	16 Jun 42	"		" 15(1) AWL (23 hrs 15 mins) until apprehended	Documentary	14 days detn	24-6-42	Lt/Col T. R. Evans	8 days pay
									14 days Stoppages
"	4 Aug 42	"		" 15(1) AWL (12 days 14 hrs)	Documentary	21 days detn 28 days Pay	28 Aug 42	Lt/Col T. R. Evans	
"	28 Aug 42	"		Sec 40 damaging (cot) to extent of $1.20	Lt Bentley	Stoppage of $1.20	31 Aug 42	Lt/Col W. R. Sheriff	
"	1 Jan 43	"		Sec 15(1) AWL (4 hrs 30 mins)	Lt Mackrell	14 days C B	9 Jan 43	J. B. Kenan Maj	
"	8 Jan 43	"		Sec 40 returned to bed on petition of deserter for an extra duty for night before	Lt Mackrell	14 days F P	9 Jan 43	Lt/Col Sheriff A/Col	
"	24 Feb 43	"				14 day pay			

(P.T.O.)

Place	Date of offence	Rank	Unit or drafting-unit	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of result of proceedings with trial	By whom awarded	Remarks
FIELD	15 Apr 43	SIGMN		A.A. Sec 15(1) A.W.L. 1745 hrs. 15 April 43 until 0800 hrs, 16 Apr 43. (absent 14 hrs, 15 mins)	Sgt Kerr Sgt Hall Dr Hall	20 days F.P.	19 April 43 Pt II NO 103 d/ 21 April 43.	Major Steele	20 days pay - F.R & 2 149 (2) 1 days pay, F.R & 2 149 (1)(a) = (21 days pay)
FIELD	26 Apr 43	SIGMN		A.A. Sec 15(1) A.W.L. whilst a defaulter from 0630 hrs. 26 Apr 43 until 2145 29 Apr 43. (absent 3 days, 14 hrs 45 mins)	C 101 243 A/L/Cpl Savage (Defaulters Sgt)	28 days detn.	30 Apr 43	Major R. H. Burgess.	Forfeits 4 days pay 144 (1)(a) 7 days 7 days.
				Certified to be a true copy of the original		J Pride Lt-Col 103 Rd.			

M.F.B. 388
(GM—5-41 (272-2)
H.Q. 1172-20-620
A.F.B. 2180

'F' GROUP H.Q. 14 JUN 1941 3-6-2/226

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-32184	Signalman	TINSTON, David Cyril	1 C.S.B.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery, ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 15(1) A.W.L.	4 times	AA 15(1) A.W.L.	4 times	
For AA 40 Damaging Boots	1 times	AA 15(2) Failure to appear on Staff Parade	1 times	
For AA 40 Returned to bed on pretense of having been excused duty	1 times		times	
For	times		times	

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 13 days in military / Air Force custody, making a total of 13 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Sep 1941

7. ~~The service which the accused is allowed to reckon towards discharge is .....~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward~~ military / military

10. ~~If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force .....

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Name Unit of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Thirteenth day of July 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

5 1-15

Pte. Tipping, E.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-35923 Pte Earl Douglas TIPPING - CIC - 11 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 24(4)	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital. (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary Pay for a period of Forty (40) days.

(Sgd) ..... Judge-Advocate, if any. 6 SEP/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157. MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53. MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks for further trial.~~ (1)

(1. AA 57A. Delete if not used.)

Date 10 Sep 45 (Sgd) K Blackader (K. G. BLACKADER) Brig Comd D Gp Can Repat Units Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F35923 Pte Earl Douglas TIPPING	11 Sep 45	[signature] Cond Offr 11 Cnd Repat Depot

11 CRD Pt II DO No. 42 d/12 Sep 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 22 SEP 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 - 5T-15

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81 40/P & S/1668 74(44)) 4/38B

Convening Order of Brigadier K G Blackader DSO, MC, ED Comd D G, CRU dated 3 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-35923	Pte	Earl Douglas	TIPPING	CIC 11 Cdn Repat Dep

PROCEEDINGS REVIEWED [illegible] 22 Sept 45 [signature] REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 6 SEP 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~writing Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1320 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to C 96167 Sgt DUDERSTADT as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D L REDMAN	HQ CRU
Member	CAPT	D R KERGAN	7 CDN REPAT DEP
Member	LIEUT	N P HAGER	7 CDN REPAT DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	C W DUBOSE	11 CDN REPAT DEP
Defending Offr	LIEUT	A L CARSON	11 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 73C, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *accepting and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not under-stand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO - SIR .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case~~ against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or both or neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Give Evidence Do you intend to call witnesses on your behalf ?
Ans. Yes Sir. Are they witnesses as to character only ? Ans. NO - SIR
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.~~(1)
~~Or,~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Refer to Def Offr NOTE - ATT (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 504.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. F. 35923, Private Earl Douglas TIPPING, Canadian Infantry Corps, 11 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:

CHARGE
Sec.24(4)
Army Act.

WHEN ON ACTIVE SERVICE WILFULLY INJURING PUBLIC PROPERTY.

in that he, in the field, about 2100 hrs 19 August, 1945, wilfully injured by breaking the following public property;

12 panes window glass
1 mug drinking crockery (large)
1 large soup plate

Thereby incurring an expense to the public in the sum of £2.0.11.

J.D. Forin Col

(J.D. FORIN) Colonel,
Officer Commanding
11 Canadian Repatriation Depot

In the Field,
1 September, 1945.

To be tried by Field General Court Martial.

K.G. Blackader

(K.G Blackader) Brig
Comd
D Gp Cdn Rft Units

IN THE FIELD
3 Sep 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-35923	Pte		Earl Douglas	TIPPING	CIC 11 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 3 Sep 45 endorsed by me, (~~or by my predecessor in command~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable that the court for the trial of the said offence should be assembled without~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby appoint as President of the Court the officer whose name is written opposite hereto, and I direct~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate the officer whose name is written opposite hereto.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

LT COL (Rank.)	D L REDMAN, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Comd	7 Cdn Repat Dep
Lieutenant (Rank.)	to be detailed by Comd (Named or detailed. RP 106.)	7 Cdn Repat Dep (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.) ~~MEMBER ADVOCATE~~	(Unit.)
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 3 Sep 45

K G Blackader
(Signed personally. RP 105 fn 2.)
(K G Blackader)
Brigadier (Rank.)
Commanding D Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

September 6th, 1945.

I certify that No. F. 35923, Private Earl Douglas TIPPING, CIC, 11 Canadian Repatriation Depot is in F/F state of health and is F/F to undergo trial by Court Martial.

.....Capt.
RCAMC att'd 11 Can. Repat. Depot.

TRIAL OF

F-35923 PTE TIPPING ED CIC - 11 CDN REPAT DEPOT

PROSECUTION

FIRST WITNESS

F-82334 PTE GALLANT EJ, "B" Wing, 11 Cdn Repat Dep, sworn, states:-

Q. Will you tell the Court in your own terms what happened on the night of 19 Aug 45?

A. At about 2100 hrs I was lying on my bed when Pte Godin and Pte Tipping, the accused whom I recognize in this Court, came in together. Both men came over to my bed at one end of the hut, a Nissen hut, and they started to talk to me. Pte Godin remained talking with me while the accused walked toward the centre of the hut and started to throw a mess tin, a water bottle, a drinking mug, a drinking glass, some kind of a brick which he threw at the windows, different windows, three windows. At the same time he was saying he was practising playing ball. Pte Godin started to talk to me after that; I'd say it was about 2230. I think he went out and came back in and sat down on my bed and the Orderly Sergeant walked in.

Q. What was the conversation before this throwing started?

A. I don't think anything was said. I can't remember just now as I forget.

Q. Did you think the accused had been drinking?

A. I think, yes he was drinking; I don't know how much. He didn't appear to be drunk.

Q. Can you describe to the Court your impression of the accused's intentions while throwing?

A. As far as I know he was practising playing ball.

Q. Can you give the Court any opinion regarding the direction and his accuracy of aim at the object that he threw?

A. He got up to the centre of the room where the stove is and he started to "fly" at the windows; some did hit the windows some didn't.

CROSS-EXAMINED

Q. Have you know Tipping very well?

A. No, Sir.

Q. Have you ever seen him drunk?

A. No, Sir.

Q. Would you know how he acts when he is drunk?

A. No, Sir.

Q. Did he appear to throw these things deliberately or just playfully?

A. He was laughing all the time and was playing ball; that's all I know.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B)

COUNTER NUMBER 591545

HOUR 2314

OPERATOR'S INITIALS

RELIEVING OPERATOR E. M.

SECOND WITNESS

D-183666 A/SGT KNOX HM, "B" Wing, 11 Cdn Repat Dep, sworn, states:-

Q. Will you tell the Court in your own terms exactly the happenings as you saw them on the night of 19 Aug 45?
A. At about 2300 hrs, on 19 Aug 45, I visited Nissen Hut No D-15 and found twelve panes of window glass broken and the glass lying on the floor of the hut. These panes were small panes.

Q. Were they on one frame?
A. No, Sir, there are four panes to a frame. Twelve panes were broken in all in three different windows. On the floor there was a broken drinking mug and one large meal plate.

Q. Where were these articles in relation to the windows?
A. The dishes on the floor were not near the windows. I saw the accused, Pte Tipping whom I recognize in this Court at the time. I asked him if he had done that and he said, "No". After questioning some other soldiers in the samehut, he was arrested.

Q. Why did you visit that hut?
A. On the occasion of taking the tatoo roll call as Coy Orderly Sergeant that night.

CROSS-EXAMINED

Q. Would you say that the accused had been drinking that night?
A. I can't say he was drunk but I could say that he had been drinking that night.

Q. How did he act?
A. He was acting a little disorderly.

QUESTION BY THE COURT

Q. Would you know that he had been drinking?
A. I can't say that he had been drinking.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B)

THIRD WITNESS

Lieut J.A. STOUSE, Barracks Officer, "B" Wing, 11 Cdn Repat Depot, sworn, states:-

Q. Did you determine in your capacity as Bks Offr the breakages found in Nissen Hut D-15 and how much you valued them to be?
A. Yes, Sir, twelve window panes were broken; one pane is 18" x 6" and is valued at 3s.4d and for the twelve the cost of replacing them is £2 exactly. I obtained these estimates from the British Barrack authorities. For one large drinking mug 5d; and for the large soup plate, 6d. I obtained these prices from the M of "B" Wing.

HM

Q. Have you had any experience in re lacing glass in the barracks?
A. Yes, Sir.

Q. And with replacing drinking mugs and soup plates?
A. No, Sir.

Q. Do you think these prices are reasonable?
A. Yes, Sir.

Q. Can you tell to the Court if any other officer expressed his opinion to you that the prices were unreasonable in the case of the soup plate and the drinking mug?
A. Yes, Sir, I heard afterwards that the prices charged for these is higher than that.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THE PROSECUTION IS CLOSED

- DEFENCE -

FIRST WITNESS

The accused, sworn, states:-

Q. Do you remember what went on on the night of 19 Aug at 2100 hours?
A. No, Sir.

Q. Had you been drinking that night?
A. Yes, Sir.

Q. At what time did you start drinking?
A. At the NAAFI at 1830 hrs and I drank until it closed at 2130 hours. I was drinking all the time I was in there.

Q. Have you any idea how much money you spent?
A. Yes, Sir, around £1.

Q. What do you drink usually?
A. Beer.

Q. Had you had beer that night and how does it affect you?
A. Yes, it seems to go to my head if I drink too much.

CROSS-EXAMINED

Q. You have been in the army now for some little time?
A. Yes, Sir.

Q. You have met soldier who no doubt had occasion to drink a little more than you have, can you explain why you were more affected from what you drank, was there some celebration going on?
A. No, Sir.

Q. Can you account at all?
A. Yes, Sir, it was VJ-Day.

Q. Am I correct when I say that you maintain that you don't remember anything at all of that incident in the hut?
A. Right, Sir.

Q. Can you remember the Orderly Sgt?
A. No, Sir.

Q. Can you remember the presence of Pte Gallant?
A. No, Sir, all I remember is when I woke up in a cell the following morning.

Q. Can you remember any time since the 19th of August when you admitted to an officer that you caused that incident and why you commited this breakage?
A. I didn't exactly say I did it, Sir, but Gallant and Sgt Knox and Godin, the witnesses said I did it and saw me do it, so I decided I must have done it.

RE-EXAMINED

Q. Pte Gallant said you were playing ball, did you ever play ball?
A. I didn't in the army, Sir.

Q. Did you play very often in civilian life?
A. Yes, Sir.

Q. Is this your only sport?
A. No, Sir, I play hockey.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

SECOND WITNESS

C-1148 PTE GODIN, S, "B" Wing, 11 Cdn Repat Depot, sworn, states:-

Q. Were you with Pte Tipping on the night of 19 Aug 45?
A. Yes, Sir.

Q. How long were you with him?
A. Two hours.

Q. Were you with him at the time he came in the hut after coming back from the NAAFI wet canteen.
A. Yes, Sir.

Q. How long have you known him?
A. Three months, Sir.

Q. Have you been out with him very much?
A. No, Sir, just a few times.

Q. Have you ever seen him drunk?
A. Not very drunk; I saw him drunk that night, Sir.

Q. You say he was drunk that night?
A. Yes, Sir.

Q. Was he troublesome?
A. No, Sir.

CROSS-EXAMINED

Q. How much did he have to drink?
A. I don't know, Sir, but he was pretty drunk and he staggered all over.

Q. Could he talk plainly?
A. Not very much.

Q. Were you in the hut at the time the breakages took place?
A. Yes, Sir.

Q. What did you see?
A. I saw Pte Gallant and the accused in the hut talking to each other. I sat on the bed and the accused started to throw things down the hut and he said he was playing ball. I heard some glass being broken. The only thing I remember the accused saying is that he was practising playing ball.

Q. What did you do when these things were being thrown around?
A. I got up and told him to keep quiet. After that I went outside and the accused went outside too. I came back and Pte Tipping was just coming in.

IN THE OPINION OF THECOURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

THE DEFENCE IS CLOSED

STATEMENT BY THE DEF OFFR ON THE FINDINGS

On the evening of 19 Aug 45, as a result of having been in the canteen from shortly after opening time until closing time, and having consumed quite a lot of beer during this time, he seems to have become quite drunk resulting in his becoming playful and lively, so he naturally thought of his favourite sport - baseball. During the period when he was in this happy frame of mind his enthusiasm overcame him andnot realizing what he was doing began to practise baseball by throwing the nearest object to him, which happened to be the articles mentioned in the summary of evidence, thus causing damage unknowingly to public property. Such was his condition that he did not realize what he had done then nor has he since been able to recall his actions. All he knows about the happenings of that period is what he was told when he awoke in the Guard Room the next morning. On being stopped, by Pte Godin, his mind was diverted from baseball and it was then directed to food, as the mind of a drunken man may be diverted, so he left the hut and got some. It is very plain that these actions on his part were commited during a period when he was drunk and unable to control himself.

STATEMENT BY THE PROSECUTING OFFICER ON THE FINDINGS

I'd like the Court to bear in mind at this point that the case of the prosecution rests on the evidence of two witnesses who are reliable witnesses and who said that the accused had been drinking and that they didn't consider him sufficiently drunk to be non compos mentis.

THE COURT CLOSES

THE COURT RE-OPENS

PLEA IN MITIGATION OF PUNISHMENT BY THE DEF OFFR

Pte Tipping enlisted in the Cdn Army at the age of 18, while he was too you young for overseas service. After completing his basic and advanced training he was employed as a GD soldier until he was old enough for overseas service.

He was sent overseas where he completed his final training before being posted to the NOrth Nova Scotia Highrs on 6 Sep 44.

He performed his duty in the field with this unit faithfully until on 12 Oct 44 he was wounded in the ankle and evacuated to hospital, where on his recovery, he was medically boarded and his Pulhems Profile was altered to "1A". He volunteered for CAPF on 26 May 45. Since then he has been employed in the UK as a GD soldier. His manner is quiet and retiring and his record has been quite good. The accused by his own admission has been quite happy in the army and has never had any reason to cause any physical harm. He is, at times, inclined to be playful. He has played baseball and hockey but his activities along the lines of participating in his favourite pastimes have been curbed by the fact that his ankle causes him great pain when over-excited.

E-3

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F. 35923	Private	Earl Douglas TIPPING,	CIC, 11 Cdn.Repat.Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence Without Leave — 4 times.

For _____ — _____ times.

For _____ — _____ times.

For _____ — _____ times.

Date of first entry in Field Conduct Sheet 4 Jan. 1944

Date of last entry in Field Conduct Sheet 12 Aug. 1945

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. NIL

*Strike out if not applicable.

~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 6th day of September 1945.

Major
Regtl Adjutant 11 Can Repat Depot
~~Offr~~ having custody of original rec.

No. F.35923 Name TIPPING, E.D. Certified True Copy as Compiled from M.F.M. 2.

Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Tradesmen's Rates of Pay

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.F.B.122) 750M—12/47 (7537) H.Q. 1772/39-1047

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot, N.S.	4 Jan 1944	Pte.		A.W.L. from 4 Jan to 29 Jan 44 (Close Arrest)		14 days Detn.	31Jan44		Tot. Forf. 41 dys Pay & Allow.
Field		Pte.		A.A. 15(1) Absence Without Leave		forf. 11 days pay.	12Dec.44		
Field		Pte.		A.A. 15(1) Absence Without Leave		Admonished	23 Apr.45		Forf. 1 days Pay.
Field	12Aug. 1945	Pte.		Sec 15(1) A.A. AWL from 0700 hrs 12 Aug 45 until 0830 hrs 13 Aug 45. Absent 1 day, 1 hr & 30 mins.	Sjt Sorboe, M. Sjt Mann, C.	7 days CB	14 Aug 45	Maj G.I. James	Forf. 2 days pay FR&L 149(1)(a)

Certified that this is a true copy of M.F.M. 6 as compiled from M.F.M. 2 as of Sept 6, 1945

.....MAJOR&ADJUTANT

Officer having custody of Regtl Records.

(P.T.O.)

SUMMARY OF EVIDENCE

In the case of No. F. 35923, Private Earl Douglas TIPPING, Canadian Infantry Corps, 11 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on Oath.

FIRST WITNESS: No. F. 82334, Private GALLANT, E.J., "B" Wing, 11 Canadian Repatriation Depot having been duly sworn states:

About 2100 hrs 19 Aug 45 when I was lying awake on my bed in Nissen hut D-15, "B" Wing, 11 Canadian Repatriation Depot, I saw No. G. 18888, Pte. Godin, S. and the accused whom I recognize as No. F. 35923, Pte. Earl Douglas TIPPING of 11 Canadian Repatriation Depot walk into the said hut together. They both came over to my bed and talked with me. Pte. Godin remained talking with me while the accused walked toward the centre of the hut and deliberately threw a water bottle, a stone, a drinking glass and a drinking mug at the windows at the end of the said hut breaking twelve panes of window glass saying at the same time "I am practicing playing ball". Godin stopped the accused. Godin and accused went out of the hut together and later returned with some food on a plate. I do not think he was drunk though he appeared to have been drinking alcoholic beverages.

EJ Gallant Pte.

The accused declined to cross-examine this witness.

SECOND WITNESS: No. D. 125666, Pte. (A/L/Sgt.) KNOX, H.M., "B" Wing, 11 Canadian Repatriation Depot having been duly sworn states:

At about 2300 hrs 19 Aug 45 acting as Orderly Sgt. of Admin. Coy., "B" Wing, 11 Canadian Repatriation Depot, I visited Nissen Hut D-15 and found twelve panes of window glass broken and the glass lying on the floor. On the floor of the said hut were one broken mug drinking crockery large and one broken plate soup large. The accused whom I recognized as No. F. 35923, Pte. Earl Douglas TIPPING of 11 Canadian Repatriation Depot was then in the said hut. I asked him who was responsible for this damage. He replied that he did not know. As a result of further questioning of other soldiers in the hut the accused was then placed in arrest.

HM Knox L/Sgt.

The accused declined to cross-examine this witness.

THIRD WITNESS: Lt. J.A. Stouse, Barracks Officer, "B" Wing, 11 Canadian Repatriation Depot.

A written statement of this Witness's evidence purporting to be signed by him has been read to the accused and is included in the summary of evidence, as Exhibit "A". In my opinion the attendance of this witness cannot readily be procured owing to the exigencies of the service.

E.J. McCormick
(E.J. McCormick) Lt.

I, the undersigned accused do not require or demand the attendance of Lt. J.A. Stouse for cross-examination.

E.D. Tipping
No. F. 35923, Pte. Earl Douglas TIPPING

Question to the accused:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused:

I have nothing to say.

The accused declined to call any witnesses for the defence.

I certify that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with and that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused.

E.J. McCormick
(E.J. McCormick) Lt.
Officer detailed to take the summary of evidence

In the Field,
1 September, 1945.

E + A

"B" Wing 11 Cdn Repat Depot

20 Aug 45

BARRACK DAMAGES TO HUT # D 15 ON NIGHT OF 19 AUG 45

Windows :

12 Panes glass broken @ 3s.1d. - £ 2.0.0

Note: One mug drinking crockery (large) - 5d
One large soup plate - 6d
TOTAL £2. 0. 11d.

The a/m were found broken, lying on the floor of the m/n hut.

Exhibit A
E M Connolly Lt
Officer detailed to
take Summary of
evidence

(J A Stouse) Lt
Barracks Officer
"B" Wing
11 Cdn Repat Depot

I, No. F. 35923, Private Earl Douglas TIPPING, 11 Canadian Repatriation Depot, acknowledge that I have this day at 1030 hours been served with the following documents free of charge; (a) Copy of Summary of Evidence and (b) Copy of Charge Sheet both in connection with my forthcoming trial by Field-General Court Martial.

In the Field,
1 September, 1945. E.D. Tipping Pte.

I, No. F. 35923, Private Earl Douglas TIPPING, 11 Canadian Repatriation Depot, acknowledge that I have been informed that the convening officer may appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at my trial by Field-General Court Martial and I have been advised of my rights to retain counsel. I do not intend to retain the services of counsel but desire to have a defending officer assigned to represent me at my said trial. I desire the services of LT. A.L. CARSON if he is available for this purpose. I waive the 7 days notice mentioned in Rule of Procedure 89 (B).

In the Field,
1 September, 1945. E.D. Tipping Pte.

LIST OF EXHIBITS

See Summary of Evidence

LIST OF WITNESSES

For the Prosecution - See Summary of Evidence

For the Defence - NIL

STATE OF TRAINING OF ACCUSED

No. F. 35923, Private Earl Douglas TIPPING, 11 Canadian Repatriation Depot is a fully trained soldier who served with the North Nova Scotia Highlanders from September, 1944 to October 12, 1944 in Holland and was wounded in action.

MEDICAL CATEGORY OF ACCUSED

No. F. 35923, Private Earl Douglas TIPPING, 11 Canadian Repatriation Depot is 25, 1141111 Pulhems.

M. JOINT TRIAL

106 - a/K/Cpl. TISDALE, J.A.

107 - Sgt. BERRIDGE, W.W.

108 - Sgt. FUSSELL, M.

109 - Sgt. McKENZIE, A.J.

110 - Sgt. SISCOTH

O. H. M. S.

M. F. B. 270
1000M-12-40 (9968-69-70)
H.Q. 1772-89-67

106
107
108 M
109
110

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 24th day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *(and that it is not practicable to delay the trial for reference to a superior qualified officer);

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named appointed or detailed hereunder,

*(I am unable to appoint

*(1. Three Officers to form the Court;)

*(2. A Field Officer as President;)

*(3. Three Officers having more than one year's service.)

for the following reason, namely:—)

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

Proceedings reviewed
Gen Graham (Lt)
Convening Officer (pro tem)
7 Sept 42.

Judge-Advocate: Captain R.A. Ritchie H.Q. 3 Cdn Div.

President.

Rank.	Name.	Regiment.
Major	J.S. Merrett	Royal Winnipeg Rifles

Members.

Rank.	Name.	Regiment.
Captain	R.M. Lendrum	1 C.Scot R.
Captain	A.S. Gregory	Regina Rif.

*Signed C.B. Price
Commanding (C.B.Price) Major-General.
3rd Canadian Division.
Convening Officer.

* Be signed personally by Officer personally in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K29268 A/L/CPL TISDALE J.A. P.10857 SPR BERRIDGE W.W K209196 SPR FUSSELL M. M41725 SPR McKENZIE H.J. F91731 SPR SISCO T.H 611 q 6 CON FD COY R.C.E.	FIRST CHARGE A A Sec 9(2) SECOND CHARGE A A Sec 10(2) THIRD CHARGE A.A Sec 40. CHARGES	ALL ACCUSED PLEADED NOT GUILTY TO ALL CHARGES	K29268 A/L/CPL TISDALE J.A. 1st Charge NOT GUILTY 2nd Charge GUILTY 3rd Charge GUILTY P10857 SPR BERRIDGE W.W 1st CHARGE NOT GUILTY. 2nd CHARGE NOT GUILTY 3rd CHARGE GUILTY K219196 SPR FUSSELL M. 1st Charge NOT GUILTY 2nd Charge NOT GUILTY 3rd Charge GUILTY M41725 SPR McKENZIE H.J. 1st Charge NOT GUILTY 2nd Charge GUILTY 3rd Charge GUILTY F 91731 SPR SISCO T.H 1st Charge NOT GUILTY. 2nd Charge GUILTY 3rd Charge GUILTY SENTENCE. K 29268 A/L/CPL TISDALE to be reduced to the ranks J.A. and to undergo detention for a period of 45 DAYS P 10857 SPR BERRIDGE W.W. 28 DAYS DETENTION K.219196 SPR FUSSELL M. 28 DAYS DETENTION M.41725 SPR McKENZIE H.J. 28 DAYS DETENTION F 91731 SPR SISCO T.H. 60 DAYS DETENTION.	Confirmed G.B.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.B. Price (G.B. Price) Major-General, *Commanding* 3rd Canadian Division. *Convening Officer* (*c*)

(Signed) J.Emerett Major *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn. 3. the Judge Advocate

* Omit if not applicable.

Signed this 3rd day of August 1942

J.Emerett Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~, 19~~

~~*President of the Court Martial.*~~

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further order.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer has no authority to commit to prison, or having such authority, recommends suspension.

Signed this 8th day of August 1942

G.B. Price
Confirming Officer.

(*a*) (Dated) 12 August 1942 Promulgated and extracts taken in the case of K 29268 A/L/Cpl Tisdale, J.A. P.10857 Spr.Berridge,W.W.;K 29196 Spr.Fussell, M.; M 41725 Spr. McKenzie,H.J.;F 91731 Spr. Sisco, T.H. (Signed) McKenzie, Major, Commanding 6 Fd. Coy. R.C.E.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(38729) Wt. 40113—923 500 m. 1/40 P. St. G. 640

3 F
10 Aug

6TH FIELD COMPANY, R.C.E., CA(C/S)

"H"

I hereby certify that I have today examined P.10657 Spr. BERRIDGE, W.W. and find him fit to undergo trial by Court-Martial.

3 August 1942

C.O. Howard Capt.
Medical Officer

6TH FIELD COMPANY, R.C.E., CA(C/S)

I hereby certify that I have today examined K.29196 Spr. FUSSELL, M. and find him fit to undergo trial by Court-Martial

3 August 1942

C.O. Bowman Capt.
Medical Officer

6TH FIELD COMPANY, R.C.E., CA(O/S)

I hereby certify that I have today examined M.41725 Spr. MCKENZIE, H.J. and find him fit to undergo trial by Court-Martial.

3 August 1942

C O Bowman Capt.
Medical Officer

6TH FIELD COMPANY, R.C.E., CA(O/S)

I hereby certify that I have today examined F.91731 Spr. SIBCO, T.H. and find him fit to undergo trial by Court-Martial.

3 August 1942

.....Capt
Medical Officer

6TH FIELD COMPANY, R.C.E., CA(O/S)

I hereby certify that I have today examined K.29268 A/L/Cpl. TISDALE, J.A. and find him fit to undergo trial by Court-Martial.

3 August 1942

Medical Officer

The accused persons : K 29268 A/L/Col. Fisdale, J.A., F 10857 Sapper Berridge, W.W., K 29196 Sapper Russell, M., M 41725 Sapper McKenzie, H.J., F 91731 Sapper Sisco, T.H., all of 6 Cdn Fd Coy R.C.E. being members of the Canadian Army Overseas on Active service are charged with:-

FIRST CHARGE
A.A. Sec 9(2)

Disobeying a lawful command given by their superior officer
in that they
in the field on 16 July 1942 at or about 2300 hrs when ordered by H 19527 Sgt MacBean, R.L. of No. 4 Provost Coy to clear the street, did not comply with this order.

SECOND CHARGE
A.A. Sec 10(3)

Resisting an escort whose duty it was to have them in charge
in that they
in the field on 16 July 1942 at or about 2300 hrs while being placed under escort by members of the No. 4 Provost Coy resisted the escort by hitting and struggling.

THIRD CHARGE
A.A. Sec 40

Conduct to the prejudice of good order and military discipline
in that they
in the field on the 16th day of July 1942 at or about 2300 hrs created a disturbance in a public street.

G D Mills, Lieut

(G.D. Mills) Lieut.,
A/O.C. 6 Field Company, R.C.E.

To be tried by
Field General Court-Martial.

C B Price

(C.B.Price) Major-General.
G.O.C. 3rd Canadian Division.

Signed in the Field,
this 24th day of July, 1942.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GENERAL Court-Martial held at IN THE FIELD.

on the 2ND day of JULY 19 42. by order of

Commanding

dated the day of 19

President.

MAJOR. J. S. MERRETT. ROYAL WINNIPEG RIFLES.

Members.

CAPT. R. M. LENDRUM. 1. C. SCOT. R.

CAPT. A. S. GREGORY REGINA RIFLES.

CAPT. R. A. RITCHIE. H.Q. 3rd Cdn Div., Judge Advocate.

Trial of* K. 29268 A/L/CPL TISDALE J. A.
P 10857 SPR BERRIDGE W. W.
K. 29196 SPR FUSSELL M.
M. 41785 SPR MACKENZIE H. J.
F 91731 SPR SISCO T. H.

The order convening the Court, the charge-sheet and the summary ~~(original sheet)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† LIEUT. G. E. MILLS R.C.E.

~~Counsel,~~ or defending officer† MAJOR H. H. MINSHUL R.C.E.

At 1430 o'clock the Trial commences.

The order convening the Court is read, and is marked G, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16839/78. 35,000 sets. 8/40. K. & H., Ltd. G467/11. Forms A 9/55.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

L29268	A/L/CPL	TISDALE J.A.	NOT GUILTY.	
P10257	SPR	BERRIDGE. W.W.	NOT GUILTY.	*Answer.*
R219196	SPR	FUSSELL M.	NOT GUILTY	
M41725	SPR	MCKENZIE H.J.	NOT GUILTY.	
F91731	SPR	SISCO T.H.	NOT GUILTY.	

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

L29268	A/L/CPL	TISDALE. J.A.	NOT GUILTY.	
	SPR	BERRIDGE. W.W.	NOT GUILTY.	*Answer.*
R219196	SPR	FUSSELL. M.	NOT GUILTY.	
M41725	SPR	MCKENZIE H.J.	NOT GUILTY.	
F91731	SPR	SISCO T.H.	NOT GUILTY.	

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

L29268	A/L/CPL	TISDALE. J.A.	NOT GUILTY.	
	SPR	BERRIDGE. W.W.	NOT GUILTY.	*Answer.*
R219196	SPR	FUSSELL M.	NOT GUILTY.	
M41725	SPR	MCKENZIE H.J.	NOT GUILTY.	
F91731	SPR	SISCO T.H.	NOT GUILTY.	

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

C

*Instruction. (See R. P. 39 (A))

Proceedings on Plea of Not Guilty.

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. ALL THE ACCUSED REPLY. NO

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. H 19527 SGT MAC BEAN A.L.

being duly sworn, is examined by the prosecutor.

I am a member of No 4 Provost Coy
At about 2300 hrs on 16 July 1942 I had
been patrolling up town in Lewes and
returned from billets Wharf Haulk
Malling St Lewes. I found a crowd of
soldiers gathered in front of our
billets. I found them the members
of 6 Fd Coy R.C.E. Causing trouble
I asked them their reason for gathering
there. L/Cpl Tisdale (who I can identify)
spoke up asking me what
fucking business it was of mine
and asked "Who are you anyway?
Hold him I was a Provost Sergeant.
Him and his mates laughed at me.
Seeing that I could not do any more
by myself I called all available men
I had in our billets, five men &
beside myself. I then ordered the Civilian
to move on, they did not comply
with my orders. A Civilian then
drove up and wanted to pass
but could not do so as members
of the R.C.E were blocking the street

(2)

ordered them down off the street but they took no notice, they did not comply with my order. Ordered my men to place them under close arrest. When placing them under close arrest they resisted and offered violence. We were able to place five of those present, but many more who got away, but we arrested four and took them down to the police station. They were held in the police station until released by their unit at about 0130 hrs 17 July 1942

Q How many more than four were present at this time?

A When I first spoke to them there would be fifteen or eighteen there

Q. Did they all join in the resistance of arrest.

A. It was a case of free for all. Some of them got away.

CROSS-EXAMINED.

Q. Did you observe any indication of drunkenness

A. There was an indication of drunkenness.

Q. Did you see them run?

A. Not personally but they had passed us several times from time to time.

Q. Did you draw your gun at any time?

A. Definitely not.

Q. Did you kick a man?

A. Definitely not.

Q. How dark was it at this time?

A. Rather fairly dark you could recognise a man at fifty feet.

BY THE COURT:

Q. What do you mean by offering violence?

A. When I first came under ~~fire~~ close quarters my men used force and Sisco took a swing at me and one of his men took a beer bottle and was going to hit me with it.

Q. Can you swear that all these accused took part in the brawl?

A. Sisco and Tisdale I can swear to. The others were there when they were arrested by but I cannot be sure that they actually took part in the brawl

Q. Was there any hitting?

A. Yes with fists only. My men hit out after I had ordered them to arrest these men & after the engineers had hit at them.

Q Do you remember having had specific difficulty in arresting any of these men other than Sisco and Tisdale?

A. No except that we had to help them get into the truck, we had to take them by hand. They did not climb in voluntarily

ROLE OF PROCEDURE 83(B) COMPLIED WITH.

SECOND WITNESS FOR PROSECUTION. L22858 L/Cpl ZARBROOK. T. having been duly sworn states:

I am a member of No 4 Provost Coy I was returning from Court Police in town on 16 Aug 1942 and I entered our barracks at about 2300 hrs and noticed quite a few soldiers standing around outside. Sgt McBean had come in a few minutes ahead of me and I accompanied him outside. He asked the soldiers what they wanted around the billets at that hour of the night. The answer he got was "Who the fuck are you?" Sgt McBean's answer was "I am a senior NCO and should be respected as such." There were a few snickers and laughs. Sgt MacBean called out the rest of the boys that were in, when he came out again he asked the soldiers in the street if they were going to leave. I did not hear any answer given to that. There was a scuffle back. Saying to pass and they moved out of the street. Sgt MacBean then ordered us to put the soldiers in the street under arrest. I was standing behind Sgt MacBean while he was talking to Spr Sisco. I saw Sisco strike at the Sergeant. The Sergeant staggered back and I stepped in and hit Spr Sisco. I must have hit him two or three times I think. When that was over most of the fighting that had been going on was

over two. Sgt Mackean then ordered two
to put their soldiers in the truck and
he took them up to the Lewis police
Station and then returned to our
billets.

Q. When Mackean first spoke to the
men who was it that answered?

A. Pte. L/Cpl Tisdale who I can identify.

Q. How many soldiers were in this fight?

A. I would say about 10 soldiers when the fight started.

Q. Was there any un-cleanliness on the part of these soldiers.

A. Yes sir. I would say that they had been drinking.

Q. What sort of violence was used by the Provost.

A. Fist their fists.

CROSS-EXAMINED

Q. Was it unusual for men to be in the street?

A. At that hour - nothing about the Barracks, yes definitely unusual, they were spread out along the street.

Q. How did your knuckle get sore?

A. When I struck him with my fist I did not kick him.

Q. Was this a civilian truck you speak of and where was it going?
A. It was a civilian vehicle going out of Lewis.

By The Court

Q. Did you see any of these men except Soto - Officer Tisdale resisting arrest?
A. No. I can't say I did.
Q. Can you identify any of these men other than Soto & Tisdale as having been in on the fight.
A. No I can not.
Q. Can you identify any of these men as having been in the crowd outside the house before the trouble started?
A. Yes Officer Russell & McKeiver.
Q. Do you know the 5th man at all?
A. No I don't.

RULE OF PROCEDURE
83(B) COMPLIED WITH

Third witness for the Prosecution

F. 77488 L/Cpl HOLLINGSWORTH. S.T. having been duly sworn states:

I am a member of the No 4 Provost Coy. While coming off the Newtownards police into my billet I saw a number of boys standing outside my billet. Late L/Cpl Haggarty called me out as there was a disturbance outside. I went out to clear the boys; put them in a lorry and took them to the police station and returned to my billets.

I have no idea how many soldiers were outside the billets. We had to force by place those men under arrest. Just enough force to put them in the lorry, no weapons were used that I saw. I did not see any of the accused offer resistance or strike any of the provost. I can identify 5460 as having been taking part in the free for all. I saw him knock down one of our men L/Cpl Quarrillon. I heard the sergeant order the men to move on and they refused. I did not see a civilian hit. I could not say how hard it was.

CROSS-EXAMINED BY DEFENDING OFFICER:

Q Did anyone challenge you with a bottle of beer.

A- Yes sir.

Q. Can you recognise him.

A- No Sir.

Q. Did you draw a gun

A No Sir.

Q How many men were working on B300?
A I do not know.
Q When you arrived on your beat did you observe any disturbance?
A. No not at that time but when I was called out after words there was.

RULE OF PROCEDURE 83(B) COMPLIED WITH.

FOURTH WITNESS FOR PROSECUTION

F. 45138 L/CPL HAGGARTY. W.T having been duly sworn States:

I am a member of the No 4 Provost Coy

At approximately 2300 hrs on 16 July I was in my barracks and I was called out by Sgt Rackham and when I got outside I saw a bunch of men on the road. I heard the Sgt order them to move on. A civilian truck came down the road accordin got by and the Sgt ordered them right off the road which they did not do. I also heard Gpn Sisco telling the sergeant to go back himself and he also took a swing at him. I did not see him, I cannot say who it was, but L/Cpl Hallenig swore he took a bottle.

I can identify Gpns Sisco, Hallenig and Russel as having been present before the fight started. Sisco took a swing at him but did not hit, the Sergeant. No weapons were used by the provost so far as I know.

Cq

CROSS-EXAMINED.

D. How many soldiers were outside the billet at this time.

A. About 15 I believe say

Q. How close were you to the man who hit Hollingsworth?

A. ~~I say~~ About five feet.

Q. Who was he?

A. Sgt Russell.

Q. Did you kick a man?

A. No.

Q Can you identify Russel as the man who struck Hollingsworth?

A No and I am not sure that he struck him.

Q. Where did the bottle of beer come from?

A. I could not say.

RULE OF PROCEDURE 83(B) COMPLIED WITH.

FIFTH WITNESS FOR PROSECUTION

F.49995 L/Cpl LOWDEN. W.H. having been duly sworn states:

I am a member of No 4 Provost Coy. At about 2300 hrs on 16 July 1942 I had just put my kit away when the Sergeant came around and told me there was some trouble out in front of our Billets. Lt Heelbeam said there might be some trouble. There was a lot of talking going on out in front & they were creating a row in general. The other Provost

the by myself & the Sergeant went outside.
The Sergeant asked them to move on
and they refused to go. They were
standing in the middle of the lane
outside the house. A Civilian lorry
came along & couldn't get by, so
asked them to move on and they
all moved except one. He would
not move and finally Held
him by out of the road and let-
him the Civilian lorry by and he replied
to one "Fuck the Civ. Con" and then
took hold of him and moved him
off the road. One that reached near the
fellows shoulder and took a part at
me and that caused the Civ Signal
for Everyone to start Swinging.
Shortly there were quite busy for
a while and some of them went
away. What was left we took up
in a lorry to the police Station.
I cannot be sure of who the man was
who refused to move off the road.
I can recognise three of the occurred

as having taken part in this ~~and~~ fire for
Ell. Dan Sutton ~~[illegible]~~ Capt Tisdale
& Fisco both hit me. I recognized McKenzie
as having been in the fight. The provost
used no weapons.

CROSS-EXAMINED BY DEFENDING OFFICER

Q. Where were they ~~were~~ men?
A In the lane alongside our billet, it is not
the main thoroughfare. The civilian
behind me was trying to get off the main
road onto the side lane.

Q Did you see anyone threaten
with a bottle of beer?
A. Yes but I cannot recognize him
Q. Did you take a bottle of beer from
anyone?
A. Yes I did and threw it over the fence.

BY THE COURT:

Q. Did Sgt. Mac Bean give an order to clear the
street when the civilian car approached
A. No. I requested them to clear the street
and all but one of them did so.
Q. Did his fight start as a result of his Sergeant
ordering your people to arrest that man
A No Sir. It started as a result of my trying to

put this man out of the road. The Sergeant did not order them to undo arrest until after the fight was over.

Q. Do you know whether any of the accused offered resistance to arrest?

A. No I do not know.

D. 123232 BOEVILLON. a.s.f. having been duly sworn — states:

I am a member of the No 4 Provt Coy. On the evening of 16th July I was called out to help the boys who were having some trouble. Did not hear Sgt MacBean give an order to anyone to move on - there were about 10 soldiers outside and bullets at the time I got out there. A civilian truck was coming along the road and stopped. I recognised Pte Disco as having been amongst the men that were standing in the street. I tried to bring Pte Disco to the orderly room, he punched me in the nose and we fell to the ground. I did not see anyone else as it was too dark

I did not see any of the Provost use any weapons. I thought that Sisco had been drinking but he was not drunk.

CROSS. EXAMINED

Q. Who hits you down?
A. We tripped down together. It was not from a blow.
Q. Did you hear your own Sergeant give the order [redacted]?
A. No. I did not hear that. Possibly in putting the mug in his locker. Some of them resisted but I do not know which.
(Use of Procedure 83(13))

F 97125 L/Cpl TORRIS. T. having been duly sworn states: Am a member of the Provost Gr. At about 2300 hrs on 16 May 1942 I was in my billets at Tewas and heard the Sergeant call "All out". I was lying on the bed and did not get out until they were putting people under in the lock. Three of them resisted, I can identify Sisco and Tisdale as having been two of them, they were pushing around and arguing; they did not strike anyone.

CROSS EXAMINED.

Q. How long between when you first heard his sergeant call & the time you came out?

A. About five minutes.

RULE OF PROCEDURE 8(B)
COMPLIED WITH.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. All accused answer NO

Question. Do you intend to call any other witness in your defence?

Answer. YES.

Question. Is he a witness as to character only? *Answer.* NO

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

FIRST WITNESS FOR THE DEFENCE

K. 15074 SPR TRYTHALL E.W having been duly sworn States:

I am a member of the 6th Fld Coy R.C.E. On the evening of 16 of July last after having been to a show I was proceeding along past the Provost Barracks. Everything seemed fairly quiet there. I had been there about a minute when a provost in a motor car pulled up at the side and asked a group of R.C.E. what they were doing. There was then a number of cars passed but the Provost was questioned as to his authority. The Provost then turned on his heel and went into the barracks and I continued on my way. I had hardly got up the road more than 30 or 50 yards when I heard a truck start up and go again. I heard a lot of scraping of feet & pushing & shouting. That is all I know about it. There was no traffic on the road and I did not hear a horn blow. It was very dark, I could not see for more than 4 yards before me.

CROSS-EXAMINED.

Q. How many buses were standing round?

A. I only count two, just the boys who are here. There was a motor car & group. They were standing beside a kerb, part on the causeway & part on the road. They were not blocking the main street.

D3.

Q. Did you hear what any of the
Engineers said at this Enquiry.

A. Could not identify any particular
voice.

BY THE COURT

Q. Can you identify the accused men
as having been standing outside
the Provost barracks on the night
in question.

A. Yes all of them.

Q. You say there were definitely
not ten or fifteen men on the
road.

A. No. They were not blocking the
lane, it is a partly wide lane
almost a street.

Q. Where were the men?

A. They were about 30 feet from
the Provost barracks door.
I talked to them for about
two minutes.

Rule of Procedure 83(13) COMPLIED
WITH.

D3.

SECOND WITNESS
FOR THE PROSECUTION
11456641 SPR. CHAMBERS. G.L.

On 16 July 1942 as I was walking down the street towards Malling hill. I noticed kind of a melée going on in front of the Provost barracks and as I came up I saw that it was some of our boys and they seemed to be having trouble with the provost and as I stopped there I saw one of the Provost hit one of our fellows in the face and when the bl hit him it kind of turned him around and the Provost proceeded to kick him in the back. Then the Provost sick pulled up & I started to load the fellows into it. They did not just help them in they picked them up & threw them in. I then talked to the Provost Sergeant & he said "Get to Hell home as well then you can too" and then the

kick pulled away. There had not appear to be any traffic on the street at all. There were no other soldiers around and no other people there were a couple of civilian women. The engineer appeared to be under the influence of liquor.

CROSS EXAMINED.

Q. Were you there when the fight started?

A. Yes and the only soldiers who were there at the time were the five men here.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

LIEUT G E MILLS. is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked M & Q, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused or a departmental order, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the president must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

COPY

No. 29268 Name TISDALE, J.A. Sqn., Battery, or Company 6 Fd Coy Corps R.C.E. Date of enlistment 21-6-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 200M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 21-12-40 this soldier completed 6 months service and in accordance with CARO 393 (5)(a) his previous sheet was destroyed. Entries: Nil.									
Hedley Cmn	22-7-41	Spr		Sec.15(1) A.A. AWL from 0600 hrs 22-7-41 to 1600 hrs 22-7-41 (Absent 10 hrs)	Documentary	Fine 4 days pay Art.149 (1)(a) F.R.& I.	23-7-41	Coy Cmdr	Forfeits 1 days pay Art 149(1)(a) F.R.& I.
Cove, Hants	1-11-42	L/Cpl		A.A. Sec.15(1) Absenting himself without leave from night route march A.A. Sec 40. Appeared out of camp bounds, improperly dressed and acted in a slovenly and insolent manner to superior officer.	Lt. H. Hess Sgt Potts Cpl Mills	Reduced to rank of Spr	2-4-42	C.O.	

Certified correct. T.H. Jermyn

(T.H. Jermyn) Major. O.C. 6 Field Coy. R.C.E.

(P.T.O.)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
K.29268	A/L/Cpl.	TISDALE, J.A.	6 Field Coy.R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For	Sec.15(1) A.A. AWL 2 times	Sec.15(1) AA.AWL 2 times
For	Sec.40 A.A. 1 times	S.c.40 A.A. 1 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for...Nil...days in civil custody, and..Nil..days in military custody, making a total of..Nil.days of which...Nil. days were spent in hospital. The accused has been held in open arrest for five days.

5. The present age of the accused according to his attestation paper is 22 years 7 months

6. The date of his attestation specified in his attestation paper is 21 June 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a.

8. The accused is entitled to deferred pay or gratuity in respect of .....service.

9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award.

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of....n/a..

12. (In the case of an officer) The accused holds in the army the rank of..n/a..... dated..n/a..... and in his regiment (or corps or department) the rank of..n/a.....dated.....n/a.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, of summary awards under Section 47 of the ARMY ACT and of cases in which trial has been dispensed with of accused.

No. A.29288 Rank. A/L/Cpl Name TISDALE J.A. of. 6. Fd. Coy. R.C.E. Regt. (or as the case may be)

(Instructions -A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge or order of the dispensing authority.	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 22nd day of JULY 1942

G. D. Mills Lieut
H/oc 6 Fd Coy R.C.E

10.13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date. Date of Promotion

In the rank of A/L/Cpl 2 months ~~years~~ 16 Nov 1942

(INSTRUCTION- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs conserved amended accordingly)

COPY

No. P.10657 Name BERRIDGE, W.W. Sqn., Battery, or Company 6 Fd Coy Corps R.C.E. Date of enlistment 1-9-39 G.C. Badges Service or Proficiency Pay M.F.M. 6 A.F.B. 122

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character FAIR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
N.Vanor	17-7-40	Spr		Sec.15(1) A.A. AWL from 2200 hrs 17-7-40 to 0700 hrs 18-7-40 (absent 9 hrs)	Documentary	Admonished	18-7-40	A/Coy Cmdr	Forfeits 1 days pay F.R.& I
DeBert, N.S.	15-2-41	Spr		Sec.15 (1) A.A. AWL from 2200 hrs 15-2-41 to 1200 hrs 16-2-41 (absent 14 hrs)	Documentary	Admonished	19-2-41	Coy Cmdr	Forfeits 1 day pay under Art.149(1)(a) F.R.& I.
DeBert, N.S.	15-2-41	Spr		Sec.40 A.A. An act to the prejudice etc. in that he was in possession of and made use of, DND vehicle No. 2069 between the hours of 1930 hrs 15-2-41 and 1220 hrs 16-2-41 without permission.	Sgt. Dobell Spr Bibbs	Forfeits 5 days pay under Art 149(1)(e) F.R.& I. 14 days C.B.	20-2-41	Coy Cmdr	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert, N.S.	29-3-41	Spr		Sec.15 (1) A.A. AWL from 2359 hrs 28-3-41 to 1130 hrs 29-3-41 (absent 11 hrs 31 min)	Documentary	14 days C.B.	29-3-41	Coy Cmdr	Forfeits 1 days pay under Art 149(1)(a) F.R.& I. Denied privilege of Wet Canteen until 1 May 1941
Haywards Hth	23-12-41	L/Cpl		Sec19 (A.A. Drunkenness in a public place	AFB 252 L/C Pinder 4 Prov Coy	Admonished	6-1-42	Coy Cmdr	

Certified correct.

(T.H.Jermyn) Major
O.C.6 Field Coy R.C.E., CA(O/S)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF [illegible]

Number	Rank	Name	Regiment (or as the case may be)
P.10857	Sapper	BERRIDGE, W.W.	6 Field Coy. R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For	Sec.19 A.A. Drunkenness 1 times 23-12-41	Sec.19 AA Drunkenness 1 times
For	times	Sec.15(1)AA. AWL 3 times
For	times	Sec.40 AA 1 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct,
or
There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or
Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.
3. The accused is not under sentence at the present time.
4. The accused has been in confinement, awaiting trial on the present charges for..Nil..days in civil custody, and..Nil..days in military custody, making a total of..Nil.days of which...Nil. days were spent in hospital. The accused has been held in open arrest for five days.
5. The present age of the accused according to his attestation paper is 22 years 10 months
6. The date of his attestation specified in his attestation paper is 1 Sept. 1939
7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a.
8. The accused is entitled to deferred pay or gratuity in respect of .....service.
9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.
10. The accused is in possession of, or entitled to, no military decoration or military award.
11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of....n/a..
12. (In the case of an officer) The accused holds in the army the rank of..n/a..... dated..n/a..... and in his regiment (or corps or department) the rank of..n/a.....dated.....n/a.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, of summary awards under Section 47 of the ARMY ACT and of cases in which trial has been dispensed with of accused.

No. P.10657 Rank. Sapper Name. BERRIDGE, W.W. of. 6 Fd. Coy. R.C.E. Regt. (or as the case may be)

(Instructions -A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge or order of the dispensing authority.	Punishment remitted
		N I L		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 22nd day of July 1942

G. D. Miller Lieut.
A/OC 6 Fd Coy. R.C.E

W.A.13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date, Date of Promotion

In the rank of n/a years

(INSTRUCTION- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly)

No. K. 29196 Name FUSSELL, M. Sqn., Battery, or Company 6 Fd Coy Corps R.C.E. Date of enlistment 11-6-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.H. 122
H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date Award or of order dispensing with trial	By whom awarded	Remarks
On 11-12-40 this soldier completed 6 months service and in accordance with CARO 393 (5)(a) his previous sheet was destroyed. ENTRIES NIL.									
Haywards Hth	16-11-41	Spr		Sec.15(1) A.A. WCAS AWL from 2359 hrs 16-11-41 to 1900 hrs 18-11-41 (absent 43 hrs)	L/Sgt.McBride	7 days CB	19-11-41	Capt.T.H. Bayliss. O.C. 569 Army Tps. Coy R.E.	Forfeits 2 days pay under Royal Pay warrant.

Certified correct.

T. Jermyn Capt.
for (T.H.Jermyn) Major
O.C.6 Field Coy.R.C.E.

(P.T.O.)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
K.29196	Sapper	FUSSELL, M.	6 Field Coy. R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For	Sec.15(1) A.A. AWL 1 times	Sec.15(1)A.A. AWL 1 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct,
or
There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or
Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for...Nil...days in civil custody, and..Nil..days in military custody, making a total of..Nil.days of which...Nil. days were spent in hospital. The accused has been held in open arrest for five days.

5. The present age of the accused according to his attestation paper is 22 years 5 months.

6. The date of his attestation specified in his attestation paper is 11 June 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a.

8. The accused is entitled to deferred pay or gratuity in respect of .....service.

9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award.

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of....n/a..

12. (In the case of an officer) The accused Holds in the army the rank of..O/C..... dated..n/a..... and in his regiment (or corps or department) the rank of..O/C.....dated.....O/C.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, of summary awards under Section 47 of the ARMY ACT and of cases in which trial has been dispensed with of accused.

No. K.29196 Rank. Sapper Name. RUSSELL, M. of. 6 Field Coy. R.C.E. Regt. (or as the case may be)

(Instructions -A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge or order of the dispensing authority.	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 22nd day of July 1942

G.D. Miller Lieut
A/OC 6 Fd Coy RCE

W.13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of n/a Date of Promotion

years .....

(INSTRUCTION- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly)

No. 41725 Name MCKENZIE, H.J. Sqn., Battery, or Company 6 Fd Coy Corps R.C.E. Date of enlistment 28-6-40 G.C. Badges 1 Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 5(63)—6-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Nil Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 28-6-42.				Last entry: Nil: Nil cases drunkenness: Last instance on: n/a. NIL ENTRIES.					

Certified correct.

T.H. Jarmyn Capt.

(T.H. Jarmyn) Major
O.C. 6 Field Coy. R.C.E., CA(O/S)

(P.T.O.)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
M/41725	Sapper	MCKENZIE, H.J.	6 Field Coy. R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For	Nil times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct,
or
There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or
Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.
3. The accused is not under sentence at the present time.
4. The accused has been in confinement, awaiting trial on the present charges for...Nil...days in civil custody, and..Nil..days in military custody, making a total of..Nil.days of which...Nil. days were spent in hospital. The accused has been held in open arrest for five days.
5. The present age of the accused according to his attestation paper is 21 years 2 months
6. The date of his attestation specified in his attestation paper is 28 June 1940.
7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a.
8. The accused is entitled to deferred pay or gratuity in respect of .....service.
9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.
10. The accused is in possession of, or entitled to, no military decoration or military award.
11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of....n/a..
12. (In the case of an officer) The accused Holds in the army the rank of..O/C..... dated..n/a..... and in his regiment (or corps or department) the rank of..O/C.....dated.....O/C.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, of summary awards under Section 47 of the ARMY ACT and of cases in which trial has been dispensed with of accused.

No. M.41725 Rank. Sapper Name. MCKENZIE, H.J. of. 6 Fd. Coy. R.C.E. Regt. (or as the case may be)

(Instructions -A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or states of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge or order of the dispensing authority.	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 22nd day of JULY 1942

G.D. Miller Lieut.
H/OC 6 Fd Coy R.C.E.

W.13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of n/a Date of Promotion

..... years .....

(INSTRUCTION- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly)

M.F.M. 6
A.F.B. 122
30051—8-39 (17703)
H.Q. 1772-48-18

No. F 9173 Name SIBCO, T.H. Sqn., Battery, or Company 5 Fd Coy Corps R.C.E. Date of enlistment 2-7-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 16-8-40 No. and date of last drunk 1 16-8-40 Period not reckoning towards freedom from extra fine Nil Sheet No. 2 Signature O.C. Company, etc. O.C. #2 Trn Coy. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	16-8-40	Spr		Drunkenness in Pembroke on duty	Police Lt. L/C Fagen Pte Hall	J.R.Reeves Reprimanded 1st Offence	21-8-40	R.E.Hendershot Capt.R.C.E.	
Petawawa	1-2-41	Spr		Drunkenness, in that he, at approx 1300 hrs on 1-2-41 was drunk	Cpl Grey Cpl Potts	Admonished	3-2-41	G.H.Spencer Capt.R.C.E.	
	1-2-41	Spr		Neglecting to obey No.2 Tr.Co. Standing Orders in that he at approx 1300 hrs on 1-2-41 was in possession of spirituous liquors	L/C Nash Cpl Grey Cpl Potts	7 days C.B.	3-2-41		
Petawawa	17-3-41	Spr		AWL in that he, at Petawawa Military Camp absented himself without leave from 0700 hrs 17-3-41 till 0930 hrs 18-3-41 when admitted to Hospital and from 1910 hrs 24-3-41 when he was discharged from Hospital in Ottawa (over)	L/C Russell L/C Nash	10 days detention Remit costs of apprehension	23-4-41	Lt.Col. R.C.E.	Forfeits 14 days pay.

PTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				till 1030 hrs 26-3-41 when he was apprehended. Returned to Unit under escort from Ottawa incurring costs of apprehension of $1.70 (absent 2 days 17 hrs. 50 min)					total
Petawawa	25-4-41	Spr		AWL from 2230 hrs 25-4-41 till 2040 hrs. 3-5-41, when apprehended in Montreal returned under escort (absent 7 days 22 hrs 10 mins)	Cpl Sanford L/C Mark L/C Bigouin L/C Dyer	14 days detention Remit costs of apprehension	10-5-41	Lt.Col. R.C.E.	Forfeits a day 22 days pay
Petawawa	23-5-41	Spr		AWL from 2030 23-5-41 till 0200 hrs 27-5-41 (absent 3 days 4 hrs 30 mins)	Cpl. Sanford L/Cpl Luke	Forfeits 4 days pay	29-5-41	Lt.Col.	Forfeits a total of 4 days pay.
Haywards Hth	16-	Spr		Sec. 15(1) A.A. WOAS AWL from 2359 hrs 16-11-41 to 1900 hrs 18-11-41 (absent 43 hrs)	L/S McBride	7 days C.B.	19-11-41	Capt. T.H. Bayliss.	Forfeits 2 days pay under Royal Pay Warrant

No.F 91731 Name SISCO, T.H. | Sqn., Battery, or Company: 6 Fd Coy | Corps: R.C.E. | Date of enlistment: 2-7-40 | G.C. Badges: | Service or Proficiency Pay: | M.F.M. 6 A.F.B. 132 5000/4-40 (7242) H.Q. 1772-40-18

Date of last entry in Company Conduct Sheet: | No. and date of last drunk: | Period not reckoning towards freedom from extra fine: | Sheet No. | Signature O.C. Company, etc.: | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Selehurst	16-1-42	Spr	3	Sec.19 A.A. Drunkenness	CSM Thomas	Fined $10.00	16-1-42	Coy Cmdr	3rd Offence
I.T.F.	6-7-42	Spr		Sec.15(1) A.A. WOAS AWL from 0800 hrs 6-7-42 to 1700 hrs 6-7-42 (absent 2 days 11 hrs)	Sgt Woods L/S.McBride	Forfeits next privilege leave	9-7-42	Coy Cmdr	Forfeits 3 days pay under Art.149 (1)(a) FR&L

Certified correct

R. Murphy Capt.

(T.H. Jermyn) Major
O.C. 6 Field Coy. R.C.E., CA(O/S)

(P.T.O.)

O.R. Section

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
F.91731	Sapper	CISCO, T.H.	6 Field Coy. R.C.E.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months		Since Enlistment	
For	Drunkenness 16-1-42	times	Drunkenness 16-8-40	times
For		times	Drunkenness 1-2-41	times
For	Sec.15(1)A.A. AWL 2	times	Sec.15(1) A.A. AWL 6	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct,
or
There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or
Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the sphedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for...Nil...days in civil custody, and...Nil..days in military custody, making a total of..Nil.days of which...Nil. days were spent in hospital. The accused has been held in open arrest for five days.

5. The present age of the accused according to his attestation paper is 39 years 3 months

6. The date of his attestation specified in his attestation paper is 2 July 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a.

8. The accused is entitled to deferred pay or gratuity in respect of .....service.

9. The accused is entitled to reckon.....service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award.

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of....n/a..

12. (In the case of an officer) The accused holds in the army the rank of..n/a..... dated..n/a..... and in his regiment(or corps or department) the rank of..n/a.....dated.....n/a.....

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, of summary awards under Section 47 of the ARMY ACT and of cases in which trial has been dispensed with of accused.

No. F. 91731 Rank. Sapper Name. SIGGS, T.H. of 6 Fd. Coy. R.C.E. Regt. (or as the case may be)

(Instructions -A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge or order of the dispensing authority.	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is true extract from the regimental books in my custody.

Signed this 22nd day of July 1942

G. D. Miller, Lieut.
H/OC 6 Fd Coy RCE

W.13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of n/a Date of Promotion

years .....

(INSTRUCTION- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly)

4 Q-94

Pte Litchmell L. L.

FIELD GENERAL COURT-MARTIAL

Convened by Order of [illegible] Comd 1 C Bde dated 6 Dec 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-62291	Pte	Lonnie Langland	T. Titchnell	4 Cdn R&I Bn

PROCEEDINGS REVIEWED

Held in the Fd in (country) [illegible] on (date(s)) 8 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2G-73

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto,(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete if not applicable.)

A5. President to accused: Do you object to ~~the interpreter~~ B 62291 Pte Titchnell T.L. ~~the shorthand writer~~ as shorthand writer? Ans No Sir

~~The Interpreter is sworn.~~(1) The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. R. Bald.	4 Cdn R&I Bn
Member	Capt	G. Vaugeois	4 Cdn R&I Bn
Member	Capt	R. T. Dawson	4 Cdn R&I Bn
Judge-Advocate			
Prosecutor	Capt	R. R. Brown	4 Cdn R&I Bn
Defending Offr	Capt	H. S. Hoff	4 Cdn R&I Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CF A 23.)

A8. The accused B 62291 Pte T. Titchnell T.L. before arraignment make(s) (no) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge (~~charges~~). There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C); and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record (see Notes.)

A10. The Court (~~has considered~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M67

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 62291 Pte Lonnie Langland T. Titchnell

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(a)	Not Guilty	Not Guilty	Not guilty of desertion but is guilty of absence without leave
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which 11 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for (18) eighteen months

8 Dec 44 (Sgd) [illegible] President. (RP 45, 50.)
Date awarded.

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence but remit nine months imprisonment

I direct that the accused be not committed to prison (detention barracks) (with further ordering) (~~suspended~~) (~~remitted~~) (~~commuted to~~) (~~reduced to~~) (~~varied to~~) (~~cancelled~~) (~~substituted~~) (~~mitigated~~) (~~quashed~~) (~~varied

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 62291 Private Lonnie Langland T. Titchnell

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(a)	Not Guilty	Not Guilty	but guilty of desertion but is guilty of absence without leave
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

At present under sentence for ~~A~~ B beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for (18) eighteen months

(Sgd) ..... 8 Dec 44 (Sgd) Lonnie Langland T. Titchnell Pvt

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56. 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

'I confirm the finding and sentence but remit nine months imprisonment'

I direct that the accused be not committed to prison or detention barracks, with further orders as to: (1. AA 57A. Delete if not used.)

(Sgd) ..... A.K. Kirkbride Brig

Date 12 Dec 44 Commanding COMMANDER 1 CDN JASE RFT GROUP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-62291 Pte TITCHNELL, L.L. H.Q.T.E. Regt 4 Bn - 1 C.B.R.G.p.	28 Dec 44	J.A. Dickson Lieut Adjutant 2 Cdn Reallocation Centre.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

40-94

CF A36 (In lieu of AFA2)
40-P-8-8/1608 (1944)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of ~~A~~ C of L 2 Cdn Corps Comd 1 C.B.R.G. dated 6 Dec 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 62291	Private	Lonnie Langland	Titchnell	4 Cdn R&I Bn 1 C.B.R.G.

PROCEEDINGS REVIEWED

1 C.J. Brigade H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ~~NETHERLANDS~~ BELGIUM on (date(s)) 8 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26-73

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for months and instrs on how to record addresses, evidence, etc, which pages are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 93, 94, 103, 119, 121.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete if not applicable.)

A5. President to accused: Do you object to ~~the interpreter~~? Ans

~~The interpreter is sworn.~~(1) Do you object to ~~B 72222 Sgt Richardson~~ shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. D. Bell	4 Cdn R&I Bn
Member	Capt	J. Vaugeois	4 Cdn R&I Bn
Member	Capt	R. T. Dawson	4 Cdn R&I Bn
Judge-Advocate			
Prosecutor	Capt	R.R. Brown	4 Cdn R&I Bn
Defending Offr	Capt	H. S. Hoppe	4 Cdn R&I Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Sir Is the Defending Offr a lawyer? Ans No Sir (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CF p 23.)

A8. The accused B 62291 Pte T. Titchnell L.L. before arraignment make(s) (no) ~~a~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge. There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record in Notes.)

A10. The Court (~~is cleared~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. (M67)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (his) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*). *RP* 45, 120(*A*). 2. *AA* 54(3). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(2)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138. 182. *RP* 46-50. 69, 118. 119(*A*). *KR Can* 308, 330, 563-566. *Oversees RO* 309, 2323. *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5). *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*I*). *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NUMBER B62291 PRIVATE LONNIE LANGLAND TITCHNELL OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1st Charge
A A Sec 12 (1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after being duly warned that he would be proceeding to his unit in the Field on draft, absented himself without leave from 1400 hrs 16 Oct 44 until apprehended at 1130 hrs 23 Nov 44, with intent to avoid so proceeding. (Total time absent 37 days 21 hrs 30 mins).

L J Flynn

(L J Flynn) Lt-col.,
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
5 Dec 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

(L J Flynn) Lt-col.,
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
5 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
B62291	Private	Lonnie Langland TITCHNELL	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Dec 44 endorsed by me, (or ~~by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to order the said for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint (A) three Offrs to form the Court, (B) a Fd Offr as President, for the reasons that herein~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~have appointed a Judge Advocate to attend the Offr mentioned hereunder~~.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J S BELZILE	4 Cdn Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G VAUGEOIS	4 Cdn Rft Bn
Capt	R T SANSOM	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	G J DOYLE	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 6 Dec 44

(L J Flynn) (Signed personally. RP 105 fn 2)

Lt-col (Rank.)

Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group Convening Officer. CMF

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

DEC 8th 1944

I hereby certify that I have this morning examined No B62291 PTE TITCHNELL. L.L on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

Capt
Medl Officer 4 Cdn Rft Bn.

D2. THE PROSECUTOR MAKES AN OPENING ADDRESS

"Mr President and members of the Court. I should like to draw the attention of the court to the particular wording of the charge sheet wherein it sets out the three portions requiring proof on the part of the prosecution to substantiate a charge of desertion. These are in turn: the warning for draft, the absence as alleged in the charge sheet, and that the accused so absented himself with the intent to avoid proceeding on draft. These three points will be dealt with in turn by the evidence of the prosecution".

D3. FIRST WITNESS FOR PROSECUTION — D71493 Sgt McIlroy A N, 4 Cdn Rft Bn having been duly sworn, states:

I am Sgt McIlroy A N, D71493, P E Sgt and handle the X-List of the HPER and RCR of 4 Bn. I recognize the accused to be Pte Titchnell. As Orderly Sgt of "B" Coy it is my duty to take roll calls, check all incoming men and outgoing men. On 16 Oct at approx 0800 hrs the personnel of the HPER were all warned for draft. I then proceeded to call their names and told them to fall out on my left. My roll call and warning for draft was given out. The name and number of Pte Titchnell was on that draft. He answered his name and number and fell out. After I had a full quota of my draft I counted and reported my draft all present. I then warned him to go through draft proceedings which is past the Medical Officer and the Dental Officer. The accused did this. At approx 1400 hrs 16 Oct the performance of my duty was to call the roll, also muster my draft. The name and number of Pte Titchnell was called. He failed to answer. I asked his whereabouts and then searched the coy lines, also the billets, calling out his name. I could not locate him. I placed him on the absentee report as absent from 1400 hrs 16 Oct. On 17 Oct, in the morning, the draft pulled out. Pte Titchnell's name was called. He did not report for the outgoing draft. I have not seen the accused in the coy lines or camp area since this date.

CROSS-EXAMINATION BY THE DEFENCE

Q 1 If the accused answered his name and number when he fell out, you would have no particular reason to take particular notice of the accused?

A 1 No Sir, they fell out to my left.

Q 2 Approx how long had the accused been in the coy?

A 2 I think between 5 and 7 days, Sir.

Q 3 In that time you are quite satisfied you recognize him and know his appearance personally?

A 3 I would.

RE-EXAMINATION BY PROSECUTION

Q 4 Are you definitely certain that the accused was on parade and was warned that morning?

A 4 Yes Sir.

R P 83B complied with.

SECOND WITNESS FOR PROSECUTION — H40829 Sgt Wetherall L C, 4 Cdn Rft Bn having been duly sworn, states:

I am H40829 Sgt Wetherall L C of 'B' Coy 4 Cdn Base Rft Bn.

At 0800 hrs 16 Oct I was called to witness draft warning in all units of 'B' coy. Draft and muster was called and Pte Titchnell's name was on the draft roll. Although I do not recognize Pte Titchnell personally, his body was accounted for on this particular parade. He was put through proper draft procedure and warned to be prepared to depart for the field on the following morning at 0900 hrs.

CROSS-EXAMINATION BY THE DEFENCE

Q 5 What is meant exactly by draft procedure?

A 5 We hold a muster parade and the men are warned that they are going forward in the presence of all the Sgts W.O's and Company Commander in the coy. They are then taken to the Medical Officer, Dental Officer and Q.M. Stores.

Q 6 Would the accused go through the Q.M. Stores that date?

A 6 Yes, normally he would, Sir.

Q 7 Do you know of any reason why a man who would be on parade on 16 Oct for draft on 17 Oct - any reason why he should go through the Q.M. Stores on 14 Oct?

A 7 It is quite possible that the man came in on the 14th. Men coming into the battalion are put through Stores immediately upon arrival and on departure they are put through again, which is in accordance with the R.O's of DAQMG Rft Group.

Q 8 Approx how long was Pte Titchnell in 'B' Coy?

A 8 I couldn't say that, Sir.

Q 9 What are your duties Sgt in 'B' Coy?

A 9 I have charge of the 48 Highrs and the 4 PLDG.

EXAMINATION BY COURT

Q 10 Who made the roll call on the morning of 16 Oct?

A 10 Sgt McIlroy in the presence of 3 other Sgts, a W.O. and the Company Commander.

Q 11 Were you again on parade in the afternoon and the next morning and Pte Titchnell's name was called?

A 11 I don't know. We were present when the draft warning was called and on the following parades take care of only our own units.

Q 12 You said previously that the accused had been warned he was leaving for draft. Was that warning given immediately after the nominal roll?

A 12 Yes Sir. It was the original muster parade in which the man was called forward in order to account for the body. Immediately having been called forward the draft warning was read to them with extracts from Camp Standing Orders as well.

R P 83B complied with.

THIRD WITNESS FOR PROSECUTION — P9577 BSM McDermott M M, 4 Cdn Rft Bn having been duly sworn, states:

I am P9577 BSM McDermott M M of 'B' Coy 4 Cdn Rft Gp (P E).

Sir, on 16 Oct at about 0800 hrs I was present on parade when Sgt McIlroy called the roll of the HPER personnel and the accused's name was on that roll. Sgt McIlroy reported all present, and also were warned for draft in my presence. Pte Titchnell's name was on the draft nominal roll and he was not reported absent. The personnel on this draft nominal roll were warned that morning in my presence.

CROSS-EXAMINATION BY DEFENCE

Q 13 Do you actually renember the name Titchnell from this list or do you have records to refer to it?

A 13 These rolls are my nominal rolls and I know that Pte Titchnell was on that roll.

Q 14 Your knowledge of Pte Titchnell on draft comes merely from reading the nominal roll handed to you by the Sgt in charge of this particular draft?

A 14 Yes Sir.

EXAMINATION BY COURT

Q 15 Were you present at the nominal roll?

A 15 Yes Sir.

Q 16 And he was reported absent to you or did you notice it yourself?

A 16 Sgt McIlroy reported his draft all present.

Q 17 When was he reported A.W.L.

A 17 On 1400 hrs parade the same date.

Q 18 He was reported to you as absent?

A 18 Yes Sir.

R P 83B complied with.

FOURTH WITNESS FOR PROSECUTION — A22296 Sgt White J P, 4 Cdn Rft Bn having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt 4 Bn. I produce certificate under A A Sec 163 (1) (jj) purporting to relate to the accused and showing that B62291 L cpl Titchnell L L was arrested at Cava at 1130 hrs 23 Nov 44.

CERTIFICATE MARKED EXHIBIT 'A' AND SIGNED BY PRESIDENT

R P 83B complied with.

D4. SUBMISSION BY DEFENCE

Sir, I would like to say that in my opinion in listening to the witness for the prosecution there is some doubt as to whether Pte Titchnell was on parade on the morning of the 16th and the evidence of Sgt McIlroy who claims to have recognized the accused on parade. He had been in the coy for 5 to 7 days. Later in the evidence Sgt Wetherall stated that incoming drafts were put through the Q.M. Stores on arrival and also before they left on draft. In this case, Pte Titchnell went through the Q.M. Stores on Oct 14th which would at least suggest that he arrived on the 14th which was 2 days before the draft was called and I suggest to the court that Sgt McIlroy must have a remarkable memory for faces to be sure that this man was present on draft that day. The BSM's evidence is purely from records with no certain knowledge of intent so I suggest to the court the proof of having been warned for draft has not been proved by the prosecution and the charge of desertion be changed to Absent Without Leave.

D6. RESPONSE BY PROSECUTION

Mr President and members of the court. We have the undisputable testimony by Sgt McIlroy that he warned the accused for draft. Any supposition on the part of the defence does not shake this testimony. The prosecution demands that the accused be put on his defence to answer the charge.

THE ACCUSED, PTE TITCHNELL HAVING BEEN DULY SWORN, STATES:

I arrived in 4 Bn on 14 Oct, 2 days before I am supposed to have been warned for draft. That was on a Saturday and I got paid. On Sunday 15 Oct in the afternoon about 1600 hrs I went A.W.L. I was not present that night or the morning of the 16th in 4 Bn.

SUMMING UP BY THE PROSECUTION

Mr President and members of the court. I should like to draw the attention of the court to Sec 17 and 20 of the M M L, Chap.3, page 19 (reads) and Sec 13 page 73 (reads). The prosecution has established by unshaken testimony that the accused was warned for draft on 16 Oct. It has further established by unshaken testimony that the accused absented himself as alleged in the charge sheet on the afternoon 1400 hrs on the 16th. The prosecution has now to prove the intent on the part of the accused. This intent is incapable of proof by the prosecution. It must be assumed from the actions of the accused. In the face of no explanation by the accused, the court may rightly assume that the accused absented himself with the sole intent of avoiding this draft. If the court believes the story given by the accused under oath, then they have no alternative but to find the accused Not Guilty of desertion but Guilty of A.W.L. If they do not believe the story then the prosecution calls for a conviction on desertion by the court and a severe sentence.

SUMMING UP BY THE DEFENCE

The defence of Pte Titchnell is of course built on the fact that he was not present on parade at the time draft was warned. He has stated on oath that he left the camp on Sunday the 15th of Oct. The prosecution has produced one witness who is able to state that he recognized the accused on the parade. This witness, however, was incorrect in his judgment of the length of time the accused was in camp by a considerable margin. He arrived here at 4 Bn on 14 Oct and the parade was held on the morning of the 16th. One point strikes me that it was extremely handy that there was a pay parade on the Saturday. To a man who intends to absent himself without leave, Sunday appears to be a logical time to go, having just been paid. It is incumberant upon the prosecution to prove beyond all reasonable doubt that the accused was guilty with intent to miss a draft, in this case, and this can only be done by proving conclusively that he was present on Oct 16. I suggest proof of one man where a memory is involved is not conclusive proof of his presence on parade. In the absence of this I ask the court to find him Not Guilty of desertion.

E3.

PLEA OF MITIGATION

I would just like to draw the attention of the court to the military history of the accused. He is, or was until he joiued the army, an American citizen. He never lived in Canada at any time until he crossed the border and joined the army in Toronto in 1941. At the date of enlistment his actual age was 16 and this has since been correctly entered in his book. The change was made in England. He gave an incorrect age on attestation. He has held the rank of L cpl almost consistently since he joined the army and was Conducting Sgt with pay of rank on

overseas draft he came over with in 1943. He came to the HPER in this country and served with them in action in the Gothic Line. He was evacuated to hospital and then to convalescent camp prior to his arrival in this unit. I ask the court to take into consideration his rather good record with the army and also the fact that he as an American citizen joined the Canadian army, and perhaps owing to his age, the fact that he may not feel quite the same loyalty shall we say, or take the seriousness as seriously as if he was a Canadian subject from birth.

Exhibit A
D.B. MacLean Lt

CERTIFICATE OF ARREST.

Certificate in accordance with the Army Act Section 153 (1) (a).

I, Capt T. Braithwaite. certify that :-

No B 62201. Rank L/Cpl. Name Titchnell L.V.

Unit 4th Bn Hastings & Prince Edwards Regt. was arrested at Cave.

at 1130. hours on the 25 November. 1944

Signature of P.M., APM, or other officer into whose custody the above named was taken on arrest.

T Braithwaite Capt.

Commanding,

246 Provost Company. CMF.

Date 25 November. 1944.

136/174.7138/21-4/44.

C & B

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B62297	Private	Lonnie Langland TITCHNELL	4 Cdn Rct Bn - 1 CBRG

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with the statement and annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, reference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ~~imprisonment~~ for ~~detention~~ beginning on the ~~day of~~ from 23 Nov 44 days

4. The accused has been in confinement awaiting trial on the present charges, for 15 days in civil custody, and 12 days in military custody, making a total of ~~15~~ days, of which ~~days~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 5 Nov 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated , and in his regiment (*or* corps *or* department) the rank of N/A dated

(51/2250) W1.13512/144 125,000 6/41 A.A.F.W.1.50 Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B62291 Rank Private Name Titchnell L L of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Sixth day of December 1944

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

SUPPLEMENTARY

MFM 6
(AFB 122)
40/PAS/136 (2438)

No B62291 Name Titchnell L L | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED THAT THERE IS NO M.F.M.6 AVAILABLE IN THE REGIMENTAL BOOKS IN MY CUSTODY

(A E Davidson) Capt & Adjt
4 Can Hft En - 1 C B R O

(PTO)

Summary of Evidence in the case of B62291 Private Lonnie Langland TITCHNELL, 4 Cdn Rft Bn, 1 C B R G, who is charged with ~~WOAS~~ Deserting His Majesty's Service, A A Sec 12 (1) (a).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st Witness: D71493 Sgt Mc Ilroy A N, 4 Cdn Rft Bn, 1 C B R Gp, having been duly sworn, states:

I am D71493 Sgt Mc Ilroy, P E Sgt "B" Coy 4 Cdn Rft Bn, 1 C B R Gp. At approx 0800 hrs 16 Oct 44, as Coy Orderly Sgt, I called the roll of the X-4 list HPER. Pte Titchnell's name and number was on this roll. He answered his name and the accused was warned for draft by me to proceed to his field unit, the HPER.

That morning the accused went through draft procedure. At approx 1400 hrs 16 Oct 44 I called the roll of the draft on which Pte Tichnell's name and number appeared. He did not answer his name nor was he present on parade. I searched the coy lines calling out the accused's name but could not locate him, so placed the accused on the absentee roll as A.W.L. from 1400 hrs 16 Oct 44. I have not seen him since in the coy lines or camp area.

(A Mc Ilroy Sgt)

The accused declines to cross-examine this witness.

2nd Witness: H40829 Sgt Wetherall L C, 4 Cdn Rft Bn, 1 C B R Gp, having been duly sworn, states:

I am H40829 Sgt Wetherall L C, P E Sgt of "B" Coy 4 Cdn Rft Bn, 1 C B R Gp. At approx 0800 hrs 16 Oct 44 I was present on morning parade when draft warning was read to all units of "B" Coy. The name of Pte Titchnell was on the HPER draft roll. This draft was warned by Sgt Mc Ilroy and Pte Titchnell was on parade.

(L C Wetherall Sgt)

Question by Accused: - Did you personally hear me answer my name?

Reply by Witness: - No.

3rd Witness: P9577 CSM McDermott M M, 4 Cdn Rft Bn, having been duly sworn states:

I am P9577 CSM McDermott M M, of "B" Coy, 4 Cdn Rft Bn. At approx 0800 hrs 16 Oct 44 I was present on parade when Sgt Mc Ilroy warned the HPER draft that they would be proceeding to the field. The name of the accused was on this roll and Pte Titchnell was warned at this time.

(M McDermott)

Question by Accused: - Did you personally hear my answer my name?

Reply by Witness: - No, but you were present.

4th Witness: A22296 Sgt White J P, 4 Cdn Rft Bn, 1 C B R Gp, having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt, 4 Cdn Rft Bn. I hereby produce a certificate under A A Sec 163 (1) (j) purporting to relate to the accused and showing that B62291 Pte Titchnell L L, was arrested at Cava at 1130 hrs 23 Nov 44. (Produced, shown to accused, marked Exhibit 'A', and attached hereto).

(J P White Sgt)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

Answer by the Accused:

I will wait to see my defending officer.

I certify that R P 4 (c), (d), (e) and (f) have been complied with.

I certify that the above summary was taken down by me in the presence and hearing of the accused.

(D B MacKean) Lt
Officer taking Summary

In the Field
5 Dec 44

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 6th Nov. 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of Desertion

AA 12(1)(A)

for which I was remanded for Court Martial.

L L Titchnell
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Capt H S Hoppe if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

L L Titchnell
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec [illegible] or MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

L L Titchnell
(Sig of Accused)

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

VV.62
TPR TITLEY D.T.

JAG BRANCH - REVIEW RECORD

Accused

41 77907 Pvt Tilley D T.

18 Cdn Armd C Regt

Remarks	Date
Trial in (Country) Eng.	2 Nov 43
Charges Sec 15 (4)	
Sentence 60 days detn	2 Nov 43
Rec'd from CR at JAG Branch	24 Nov 43
To WHW for (pre)(post) rev	30 Nov 43
Recommendations by DW	
(1) Pass and record.	
(2) ~~Ltr on irregularities~~	
(3) ~~Quash~~ charge(s).	
(4)	
Ret'd to JAG Rev 1 by DW	1 Dec 43.
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record and file Dwf	1 Dec 43
Instrs completed by	

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 77907 Tpr Ronald Thomas Titley 18 Cdn Armd R. Regt (12D)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present illegal sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty days.

(Sgd) Gordon N. Jermyn 2 Nov 43 (Sgd) R.J. Hamilton President. (RP 45, 50)

Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ~~3 Nov 43~~ (Sgd) [illegible] Commanding HQ. CCE HB.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~(1) HB.

(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 3 Nov 43 Commanding HQ. CCE 2 Can Corps Tps.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
Tpr D R Titley	9 Nov 43.	R.R. Black Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

VV-62

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) A.G.P.S. 6/1668 (2564)

Convened by Order of Lt. A. Lucas A/Comd 2 Cdn Corps Tps Cdn RCASC dated 1 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H- 77907	Tpr	R. Dearville Cook	Ronald Thomas	Titley	18 Cdn Armd R. Regt. (12D)

1 Dec 43

Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, ~~and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [illegible] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [illegible] fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~

~~The Interpreter is sworn (1). Do you object to~~ ~~as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R. J. Hamilton	6 Cdn ATk Regt RCA
Member	Capt	P. L. Partington	6 Cdn LAA Regt RCA
Member	Lt.	H. J. Mc Cutcheon	2 Cdn Corps Def Coy
Judge-Advocate	Capt.	G. H. Jermyn	HQ 2 Cdn Corps.
Prosecutor	Lt.	H. W. Chaplin	18 Cdn Armd C Regt.
Defending Offr	Lt.	H.H. Madigan	18 Cdn Armd C Regt

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused [illegible] before arraignment make(s) (no) [illegible] plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is [illegible] arraigned [illegible]ly on all charges in the charge sheet.(1) The accused does [illegible] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when arrayed accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [illegible] and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 4, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir R .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I wish to give evidence ..... Do you intend to call witnesses on your behalf ? Ans Yes Sir ~~Are they witnesses as to character only ?~~ Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty~~, and states to the accused that the finding(s) of the Court on the First charge being subject to confirmation, will be promulgated later.(1) ~~On The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans Yes Sir. .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir, by way of defendant's address. .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Oversees RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(10), 68(1), KR Can 566.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to custody and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.77907 Tpr. Donald Thomas TITLEY, 18 Cdn Armd C Regt (12D), a soldier of the Canadian Army Overseas, is charged with

First Charge
A. A. Sec 15(4) WHEN ON ACTIVE SERVICE STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the Field on 3rd October 1943, stole a Waltham, 21-jewel gold pocket watch, the property of H.77418 A/Cpl Edward Lewis STROULE, 18 Cdn Armd C Regt (12D), a person subject to military law.

(J. A. Roberts) Lt-Col,
Commanding
18 Cdn Armd C Regt (12D)

In the Field
Oct 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
1 Nov 43

..... Major
A/Comd 2 Cdn Corps Tpt Coln
RCASC

Unit 18 Cdn Armd Corps

Squadron, Battery or Company

~~MORNING SICK REPORT~~

MEDICAL INSPECTION REPORT *

Station In the field

Date 20/9/ 1943

A.F. B 256

Army No.	Rank	Surname and Initials (M under name if married)	Completed years of Age	Completed years of Service	Religion	If for duty†	Whether a defaulter	Disease	Disposal Medical Officer's Remarks and Signature
A122702	Tpr	TITLEY D.J.	19	2	C.			For trial by Court Martial	Examined & found Fit
									D.J. Thomson Lieut-RAMC

* Strike out whichever is not applicable. † State nature of duty for which warned. In the case of men for medical inspection, the reason such as "for trial by court martial," or "joining the Station," should be stated against their names.

(270

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/Pam/1697 (2869)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/; or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-77907 Tpr.		Donald Thomas	Titley	18 Cdn Armd C Regt. (12)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1Nov 43 endorsed by me, [or by an offr of my command,] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [and that it is not practicable to delay the trial for reference to a superior qualified authy.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I am unable to appoint (a) three Offrs to form the Court, (b) two Offrs, President and the senior I have attached hereto.]
(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	R.J.Hamilton		6 Cdn A Tk Regt RCA

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	P.L.Partington		6 Cdn L A A Regt RCA
Lt	H.J.McCutcheon		2 Cdn Corps Def Coy

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 104.)	(Unit.)
Capt	G.H.Jermyn		HQ 2 Cdn Corps

On Active Service in the Fd

in England (Country.)

W. A. Lucas. (Signed personally. RP 106(4).) Major. (Rank.)

Date 1 Nov 43

[Commanding] A/Comd 2 Cdn Corps Tpt Coln RCASC
Convening Offr.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

D.2 Prosecuting Officers Opening Address

The accused is charged under AA 178(4) with stealing a watch belonging to Cpl Sproule. I will call Capt Wilson who will give an account of the action taken when the loss was reported. A/Cpl Sproule the owner of the watch to identify it and P.C. Garrett who investigated the case and took a statement from the accused which statement was voluntary. I will produce the watch in question.

D3 First Witness for Prosecution

H. 77418 Cpl Sproule, E. L. sworn states

I discovered my watch was stolen about 1230 hrs 3rd Oct. I reported it to Capt Wilson who called a parade at which every one turned out their pockets. The watch was not found. There were a few men missing from this parade one of whom was Tpr Tilly whom I recognise here as the accused. I went out on the main street and found Tpr Tilly and ordered him to report to Capt Wilson. I asked Capt Wilson to turn the investigation over to the civilian authorities which was done. The constable questioned a number of men at the house and the following day he asked me to bring Tpr Tilly to the ~~police~~ police station for questioning. About 1200 hrs 8th Oct. I saw the constable again and he had my watch. Capt Wilson & I went to the police station. I identified my property. The P.C. took a statement which Tpr Tilly signed.

Prosecutor produces watch which ~~accused~~ witness identified by its make and the fact that the glass is cracked.

The watch is marked Exhibit "A"

I last saw the watch at 0945 on 3rd Oct. ~~It was~~ That was the last time I saw it. I discovered it missing at 1230 hrs. It was 1330 hrs when I found accused on the street.

No cross-examination

R.P. ~~§~~ 3 (b) complied with.

Second Witness for Prosecution

Capt. J. L. Wilson, sworn states

I called a special parade. Several chaps were missing from the parade. Tpr Tilly was one of them. The watch was not found on a turn out of pockets of those on parade. I ordered Cpl Sproule to go out and look for those missing from parade. Later Tpr Tilly appeared in the orderly room. I explained to him that a watch had been stolen and ~~he~~ ~~wanted~~ the rest of the party had turned their pockets out and I wanted him to do the same. He turned his pockets out but the watch was not found. I then gave permission to Cpl Sproule to turn the matter over to the civilian police.

The next day about noon the P.C. and Tpr Tilly arrived at Burnhurst, this place. The P.C. produced a watch. The P.C. and Cpl Sproule

the accused and myself went to Hurst Green police station. At the police station a statement was taken from Tpr Tilley but before he made the statement he was warned by the constable that he did not need to make a statement but if he did the statement could be used as evidence against him later.

Tpr Tilley then related that he had stolen the watch and threw it into the bushes when told by Capt Sproule that he was wanted in the orderly room. The watch was produced by the constable and Capt. Sproule identified it as his property. The statement was a free statement. No pressure whatever was brought to bear.

Cross-examination:

I do not recall any promises made to accused that he would get off with a lighter sentence if he made a statement.

R.P. 13(B) complied with.

Third Witness for Prosecution

P.C. 77. Harry Garnett. sworn states

At 1.30 P.M. on 3 rd Oct Capt Sproule reported to me that he had had a watch stolen from his room and asked me to make enquiries with a view to recovering it. I made enquiries at the unit that afternoon. I interviewed numerous men and ascertained that Pte Tilley was absent from the unit. I recognise the accused as Pte Tilley. There were also other men whom I was unable to interview at this time. About 0930 AM on the following morning I came to the unit and had Pte Tilley brought to the police station. I questioned him and asked him if he knew anything regarding the watch. I had previously told him I was making enquiries in connection with a watch which had been stolen. Not being satisfied with his answers I questioned him further and as a result we came to the entrance to Barnhurst and searched in the bushes. Tpr Tilley on the inside of the hedge and I on the outside. Lying at the bottom of the hedge on the grass verge I found a watch answering the description of Capt Sproules' which is the watch here Exhibit 'A'

I returned to the police station and in the presence of Capt Wilson and Capt Sproule I cautioned Tpr Tilley and he made a statement which I recorded in my notebook and which was signed by Tpr Tilley.

I told him that ~~he did not~~ he was not obliged to make a statement unless he wished to do so but that whatever he did say would be taken down and might be used as evidence. He made a statement which I took down in writing. After I had written it I handed him the book and invited him to read the statement and told him I would make any corrections he wished and initial them. He read the statement but made no corrections and signed the statement in my notebook. as follows.

" I have been cautioned that I am not obliged to make a statement unless I wish to do so and that whatever I may say will be taken down and may be used as evidence. Yes I will tell you the truth I did take it I threw it in the hedge when a Sgt came out and told me the Captain wanted to see me yesterday"

Later that day the watch was identified by Sgt Sproule as his property.

No Cross-examination

R.P. § 3(b) complied with.

D-6 1st Witness for Defence.

H. 77907 Pte Donald Thompson Tilley sworn states.

On the day the watch was taken I went into Sgt Sproules room and lay on his bed as I was not feeling very good as I had been drinking heavily the night before. I did not have any intention of taking the watch In fact I didn't know I had taken the watch at the time. At the time I lay on his bed I was feeling pretty fed up and if I had any intention of getting rid of the watch such as selling it I would have taken the chain and all. I did not intend to keep it when I found it on myself. After Sgt Sproule had told me to report to Capt Wilson which I did. Before I went to be searched I put the watch in the hedge. I was figuring on replacing it the following night after things had quieted down. I could not do anything else as it was mentioned that I was the last one seen coming out of Sgt Sproules room after the watch had been taken.

I threw the watch away so I would not be caught with it at the time of search I figured on replacing it the following night when things had quietened down. I don't know how someone knew I was said to be the last one in the room. Sgt Sproule told me.

The policeman asked me if I knew anything about the watch. I told him I did not know anything exactly about the watch. He said it would be easier on me if I did make a statement and sign it. He said it would be easier on my sentence. When I found the watch in my pocket I wondered how it had got there. If I had been intending to take it altogether I would have taken the chain and keys that were with it on the windowsill. The windowsill is just above his bed. I went to sleep on his bed just for a little while when I got up I wasn't feeling very good.

Cross Examination

I disconnected the watch just before I went in to see Capt Wilson. I reached in this pocket (upper left jacket pocket) for my notebook and put the watch. This was about 5 minutes before I went in to Capt Wilson to search me.

I went to lay on Cpl Sproules bed just a little before dinner. I did not feel like eating at the time.

I went in there. There is a friend of mine Tpr Hofstetter whom I was waiting to see and before I got to see him I went over to the lavatory across the aisle because I wasn't feeling just right. Then Cpl Sproule said I was the last one seen leaving the room before the watch was stolen. Cpl Sproule said this before the watch was found after he had questioned every body else.

I saw the watch on the windowsill when I went into Cpl Sproule's room. The next time I saw it was when I disconed it on myself. Cpl Sproule had the chain in his hand and I heard him say the only thing that was left was the chain. I do not know the name of the man Cpl Sproule was talking to.

I did not go for dinner that day at all.

By the Court

The watch was attached to the chain when I saw it on the windowsill. I was not in the habit of going into the Cpls Room. This was the first time I had been in it. I am not in Cpl Sproules squadron I am in Headquarters. I dont remember how I got the watch in my pocket because I was drunk. I was sick. I was not ~~not~~ on parade that morning. I do not know how the watch was attached to the chain there were three keys on the other end. Cpl Sproule told me to report to Capt Wilson. Capt Wilson said this had been a watch taken. Cpl Sproule said I was wanted to be searched and that his watch had been stolen. He said I was the only one who had not been searched. I did not want to be searched and the watch found on me so I put it in the hedge. I did not know it was Cpl Sproules watch I put in the bushes. I found out it was Cpl Sproules watch when I went down to the police station. I do not know how it got in my pocket. The I had been celebrating. The liquor did not effect me until that morning. Reveille is at 6 o'clock. I had breakfast, porage and tea. I was talking with the Cook for a few minutes I was talking to L/Cpl Barclay. I was talking with L/Cpl Manton. I went back to the Cooks + got a ham out then he asked me to go and get him a paper. I didnt go over to the store. I stayed in Camp. I went into Cpl Sproules room a little before dinner. I went upstairs to see Tpr Hofstetter to see if he would go to Robinsford with me. I didnt remember taking the watch at the time I sig ned the statement. I was looking at some pictures I had just got got from a fellow and was putting them in my book. We were at the pub until closing time I got in around about midnight.

R.P. 53 (b) complied with

D-L Prosecuting Officers closing address.

Accused is charged with stealing. I should like to read to the court paras 32 and 33 of ch VIII found in MML p 22. Reads.

The prosecution has proved all the elements necessary to come within the above mentioned definition.

Defending Officers closing Address

From the evidence of the accused it appears that he had no intent to steal or deprive the rightful owner of his property. In view of the fact that he said an inebriated condition existed at the time of the alleged offence would bear out the above statement that the accused not having the proper faculties of his mind had no intent to deprive or steal the property of Cpl Sproule. There is a question whether or not the statement to the police was voluntary or not. From the accused's evidence it would appear that the statement was not voluntary and that should be taken into consideration. Not knowing how the wallet had got into his possession after finding it he became alarmed and threw it away the reason being that he had thought somebody might have put it upon his person and did not want to be crimed because of that.

~~closing Address~~ SS.

Summing up by Judge Advocate

The court is the ~~sole~~ judge of the facts and of the legal consequence of such facts as are found proved. The credibility of witnesses and the weight to be given to the evidence of any witness is a matter for the court alone to decide. The prosecuting officer has read to the court the def. of theft and left for the court to decide whether or not the accused took the wallet and whether or not at the time he took it he had the intention permanently to deprive Cpl. Sproule of the wallet.

The court must keep in mind that every man is presumed to be innocent until he is proved by evidence given before the court to be guilty.

I should like to read to the court para 66 Chart 7 found in M.M.S. page 124. Reads.

The defence is that the accused did not know that he had taken the wallet and that he could not form the necessary intent to deprive the owner permanently of the wallet

because he was under the influence of liquor.
It is a question of fact for the court to
decide whether or not the accused is guilty
before finding the court in this respect that
he had taken it. If the answer to that question
is yes that he did not know the difference
that he could not tell formula the essential
point of the answer to that question is
that he did know then the alcohol can in
effect be was so under the influence of drink
that he could not form the essential point
of direct evidence can be given of the
state of a man's mind that must be inferred
from the evidence of overt acts.
Burden in court to para 9 chapt 7
page 106 M.M.J. Ready.
It is for the prosecution to prove it case
beyond all reasonable doubt. The onus of reasonable
doubt is as difficult as the onus of reasonable
man. To warrant an acquittal the doubt
must not be light nor capricious such
as timidity or passion prompts or conviction
readily adopts. It must be based upon
or upon a calm view of the whole evidence
a rational understanding will support to
an honest heart. A conscientious conviction
of minds that are not influenced by
party pre-occupied by prejudices entertained
by fear but if there is a reasonable doubt
in the mind of the court the accused must
be given the benefit of that doubt and
be acquitted.

Character Evidence for accused

Capt. J. L. Wilson, already sworn as to ~~found~~ witness, states.
As far as I can see he is rather an irresponsible
individual. I don't say he is a poor worker but he is not as good
as the other chaps I have with my party. I do not know a great
deal about T per T Utley. He came to the advance party and to the regt.
just before the unit left on an express. He seems to be suffering from an
illusion that he is being persecuted and this is not so.

H. 77026 Cpl. Vans Somerset, T.W.I. sworn states.
T per T Utley has been under my orders for the past three
months. I have found him ~~[illegible]~~ while not reliable, seeming by

suffering from a persecution complex. He seemed to think that he was being picked on. If he could be interested in any thing his work was quite satisfactory but his interests seemed very few as to army work.

E-3. The defending officer reads and hands in a statement in mitigation of punishment

Defending Officers Plea of Mitigation

In view of fact that the accused has stated in his evidence that he had a temporary lapse of memory due to ~~had~~ liquor at the time of the theft and no intent to steal or deprive Cpl Sproule, E.L. of his property, I wish to put in a plea of mitigation. I further strongly suggest that the court recommend to the convening officer that the accused, Pte. Titley, D.F., be examined by an Army psychiatrist and the results of this examination, if adverse, be taken into consideration by the court. By his actions before the court, he has shown that his mental calibre is not high. I recommend that this examination should be conducted with a view toward recategorization.

H.N. Madigan, Lieut
10 Cdn Armd C Regt (120)

Exhibit "A" J Wilson Capt

Appendix (1)

FORM 32.

POLICE FORCE

EAST SUSSEX CONSTABULARY.

Report No.

Hurst Green Station Battle Division

Statement taken at :—

Place Police Station. Hurst Green. Time 12. 40 p.m. Date 4th October 1943

Name Trooper Donald TITLEY. No H/77907

Address 18th Armoured Car Regt, 12th Dragoons, 2nd Corps Canadian Army O/S. Age 21 years

Occupation Soldier

Statement :— I have been cautioned that I am not obliged to make a statement unless I wish to do so, but that what ever I say will be taken down in writing and may be used in evidence

I will tell you the truth I did take it. I threw it in the hedge when the corporal came and told me the Captain wanted to see me yesterday.

(Signed) ~~Tpr D Titley~~ H/77907 Tpr D TITLEY

The above statement was made to me by Trooper Donald TITLEY, in the presence of Captain Wilson and Corporal Sproule, and recorded by me at the same time.

Harry Garrett PC 44

SUPERINTENDENT'S OFFICE,
SUSSEX POLICE FORCE.
EAST SUSSEX CONSTABULARY,
BATTLE.

12th October, 1943.

My Ref.CID/1092/43.

Sir,

Re:- Trooper No.77907,
Donald TITLEY.
Larceny of gold watch.

With reference to the above matter, I beg to inform you that a report has been submitted to my Assistant Chief Constable, who has agreed that the case is one which can be dealt with by the Military Authorities.

I enclose herewith a copy of the Police Report, and I shall be glad if you will inform me at your earliest convenience the result of the case, in order that I might complete my file.

I am, Sir,
Your obedient Servant,

Superintendent.

The Officer Commanding,
18th Armoured Car Regt,
12th Dragoons,
Canadian Army Overseas.

INFORMATION CIRCULATED BY TELEPHONE FROM DIVISIONAL HEADQUARTERS.

Date.	To Whom.	Date.	To Whom.

(Office Stamp or Date) 7-OCT-1943 POLICE STATION HURST GREEN

Submitted: W. Cumming Sergt. Section Officer.

Examined. W. Dilld Divisional Detective Sgt.

Superintendent's Remarks:

Superintendent.

REFERENCES
Date of Preliminary Report
H.Q. Ref. Internal Nos.
External Nos.
Police Gazette

RESULT OF PROCEEDINGS.

Date arrested

Bailed / Summoned to appear

Remanded on bail / in custody to

Dealt with summarily—Result

Committed for trial Assizes / Sessions

Result

C. K. S. Co., Ltd.—6720-1937

(Extended 3) Ch

Exhibit "A" J. Gillibrand Capt

"C" C.I.D. 1092/43

6-OCT-1943 POLICE STATION HURST GREEN

7 OCT 1943 EAST SUSSEX CONSTABULARY BATTLE DIVISION

FIRST CRIME REPORT. Beat File No.

Crime Report No.

SUSSEX POLICE FORCE
~~EAST SUSSEX CONSTABULARY~~.

From Harry Gauett PC 77

Station Hurst Green

Division Battle

To Superintendent of Police, Battle

6th October 1943

REPORT OF INDICTABLE OFFENCE.

Date and time committed 3rd October 1943 Between 11a.m. & 12 Noon.

Place "Bernhurst" Hurst Green, Parish of Etchingham

Nature of crime (Including Act and Section) Simple Larceny of a Gents Gold Watch Larceny Act 1916 Section 2.

Name and address of complainant Corporal Edward Lewis SPROULE No H 77918 18th Armoured Car Regt, 12th Dragoons 2nd Corps Canadian Army

Crime reported by Complainant Verbally

Date and time—
Crime reported 1.30 P. 3rd 10 43
Scene visited 2.30 P. 3 10 43

Is the crime considered to be genuine? Yes

Does suspicion fall on any member of household? Yes

DESCRIPTION OF PERSONS (Known/~~Suspected~~)

Name and aliases Trooper Donald TITLEY. No H 77907

Age 21 years
Height 5' 7"
Complexion Ruddy
Eyes Brown
Hair Brown
Figure Well built
Residence 18th Armoured Car Regt. 12th Dragoons 2nd Corps
Trade Soldier Canadian Army Overseas
Dress Battle dress Black beret with cap badge (a bison)
Peculiarities and marks

M.O. CLUE.

Class of person or building attacked: Sleeping quarters in a military billet

Where was entry effected? Through open bedroom ~~window~~ door.

How was point of entry reached? By walking up the back staircase

Means by which entry was effected: Thief was billeted in the house.

What was the object? (*Jewellery, Cash, etc.*): Gold watch.

Is day or time of significance? (*Market day, Church time, etc.*): Day time, during absence of occupants.

Means adopted to obtain possession of property (*Tale told: character assumed*): Watch was taken off of bedroom window sill.

Did criminal work alone? Yes.

Description of vehicle used

Any trademark left at scene of crime?

How did criminal leave premises?

Give detail of footprints, fingerprints or other marks, personal property, tools, etc., left behind

Have clues been carefully guarded? (*Detail steps taken*)

Is there any material which lends itself to chemical or microscopical examination? Give details

Is evidence available to prove a systematic course of fraud?

Give particulars of any property, useful in commission of offences, found on prisoner

PROPERTY CLUE.

In order to obtain the best results from this important clue, care must be taken to describe all property in detail, all marks, numbers, maker's names being included. This information is especially useful in the identification of stolen watches, jewellery, etc. If any article is of outstanding value the fact should be noted and its approximate value given.

All stolen property should be classified as follows:—

Property that could be identified by any person

Property identifiable by owner: Gents, Gold, keyless, 21 Jewelled Waltham Pocket watch, white face, Black English numerals, numerals 13-24 inside 1-12, button for altering hands beneath face glass, glass cracked, seconds hand.

Property not identifiable

VALUE.			INSURANCE.
Stolen.	Recovered.	Date.	
£12.0.0	£12.0.0	4/10/43	Amount
	£		When Insured
	£		Company

GENERAL REPORT AND OBSERVATIONS.

(*Additional sheets may be used*)

Upon receipt of information I made enquiries at the unit, and ascertained that Trooper TITLEY had been in the room from which the watch was stolen, during the morning of the 3rd inst.

When the watch was missed a roll call was made, and each man was questioned and searched. The only man absent at this time was Tpr Titley. He was subsequently seen and he was then questioned and searched by his Officer, Capt Wilson. He denied all knowledge of the theft and the search proved negative.

At 10 am on the 4th October 1943 Tpr Titley called at the Police Station.

Harry Garnett PC 77.

FORM 95. Exhibit "B" J.H. Wilson Capt CONTINUATION SHEET NO.

Beat File No.

I informed Trooper Tilley that I was making enquiries into the theft of a watch from his unit on the 3rd inst. and asked him if he knew anything about it.

He stated he knew nothing about it.

I questioned him regarding his movements on the day in question. He gave me an account of his movements and denied either having seen or touched the watch.

I was not satisfied with his answers and questioned him regarding his movements between the time the watch was last seen and was missed. He then said "I don't know the name of the chap who took it, but I can get it back, I know where it is." In consequence of this statement I went with Tpr Tilley to the entrance to "Bernhurst" in Station Road.

We searched the hedge at the entrance, and I found the watch lying in the grass at the foot of the hedge.

I took possession of it, and returned to the Police Station with Tpr Tilley.

At 2.40 on 4th October 1943 at the Police Station in the presence of Capt Wilson and Corporal Sproule, I cautioned Tpr Tilley, and made the attached statement. In consequence of the statement, Capt Wilson requested the custody of Tpr Tilley and placed him under close arrest. I informed him he would be reported for stealing a watch valued at £12.0.0. The watch is retained at this Station.

Capt Wilson is communicating the facts to his Commanding Officer.

Harry Garrett. Pte 47.

Statements overleaf

Sch 129. 5000/41

Statement taken at Hurst Green Police Station at 1800 hrs. 3rd October, 1943.

Corporal Edward Lewis SPROULE. No H/77418. age 25. 18 Armoured Car Regt. 12th Dragoons. 2nd Corps. Canadian Army. U.S. States. At about 11am on the 3rd October 1943, I was at the billet when I went to my room upstairs, and there saw my watch, a Gent's 21 Jewelled, Gold Waltham with white face, black English numerals and the numerals 13-24 inside the numerals 1-12, keyless, glass cracked and with a button to alter the hands, beneath the face glass, and valued at £12.0.0. It was lying on the window ledge on the chain, when I entered. I had no reason to touch it. I went to the room again at about 12.30 hrs, the watch was gone, but the chain was still there. I did go into the room at about 12.45 hrs, but did not notice whether it was there or not. There are four other men in the room beside me. I could identify the watch again.

(Signed) Cpl. E.L. Sproule.

Statement taken at Hurst Green Police Station at 12.50 hrs. 4th October, 1943.

I have been shown a Gold Waltham Watch which I identify as my property.

(Signed) Cpl E.L. Sproule.

The above statements were made to me by Cpl Edward Lewis SPROULE, and recorded by me at the same time.

Harry Garrett PC 47.

LIST OF EXHIBITS IN THE CASE OF
H77907 TPR DONALD THOMAS TITLEY,
18 CDN ARMD C REGT (12 D)

(1) East Sussex Police Force Form 32, Statement of H77907 Tpr Donald Thomas TITLEY

(2) Sussex Police Force First Crime Report against H77907 Tpr Donald Thomas TITLEY made by Harry Garrett, P.C.77, Hurst Green Station.

I desire the Commanding Officer to detail an officer to rep resent me at my forthcoming trial by Field General Court Martial.

I desire the services of Lieut H.B. Madigan if he is available.

Tpr D.T. Titley

H27907 Tpr Donnald Thomas TITLEY
18 Cdn Armd C Regt (12 D)

In the Field
28 Oct 43

Times and References | 93 | Notebook

12.10
14/10/43

Tpr Donald Tilley No H 77907
18th Armour Cav Regt.
12 Dragoon
21 yrs.
2 Corps
C.A.O.S.

I have been cautioned that I am not obliged to make a statement unless I wish to do so that whatever I may say will be taken down and may be used in evidence

yes I will tell you the truth. I did not take it. I threw it in the hedge when the corporal came out and told me the Capt. wanted to see me yesterday.

Tpr D. Tilley.

Certified a true copy of the original page from the book of P.C. 77 Harry Garnett.

F. H. Jermyn
Judge Advocate.

Summary of evidence in the case of H77907 Tpr Donald Thomas TITLEY, 18 Cdn Armd C Regt (12 D), Canadian Army Overseas, charged under A.A. Sec 18 (4) with stealing a watch the property of H77418 Cpl Sproule, E.L.

The Commanding Officer directs the evidence be taken on oath.

First Witness

Capt J.L. Wilson, 18 Cdn Armd C Regt (12 D), sworn states:

I am officer in charge Advance Party 18 Cdn Armd C Regt (12 D), at Hurst Green Camp. On the third October 1943 at approximately 1245 hrs Cpl Sproule reported to me that his pocket watch had been stolen from his room. I ordered a special parade immediately in the hope that the missing watch be found. Several chaps were missing from this parade, Tpr Titley being one of them. Cpl Sproule was then instructed to look around the vicinity of the quarters and send any of these missing chaps he found to the Orderly Room. Later Tpr Titley reported saying he had been sent back by Cpl Sproule. When told about the missing watch he turned out his pockets for me to see their contents. As he did this he made the following statement "I get blamed for everything that is pinched around here". I then gave Cpl Sproule permission to turn the case over to the Hurst Green Police.

At approx. 1200 hrs on 4th Oct 1943 a police constable and Tpr Titley arrived at Bernhurst. The constable showed me a pocket watch and said "This is it," and asked me to come over to the Police Station. At the station he took a statement from Tpr Titley but, first warned him that any statement he made could be used as evidence against him later. Tpr Titley then related that he had stolen the watch and later threw it into the bushes when told he was wanted in the Orderly Room. This statement was read back to the accused who then signed it. I requested that the accused be given into my custody. I then placed him under close arrest.

The accused declines to cross examine this witness.

(J L Wilson) Capt

Second Witness

H77418 Cpl Sproule, E.L., 18 Cdn Armd C Regt (12 D), sworn, states:

On October 3rd 1943 at approx. 1230 hrs I returned to my room after lunch and found that my pocket watch had been stolen from the window ledge where I had left it. I reported to Captain Wilson after I had made a thorough search. The Captain called a parade and everyone turned out their pockets but the watch was not there. From this parade some men were missing and I was instructed to go out and send any of them I found back to camp. I found Tpr Titley on the street not far from camp and sent him back to Cap tain Wilson. The watch was still not found so I asked permission to turn the case over to the police and it was granted.

At 1000 hrs on October 4th 1943 the Police constable asked me to have Tpr Titley sent to the station for questioning. I sent Tpr Titley to the police station and at 1200 hrs I again saw

the constable and he had my watch and Tpr Titley with him. I identified my property and then Captain Wilson and I went to the Police station. The accused was warned that anything he said could be used as evidence against him and then in the presence of Captain Wilson and myself a statement was taken from Tpr Titley and he signed it.

The accused declines to cross examine this witness.

H77418 Cpl Sproule E L

Third Witness

P.C. 77 Harry Garrett, member of Sussex Police Force, sworn, states:

On 4 Oct 43 I was notified that a gold watch was missing at Hurst Green Camp. I submit as evidence my crime report and also a statement made by H77907 Tpr Titley, D.T. to me.

P.C. 77 Harry Garrett

The documents referred to by the witness, produced and read over to the accused, marked Exhibit "A" and signed by me and attached hereto.

(J L Wilson) Capt

The accused was warned as follows:-

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The Accused: I desire to make a sworn statement.

The accused, H77907 Tpr Titley, D.T., 18 Cdn Armd C Regt (12 D), sworn, states:

I will tell you the truth I did take it. I threw it in the hedge when the Cpl came and told me Capt Wilson wanted to see me yesterday.

H77907 Tpr Titley D.T.

The accused declines to call witnesses in his own behalf.

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 12 day of October, 1943.

J.L. Wilson Capt

No. H77907 Name Titley D.T. | Sqn., Battery, or Company | Corps C.A.C. Gabbet "C" | Date of enlistment 23-3-42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 119) 125M. 7-41 (1218-26) H.Q. 1772 39-1683

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-9-42	Tpr		Tried & found guilty by a D.C.M. of deserting His Majesties Services. Absent from 2200 hrs 4-9-42 till 1100 hrs 17-11-42.	Documentary	30 days Det Total Stop of pay $62.00 (48 days pay)	4-1-43	D.C.M.	A.F. of pay $33.25 FR&I 149
Field	11-2-43	Tpr		A.A. Sec 15 (1) AWL (8 hrs)	L/Cpl Sellinger.	3 days C.B.	12-2-43	Capt D Carmichael	A.F. 1 days pay FR&I 149
Field	2-6-43	Tpr		A.A. Sec 40: Failing to report for duty after being warned by superior Officer.	Cpl Feigel	14 Days C.B.	20-3-43	CQpt C.G. McKnight	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT IN MY CUSTODY					
				(H SINCLAIR) Lt & A/Adjt. 18 Cdn Armd C Regt (12 D)					

Exhibit "B" Exhibit "A" Affidavit Capt

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H77907	Tpr	Donald Thomas TITLEY,	18 Cdn Armd C Regt (12 D)

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For AWL, AA15(1)	1 times	times
For Failing to report for duty after being warned	1 times	times
For	times	times
For Desertion, AA15(1)	times	1 times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused~~

~~Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, ~~Air Force Act~~ A.F.A. 73, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence of~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 32 days in military custody, making a total of 32 days in custody, of which —— days were spent in hospital.

5. The present age of the accused according to his attestation paper is 21 years

6. The date of his attestation specified in his attestation paper is 23 Mar 42

7. The service which the accused is allowed to reckon towards discharge is 1 year, 7 months, 3 days

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

~~9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is military military in possession of or entitled to). State any air force decoration or reward military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number H77907 Rank Tpr

Name Donald Thomas TITLEY of 18 Cdn Armd C Regt (12 D) Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
D.C.M.	Field, 4 Sep 42	Deserting his Majesty's service AWL, 2200 hrs 4Sep 42 to 1100 hrs 17Nov42, AA15(1)	30 days Detn. Total forf of pay $62.00	nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~26th~~ 2nd day of ~~October~~ November 1943. J.J. McLaurin Lieut A/Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

56-132.

8

Iper. Titus. L. 2.

59

RECORDED AT CMHQ IN AB 160 5C-132

16 APR 1945 JAG C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA32) 40-P & S-1698 (2864)

Convened by Order of Brig W.C.Murphy, DSO, ED Comd 1 Cdn Armd Bde dated 24 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit
A.4435	Tpr		Lorne Edward	TITUS	12 Cdn Armd Regt

PROCEEDINGS REVIEWED
Joseph de Billy Capt
12 Apr 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 25 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, PP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1017 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Albert Schmengler as interpreter ? Ans No

The Interpreter is sworn.(1) Do you object to Lt Johnson W.R. as shorthand writer ? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.J. Rapp	1 Cdn Armd Bde Sigs.
Member	Captain	W.A.S. Barnes	1 Cdn Armd Bde Coy (83 Coy) RCASC.
Member	Captain	C.F. Hogan	1 Cdn Armd Bde Ord Fd Pk.
Judge-Advocate			
Prosecutor	LIEUT	H D BEACH	12 CDN ARMD REGT
Defending Offr	LIEUT	J P LORISTINE	12 CDN ARMD REGT

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~before arraignment make(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. A 18

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.4435, Tpr Lorne Edward TITUS

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 41(5)AA	Not guilty	Not guilty	
2nd Sec 19 AA	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~one~~ beginning on (date) ~~one~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under RB.)

Sentence Awarded by the Court:

~~Nine~~ awarded a fine of ~~Seven~~ pounds (£3-0-0) and to undergo 7 days Field Punishment for a period of twenty eight days.

(Sgd) Judge-Advocate, if any. 25 Feb 45 Date awarded. (Sgd) F.J. Rapp President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I agree the finding and sentence of the court

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) J.M. Murphy Brig

Date 21/3/45 Commanding 1 Cdn Armd Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A.4435 Tpr. L.E. TITUS	22 Mar 45	Peter Lamplugh Capt Adjt 1 Cdn Armd Bde

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), and call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ~~Yes~~ ~~As a witness~~. Do you intend to call witnesses on your behalf? Ans. No. ~~Are they witnesses as to character only? Ans.~~

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the second charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 69(1)(b), 96(1), KR Can 396. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. A-4435 Tpr. Lorne Edward TITUS, 12 Canadian Armoured Regiment (TRR) a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 41 (5) A.A.

WHEN ON ACTIVE SERVICE

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

In that he,

In the Field, Italy, at about 1715 hrs on 8 Feb 45, stole approximately 7,700 lires from a civilian, one Panchetti Arrigo.

SECOND CHARGE
Sec 19 A.A.

WHEN ON ACTIVE SERVICE

DRUNKENNESS

In that he,

In the Field, Italy, at about 1715 hrs on 8 Feb 45, was drunk.

Preferred by
A/Sgt. Clerk for Cdg
A.J.A.G. In the Field, Italy

(F. L. Caron) Lt-Col
Commanding
12 Cdn Armd Regt (TRR)

In the Field, Italy,
14 Feb 45

To be tried by Field General Court Martial.

(W.O. Murphy) Brig.
Comd 1 Cdn Armd Bde

23 Feb 45

99R.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.4435,	Tpr		Lorne Edward	TITUS	12 Cdn Armd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Feb 45 endorsed by me, [illegible]. To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4 [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.J. Rapp	1 Cdn Armd Bde Sigs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	W.A.S. Barnes	1 Cdn Armd Bde Coy (83 Coy) RCASC
Captain	C.F. Hogan	1 Cdn Armd Bde Ord Fd Pk

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	Not Available	

On Active Service in the Fd

in ITALY (Country.)

Date 24/2/45

(Signed personally. RP 105 fn 2.)

(W. C. Murphy) Brigadier (Rank.)

Commanding 1 Cdn Armd Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

HHR.

Medical Officer Certificate
M.A. (Can) Para 557

I certify that I have this morning examined

Regt'l No. H4435 Name TITUS L.E

of 12 C.A.A.R. TRR (T) and in my opinion he

is fit/~~unfit~~ to undergo Trial by 3rd General Court Martial.

Station In the field

Date 25 FEB. 45.

H.M. Lyons Capt R.C.A.M.C.
(Medical Officer)

Evidence in the case of A-4435 Tpr. Lorne Edward TITUS,
12 Cdn Armd Regt (TRR).

Opening Address by the Prosecution:

Sir, gentlemen of the Court. The accused, A-4435 Tpr. Titus, L.E., 12 Cdn Armd Regt (Three Rivers Regt), has been charged with committing a civil offence, that is to say: In that he, in The Field, ITALY, at about 1715 hrs on the 8th Feb 45 stole approximately 7,700 lire from a civilian, Signor Panchetti Arrigo. I shall attempt to prove beyond the slightest doubt, by the two witnesses I shall bring before you, that this money was stolen by Tpr. Titus and by Exhibit 'A', the afore-mentioned money, and by the statement of 10685090 Dvr. Coulston, E. of the 294 Inf Bde Tpt Coy, RASC, which proves that the accused committed the afore-mentioned crime. I have evidence here that this witness is unable to be here due to the exigencies of the Service."

First Witness for the Prosecution: Signor Panchetti Arrigo, of Luciano, near BORGO SAN LORENZO, ITALY, having been duly sworn, states:-

I am Signor Panchetti Arrigo of Luciano near BORGO SAN LORENZO.

Question by the Presiding Officer.

Q. Do you recognize the accused?

A. Yes. (Points out the accused.)

Questions by the Prosecution.

Q.1 Will you tell us briefly just what happened on the evening of this incident?

A. At about 1700 hrs when I was giving the tickets for drinks to the soldiers, a soldier came and took from the cash register some money and I ran after the soldier and I found him in a street near Piazza Del Marcato and with the help of a British and Italian soldier took the money from his hands. In the meantime, a C.M.P. Sgt was at the place and he took the soldier and the money to the Police Station.

Q.2 Approximately how much money was there?

A. I have a receipt for 7,700 Lire.

Q.3 Do you recognize this money?

A. All the money is the same and you cannot say 'this' is the money.

Q.4. Was it British money or Italian money?

A. British.

Q.5. Did you and the British and Italian soldier take the money from the accused?

A. Yes Sir, and in the meantime the C.M.P. Sgt was there and I gave it to him.

Q.6. Do you recognize the accused as the soldier who took the money from the till?

A. Yes Sir.

The First Witness is cross-examined by the Defence.

Q.6. Did the Sergeant from the C.M.P. arrive on the scene before or after the Italian soldier and the British soldier are stated to have removed the money from the defendent?

A. Approximately at the same time. Maybe after half a minute.

The Prosecution does not wish to re-examine the First Witness.

Question by the Presiding Officer.

Q.7. Approximately how far did the soldier get from the store or wine shop before he was caught?

A. Approximately 250 metres.

Second Witness for the Prosecution: 6024177 Sgt. Matthams, J., No.10 Coy CMP (TC) after being duly sworn, states:-

Q.8. Will you please give your correct Number, Rank, and Name?

A. 6024177 Sgt. J. Matthams.

Q.9. What is your job?

A. Traffic Policeman.

Q.10. Do you recognize the accused?

A. Yes Sir.

Q.11. Will you tell the Court briefly just exactly what happened on the evening of the incident?

A. At approximately 1715 hrs on the 5 Feb 1945 I was called upon by some civilians to investigate an occurence in a cafe at BORGO SAN LORENZO. On reaching the roadway I saw a Canadian soldier being chased by a considerable number of civilians. I stopped the soldier and asked what the trouble was to which he replied, 'Nothing.' Another soldier, Dvr. Coulston of 294 Inf Bde, came to me and stated that the Canadian soldier had stolen money from the canteen belonging to a civilian whom he was also with. I cannot give the name at the present time of the civilian to whom the money belonged. The civilian then handed me a bundle of notes which totalled the sum of 7,700 Lire. I requested the Canadian soldier, together with Dvr. Coulston and the civilian, to accompany me to my Company HQ which they did. In the presence of my CSM I requested the Canadian soldier's particulars but could get no sensible answers to my questions. I then formed an opinion that he was drunk. I obtained his particulars from his AB 64. I then escorted him to his unit and handed him over to the unit Guard Room.

Q.12 What did you do with the money?

A. I had it sealed in an envelope in the presence of my Company Commander and it was handed over to the Company Quartermaster for safe keeping. A receipt was given to the civilian for the money.

Q.13. Was the money British or Italian?

A. Italian lires.

Q.14. Do you recognise the accused as the soldier who was involved in this incident?

A. Definitely Sir.

The Presiding Officer, after questioning the Second Witness for the Prosecution, ruled that for the purposes of the Court, "Italian Lires", as stated in answer to Q.6., was AMG currency.

The Second Witness is cross-examined by the Defence.

Q.15. You state in your evidence that you were the man who stopped the accused when he ran away?

A. Yes Sir.

Q.16. You did not see the Italian soldier or Italian civilian stop him before you did?

A. No Sir. I saw one civilian just touch him, that is all, and that is the reason why I said, 'What is the trouble?'

Q.17. Did you see anybody take the money from the defendant?

A. No Sir.

Q.18. When you first saw the defendant running, how far was he from the Imperial Bar?

A. I should say approximately 500 yards.

Q.19. to the Court.

How far is a meter?

A. A meter is 3.37 feet.

The Prosecution re-examines the Second Witness.

Q.20. Reasoning that 500 yards is more than a quarter of a mile, do you know the location of the Bar in question?

A. Yes.

Q.21. Do you recognize this money as the money in question and have you any way of knowing it?

A. I can say that I recognize it as being similar but cannot swear that it is the money.

The Prosecution submits the money to the Court as Exhibit 'A'.

The Presiding Officer questions the Second Witness for the Prosecution.

Q.22. Who handed you the money?

A. The proprietor of the Cafe, Sir.

A written statement is handed to the Court by the Prosecution with reference to the evidence of Dvr. Coulston who was unable to attend as he has been posted to another locality.

The Defence calls on the accused, A-44935 Tpr. Lorne Elward Titus, 12 Cdn Armd Regt (ZRR).

Q.23. Would you tell the Court your Rank, Name, Number and Unit?

A. A-44935 Tpr. Titus, L.E., 'B' Sqn, 12 Cdn Armd Regt.

Q.24. Would you tell the Court slowly and in your own words what happened from the time you received a pass from the Squadron Leader on the 5th Feb on?

A. On February 5th, 1945, I received a pass to BORGO SAN LORENZO. I stopped first at the Mobile Bath. I left there about 2.30 for a little walk around town. I could not see much to do around there so I stopped in at a Cafe for a few drinks. After drinking for some time I become quite drunk and cannot remember anything after that. When I next remember anything I woke up in the back of a truck about 1930 hrs. At the time I was accused of stealing the money I remember nothing.

The accused is cross-examined by the Prosecution.

Q.25. Do you remember going into the bar?

A. Yes.

Q.26. Do you remember leaving the bar?

A. No, I don't.

Summing up by the Prosecution.

Sir, gentlemen of the Court. The evidence which the witnesses for the Prosecution have given the Court proves beyond a doubt that Tpr. Titus is guilty of stealing approximately 7,700 Lire in A.M.G.A. notes from the bar of one civilian, Mr. Panchetti Arrigo. First, Mr. Panchetti Arrigo states that the accused, whom he recognizes, took an amount of money from his till and ran away with it. He chased the accused and when he caught him retrieved the money. He states that it was British made lire. Secondly, Sgt. Matthams, J. states he saw the accused being chased by civilians and by a Dvr. Coulston. He arrived on the scene and was given the situation by Dvr. Coulston, received the money, and took the accused to his HQ. He states it also was British made lire. While the statement of Dvr. Coulston is secondary evidence, it does agree with the evidence given by the two witnesses brought before this Court and states the accused took the money and ran away with it. Finally, the accused himself admits that he does not remember leaving the bar so drunk was he and, therefore, cannot deny definitely that he did take the money. Therefore, the evidence is conclusive with nothing to the contrary that Tpr. Titus, L.E. stole approximately 7,700 lires on the 5th February, 1945 from the bar of Mr. Panchetti Arrigo.

Summing up by the Defense.

Sir, and members of the Court. The accused pleaded 'Not Guilty' on this first charge notwithstanding the fact that he was under the influence of alcohol but did not know what he was doing at the time because it is the basis of British Military Law that a man is innocent until proven guilty, and I maintain that the Prosecution has failed to definitely

Summing up by the Defense. (Continued)

establish through two witnesses brought here today that the accused stole and ran away with the money from the Imperial Bar. The first witness, Signor Arrigo, stated that the accused took the money, ran down the street with it, was caught by himself with the aid of an Italian and British soldier, stating at the same time that Sgt. Matthams of the C.M.P. arrived on the scene at or about the time that Signor Arrigo was removing the money from the defendant. Now the second witness for the Prosecution completely refutes this in his statement. He says he saw the defendant running down the street; that he, Sgt. Matthams, was the first man to stop him. In fact, in answer to a question of mine, the only other person who as much as touched the defendant was an Italian civilian who only brushed his shoulder and the main point that Sgt. Matthams brought out was that though he were the first man to stop the defendant, the defendant did not have the money with him and that the money was in the hands of Signor Arrigo at the time that the defendant was stopped. I ask the Court to consider then how it is, that if Sgt. Matthams was the first man to stop the defendant, why [illegible] it that the defendant did not have the money on him? I maintain that the defendant did not leave the Cafe with the money in his hand at all and that, through the contradictory evidence given by the two witnesses, the Prosecution has completely failed to establish a case against the defendant.

Plea of mitigation of punishment by the Defence.

Sir, and members of the Court. I would like you to consider the case of this soldier who, given an afternoon off in BORGO SAN LORENZO, finds himself, having had a shower, with little or nothing to do except for a few drinks at some bar or cafe. He goes to the Imperial Bar, the proprietor of which is Signor Arrigo, and has a few drinks. This Signor Arrigo is making a good living out of selling inferior drinks to soldiers at fairly high prices. Is it any wonder then that after drinking this alcohol all afternoon the defendant becomes very drunk? I claim that the real blame in this case does not fall on the defendant but upon this Signor Arrigo, the proprietor of the bar, who, by selling this inferior alcohol to the soldiers, causes them to become so very drunk.

I certify that the above is a true transcription of the evidence taken down by me on 25 Feb 45 in the case of A-4435 Tpr. Titus, L.E.

W. A. Nelson

(W. A. Nelson) Sgt.

Appendix "A"

Statement by No. 10685090 Dvr. Coulston.B,
294 Inf Brigade Trans. Coy. RASC, attd R.

in the case of A/4435 Tpr. Titus.L.R. 12 C.A.R.,

I was standing in the cafe when I saw the Canadian soldier grab at the canteen till, and run away with the money.

I saw the Italian civilian running after him, and the money was dropping in the road.

B. Coulston

8 Feb 45. 10685090 B. Coulston. Dvr.

ARMY FORM 0213b (Small)

Register No. 529

Transmission Instructions

DAR

Call	Srl. No.	Priority
	171	OP

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: FAD C 78 DIV

Date-Time of Origin: 241415

For Action

TO 1HB 1 CAV ARMD DIV (W) For Information (INFO)

Message Instructions: OAR

GR: 14

Originator's No. G7349/56 G 7/10E85090 DAY CONDITION B 1/2 hrs fuel and lubricants available on hand

Time	System	Op.
THI or TOR 1600	L	RAD
Time cleared		

THIS MESSAGE MAY BE SENT BY ANY MEANS { EXCEPT / WIRELESS } AS WRITTEN

IF LIABLE TO BE INTERCEPTED OR TO FALL INTO ENEMY HANDS, THIS MESSAGE MUST BE SENT IN CIPHER

ORIGINATOR'S INSTRUCTIONS Degree of Priority: Immediate

Signed

Signed

Ex A . DPL.

LIST OF EXHIBITS

Seven thousand and seven hundred lire (£7,700) Allied Military Lire, in the following denominations:

3 X 500	-	£1,500
62 X 100	-	£ 6,200
		£7,700

Returned to Parchetti avvigo – receipt attached
DPL

25 Feb 45

Received from Maj A. J. Rapp, the sum of
7.700 lire - (seven thousand seven hundred).

C4 B 00R

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A-4425	Tpr	TITUS, Lorne Edward	12 Cdn Armd Regt (TBR)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The entries with which this statement is agreed with the number of entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA 11	times	2 times
For AA 15(1)	2 times	4 times
For AA 15 (2)	times	1 times
For AA 40	times	5 times
For	times	times

Number of instances of gallantry or distinguished conduct, NIL

OR

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted. OR

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the~~ Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, OR ~~The accused at the present time is under sentence for~~ N/A beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 17 days in military custody, making a total of 17 days, of which 7no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ enlistment paper is 24 yrs 7 mos 0 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 16 July 1940

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 7mo 0 days service.

~~9. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A~~

~~12. (*If the accused is an officer.*) The accused holds in the army the rank of N/A, dated N/A~~ and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(*22561) Wt.91708/1979 10,000 10/42 A.& E.W.Ltd. Gp.698
(*24491) Wt.18227/681 20,000 5/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-4325 Rank Tpr Name TITUS, Lorne Edward of 12 Cdn Armd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15 day of Feb 45

Capt & Adjt
12 Cdn Armd Regt (RAC)

In the rank of ... years

In the rank of ... years

In the rank of ... years

* INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information must be obtained from such source as may be available and the paragraph concerned amended accordingly.)*

Is the recruit has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No A-4435 Name TITUS, L.E. | Sqn., Battery, or Company | Corps CAC | Date of enlistment 16 Jul 40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. R.E. Newton Chester

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				First sheet destroyed 16 Jan 41					
Camp Borden Ont	4-2-41	Pte		AA Sec 40 Conduct to the prejudice of good order and Mil discipline in that he did appear on parade unshaven & with dirty equipment 4-2-41	L/Cpl Arunder	2 days C.B.	6-2-41	Lt-L.G.Botting	
In the Field	22-7-41			AA 15(2) Failure to appear on time at a place of parade for guard duty on 22-7-41 at 1800 hrs	Sgt Mousseau	5 days C.B.	26-7-41	Maj Perrigard	
Field	29-7-41			AA 40 Conduct etc in that he failed to comply with an order whilst a defaulter	L/Sgt Dobson	2 days extra C.B.	30-7-41	Maj Perrigard	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30-7-41	Tpr		AA 40 Conduct etc failed to report on defaulters call at 1830 hrs	Sgt Gariepy	3 days pay	31-7-41	Lt-Col Vining	
Field	3-8-41	Tpr		AA 11 Neglecting to comply with stan ding orders AA 40 Conduct etc he was insolent to an officer (prderly)	Sgt Collins	5 days C.B.	4-8-41	Lt-Col Vining	
Field	20-10-41	Tpr		AA 15 (1) AWL from 2230 hrs 20-10-41 to 0800 hrs 21-10-41 (absent 9 hrs 30 mins)	Sgt Goodwin	Admonition	12-10-41	Maj Gordon	
Field	24-1-42	Tpr		AA 40 Conduct etc failed to report to fatigue duty	Cpl.Saunders Tpr.Fisher	3 extra fatigues	30-1-42	Maj Gordon	
Field	1-10-42	Tpr		AA 15(1) AWL from 1930 hrs 1-10-42 to 2230 hrs 1-10-42(absent 3 hrs) AA 11 Neglecting to obey an order in that he did not return to unit when ordered to do so	L/Cpl Fisher L/Cpl Arshamboult	3 days pay	2-10-42	Lt-Col Vining	

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2965)

No. A-4435 Name TITUS, L.E. | Sqn., Battery, or Company | Corps CAC | Date of enlistment 16 Jul 40 | G.C. Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. W.B.K. Gordon Chamberlain

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11-6-44	Tpr		AA 15(1) AWL from 2200 hrs 11 Jun to 2200 hrs 13 Jun (absent 2 days)	Cpl Jerome	7 days C.B.	Lt-Col PGL Lyne	14 Jun 44	
Field	1 Sep 44			AA 15(1) WCAS AWL from 1200 hrs 1 Sep to 1500 hrs 2 Sep 44 (absent 1 day 3 hrs)	Sgt Abbott	14 days F.P. 4	4 Sep 44	Lt-Col Caron	

Certified to be a true copy from the regimental books in my custody

(J. R. McLaughlin) Capt & Adjt
12 Cdn Armd Regt (TRP)

(P.T.O.)

Exhibit D Page 1

Summary of Evidence in the case of No. A-4435 Pte. Titus L.E. 12th Canadian Armoured Regiment (Three Rivers Regiment)

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the prosecution — Mr. Panchetti Arrigo a civilian living at 55 Lutiano, Borgo San Lorenzo, having been duly sworn states

At about 1700 hrs. on the 8th February 1945 I was proprietor of the Imperial Bar. I was at the cash register giving out tickets for the soldiers, to enable them to get drinks. ~~At~~ Then a soldier the accused, whom I now recognize, came near the cash register; and profitting by the fact that at that moment I was giving change to another soldier, he took the money out of the cash register. I chased him with the help of ~~other~~ some civilians ~~and we~~ one British and one Italian soldier we caught the accused, and took the money away from him. At that moment a Military Police Sergeant arrived and we handed over the accused and the money to him.

Panchetti Arrigo

The accused declines to cross-examine this witness.

L. E. Titus

Question to the Accused

Q. - Do you object to Mr. Albert Pirinnanzi acting as interpreter.

A. - No! A.E. Tebo

The following oath was administered to the interpreter:

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this Summary of Evidence

Second Witness for the Prosecution No. 6024177 Sjt. J. Matthams No. 10 Company C.M.P. (T.C.) having been duly sworn states:

At about 1715 hrs. on the 8TH Feb. 1945 I was called from my billets to investigate an incident in a cafe in Borgo San Lorenzo. I saw a number of civilians chasing the accused, whom I now recognize, I stopped him and asked what the trouble was. 10685090 Driver Coulston B. of 294 Inf. Brigade Transport Coy. R.C.A.S.C. and a civilian Panchetti Arrigo of Luliano, stated the accused had stolen money from the cafe. The civilian then handed me 7700 lires, and they stated this was the money that was stolen.

I ordered the accused, the civilian

and Driver Coulston to accompany me to Company H.Q. I got a statement from the civilian and Driver Coulston, but the accused was unable to give any sensible answers to my questions. In my opinion the accused was drunk.

I then arrested him and conducted him to his unit, where I handed him over to the Unit Guard Room.

A Mathers Sgt

The accused declines to cross-examine this witness. L.E. Titus

Third Witness
for the Prosecution

I certify that in my opinion, the attendance of 10685090 Dvr. Coulston B. 294 Inf. Brigade Transport Coy. R.C.A.S.C. is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as exhibit "A".

W.R. Crooke Capt.
——Officer detailed to take Summary

I do not require the attendance of 10685090 Driver Coulston B. for the purpose of cross examination

L.E. Titus

Statement of accused: The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: No L.E. Titus

The accused declines to give evidence or make a statement

L.E. Titus

The accused does not call any witnesses for the defense

L.E. Titus

I certify that the foregoing Summary of Evidence consisting of four pages written on one side, was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

W.R. Crooks Capt.
Officer detailed to take Summary

In the Field
13th Feb. 1945

115 - SGT. TITUS, R.W. F/29795 10-T-68 115 115

ENTERED IN RECORDS OF C.M.

No.2 Cdn. Inf. H.U.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this twenty-third day of September, 19 40

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the persons named in the annexed Schedule being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*I am unable to appoint
*(Three Officers to form the Court.)
*A Field Officer as President.)
*Three Officers having more than one year's service.)
for the following reasons, namely

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

ENTERED IN REGISTER OF C.M.'s

President.

Rank.	Name.	Regiment.
Lieut-Col.	Louis Keene, ED.,	"I" Wing, Cdn. Base Depot.

Members.

Rank.	Name.	Regiment.
Major	W.O. Peffers.	1 Gen. Holding Unit
Captain	W.B.T.Gilles	1 Gen. Holding Unit.
Captain	C.C.D'Arcy	1 Artillery Holding Unit

*Signed [signature] Senior Officer

Commanding Canadian Military Headquarters.

Convening Officer

23 SEP 1940

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F.39795 - Sgt. Titus. R.W. No 8 Can. Inf. Holding U.	Charged under Section 18 (4) A.A. Army Act.	Not-Guilty.	Guilty, (See attached Sheet)	Finding and Sentence Confirmed To be promulgated in due course. (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters. 18 OCT 1940
M. 3036 - Pte. Doumline, E. C. A. Can. Inf. Trg. H.Q.	Charged under Section 18 (1) A.A. Army Act.	Guilty	Guilty 90 days detention	Finding & Sentence Confirmed. To be promulgated in due course. (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters. 18 OCT 1940
M. 16519 - Pte. Thompson. C.A. No 8 C. Inf. Holding Unit.	Charged under Section 18 (1) A.A. Army Act.	Guilty	Guilty 175 days' detention	Finding & Sentence Confirmed. To be promulgated in due course. (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters. 18 OCT 1940
K. 52562 - Pte. McLellan, W. No 8 C. Can. Inf. Holding Unit.	Charged under Section 18 (1) A.A. Army Act.	Guilty	Guilty 175 days' detention	Finding & Sentence Confirmed. To be promulgated in due course. (P. J. Montague) Major-General Senior Officer Canadian Military Headquarters. 18 OCT 1940
Proceedings checked and found in order 18 Oct 1940 (W. G. Kerr) Lieut-Col. D.A.A.G. (Courts-Martial)	(as per attached Charge sheets.)		Proceedings checked and found in order 194 (W. G. Kerr) Lieut-Col. D.A.A.G. (Courts-Martial)	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) P. J. Montague (P. J. Montague) Major-General Senior Officer Commanding Canadian Military Headquarters. 24 Oct 1940 — (Signed) Louis Keene Lt-Col. President.
Convening Officer (*e*)

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of September 1940, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
~~were duly sworn~~.

* Omit if not applicable.

Signed this 30th day of September 1940.

Louis Keene Lt-Col.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, ~~subject to what I have there stated~~ I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further ordered.~~

Signed this 18th day of October 1940

P. J. Montague
(P. J. Montague) Major-General
Confirming Officer
Canadian Military Headquarters.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of F 39795 Sgt T. Titus R.W. 18 OCT 1940

(*a*) (Dated) 22 Oct 1940 (Signed) W. Matheson Major
M3036 Pte. Doumline, E.)
Promulgated and extracts taken in the case of H16519 " Thompson, E.A.)
K52562 " McLellan, W.)

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) 30 October 1940 (Signed) W. Matheson Major

(*a*) When several cases are promulgated in one unit on the same day, the Officer need only sign once.

(14779) Wt. 40115—893 100 M 1/40 P. St. G. Co.

SENTENCE

Proceedings checked and found in order
16 Oct 1940
(W. G. Kerr) Lieut-Col.
D.A.A.G. (Courts-Martial)

Re F.39795
A/Sgt. Titus
R.W.
No.2. Can.Inf.
Hold Unit.

To undergo Detention for a period of SIX MONTHS

To be reduced to the ranks.

To be put under stoppage of pay until he has made good the sum of FIFTY ONE POUNDS, FOURTEEN SHILLINGS and NINEPENCE in respect of money embezzled by him belonging to the Sergeants' Mess, No.2. Canadian Infantry Holding Unit.

PROCEEDINGS

OF FIELD GENERAL COURT MARTIAL ON ACTIVE SERVICE THE FIRST DAY OF OCTOBER 1940, at 1130 hours, in the case of No. F.39795, Cpl.(A/Sgt) TITUS, Raymond White, West Nova Scotia Regiment, (No.2 Canadian Infantry Holding Unit.

President.

Rank.	Name.	Regiment.
Lt.-Col.	Louis Keene, ED.,	"I" Wing, Cdn. Base Depot.

MEMBERS.

Major	W.C.Peffers.	1 Gen. Holding Unit.
Capt.	G.C.D'Arcy.	1 Artillery Holding Unit.

Question by the President to the Accused. Do you object to being tried by me as President, or by any of the officers whose names you have heard read over?

Answer. No.Sir.

Officers of the Court duly sworn in under the Army Act now in force.

The charge, as per attached, is read to the accused.

Question by the President to the Accused. Are you guilty or not guilty of the charge against you, which you have heard read?

Answer Not Guilty.

The Prosecutor proceeds to call witnesses:-

1st witness for the Prosecution. Question. What is your full name, regimental number and unit.
Answer. G.45002. Sgt. Firlotte, R.E. 2 Can. Gen.Holding Unit.(C.& V.Sgt).

being duly sworn, is examined by the Prosecutor.

Question. What is your position in relation to the Sergeants'S Mess of the 2 Can. General Holding Unit?
Answer. At that time I was the Treasurer.

Question. As such, was it not your duty to collect any money for the sale of goods from the sergeants' mess.
Answer. It was.

Question. Do you know the accused?
Answer. Yes Sir.

Question. Was he or was he not caterer of the sergeants' mess referred to?
Answer. Yes Sir.

Question. What dates?
25 Aug.'40 to 3 September '40.

Question. What conversation did you have with the accused on 28th August, and what was the conversation?
Answer. Yes Sir. I went to the caterer on the night of the 28th August to collect some of the money from the canteen. The accused said he did not have much on hand, and I loaned him £2.0.0 of change out of what I had in hand belonging to the mess to carry along with, as pay day was coming along.

Question. What else did you have to do with the sergeant caterer?
Answer. I only collected the money from the canteen, that was all I had to do with him.

Question. How much did you collect from him?
Answer. On the 3rd September I collected £11.12.6½.

Question. Did you give him a receipt?
Answer. Yes Sir.

Question. Did you have anything to do with the stock-taking.
Answer. No.

Question. Was or was not the accused relieved of the position as caterer?
Answer. Yes, on the 3rd September. I was not present at the stock-taking but was in the sergeants' mess at the time the position was taken over.

Question. Anything else you know of this matter?
Answer. That is all I know.

The Defence proceeds to cross-examine the witness.

Question. Any idea when the accused took over?
Answer. 25th August.

Question. What day?
Answer. I do not know.

Question. How long after he took over he asked for the £2.0.0?
Answer. A day or two.

Question. What makes you think it was the 28th.
Answer. I remember Sir when we talked the thing over after - I am sure of the date.

Question. Was it not on another occasion a little later that he told you he wanted to keep the money for change? Did he not tell you he had more money on hand? Do you recall meeting him a little later on Friday, did he not stop you at noon and tell you he had about £10.0.0 on hand but he had no change, he had a lot of pound notes on hand?

Answer. I do not remember.

Question. You were treasurer for how long?
Answer. From 28th June.

Question. You were supposed to collect the money - when did you collect?
Answer. Generally collected in the evening.

Question. Did you sometimes call in the morning and collect the receipts for the day before?
Answer. I doubt if I ever collected in the morning.

Question. During the time Sgt. Titus was caterer, you called how many evenings?
Answer. I think on Saturday night after the 30th Aug.

Question. You say you called on the 28th, during the rest of the time that Sgt. Titus was caterer, did you call any evening to collect the money, Yes or No.
Answer. I cannot say, I do not know, would not like to commit myself.

Question. Was anything provided for the caterer to keep the money in?
Answer. There is no cash register.

Question. No box or anything?
Answer. The caterer generally kept the money in cigarette boxes.

Question. Did Sgt. Titus ask you for something to keep the money in?
Answer. No Sir.

Question. Did you say you would get him something?
Objection to this type of cross-examination. - Objection sustained.

Question. You do not recall where you met him at noon on that Friday?
Answer. No Sir.

Question. Do you recall this, that the accused asked you to call for the money on Saturday night, because he did not want to keep it over the week-end?
Answer. I believe he asked me to call, but I do not remember whether it was Saturday night or not, but I intended to see him at Sunday dinner time.

Question. Something was said by him to you about calling to collect the money, did you call?
Answer. I did not call, I do not know whether he asked me to call.

Question. If you did not call for the money during the evenings, there was nothing for the caterer to do but take the money home?
Answer. Yes Sir.

Question. Where does Sgt. Titus live?
Answer. He lived over in the married quarters, I heard the boys say so, that is the reason I know.

Question. Did Sgt. Titus live in a room by himself.
Answer. I do not know.

Question. Did you keep books in the sergeants' mess all along?
Answer. Yes, I kept a record of all money received.

Question. Have you got the books with you?
Answer. I am not the Treasurer anymore.

Question. Why not?
Answer. I went on a course to Windsor on the 5th September and handed the books over.

Question. Had you a mess committee.
Answer. Yes.

Question. Have you still got that same committee.
Answer. I think so, but am not sure, I have been away for 3 weeks.

Question. You say you heard rumours od some money being missing on Sunday night, what did you hear?
Answer. I cannot say what I heard.

Question. Do you know whether Sgt. Titus reported the loss of the money or not?
Answer. I do not know.

Question. Do you know the reason the investigation was made of the accounts of the mess?
Answer. I do not know, I had nothing to do with the investigation.

Question. You gave evidence at the Summary of Evidence?
Answer. Yes.

Question. You mentioned something about Sgt. Titus drinking, did you make any statement?
Answer. I believe I was asked if he was drinking at the time of stock-taking on the 3rd.

Question. I am referring to the time he was caterer. Do you know if Sgt. Titus was drinking during the time he was caterer.
Answer. I do not know.

2nd Witness for the Prosecution.

Question. What is your full name, regimental number and unit?
Answer. CQMS.F.29610. Hopper, L.F. No.2 Can.Inf.Holding Unit (W.N.S.Rt)

being duly sworn, is examined by the Prosecutor.

Question. Do you know the accused?
Answer. Yes Sir.

Question. What position do you hold, if any, with the sergeants' mess of this unit?
Answer. Mess auditor at the time in question.

Question. What dates?
Answer. Up to Sept.3rd.

Question. When did he take over as caterer?
Answer. On August 25th.

Question. When was he relieved of his duties?
Answer. On Sept.3rd.

Question. As auditor, do you know how much stock was taken over when he became caterer on the 25th.
Answer. I have the record of the stock taken over from the previous caterer.

Statement by the Prosecutor:-

By the consent of the accused and his Counsel, I file statement of the stock received by the accused at the time he took over on the 25th August, also of the purchases, and of the sales, and of the amount of cash that the accused delivered when he relinquished his appointment as caterer, which shows cash unaccounted for in the sum of £50.8.9. I file also a receipt for stock in support of that statement.

Question. How much was the total stock received by the accused at the time he took over, plus the amount he ordered later, plus the £2.0.0. he got for change.
Answer. £63.7.3½.

Question. Did you give Sgt. Firlotte any instructions regarding money?
Answer. I instructed Sgt. Firlotte to collect any money Sgt.Titus had, and the amount of £11.12.6½ was handed over, leaving a deficiency of £51.14.9, which was amended the following day by the amount of £1.6.9 which had been overlooked, leaving a net deficiency of £50.8.0.

Question. Did you have any conversation with the accused regarding the deficiency?
Answer. No Sir.

Question. What conversation did you have in respect of this matter?
Answer. I just asked him what happened, the accused said he did not have it, he had just lost it.

Question. When did he say he had lost it?
Answer. When we took stock on the 3rd.

Question. He said he had gone to bed with it?
Answer. Yes, he said he had it in his trousers pockets, when he woke up the money was gone overnight.

Question. What date?
Answer. Sept.2nd.

Question. Did he say anything further?
Answer. No Sir.

Question. Did he say anything about the money disappearing before this occasion? the Monday night after stock-taking?
Answer. No, I had no idea when I was taking stock there was a deficien

Question. Why did you take stock?
Answer. I was instructed to take stock by the President of the Regimental Debt Board.

Question. Who is the President of the sergeants' mess?
Answer. C.S.M. Belyea.

Question. Anything further you know about this matter?
Answer. No Sir.

The defence proceeds to cross-examine the witness.

Question. You say that Sgt. Titus took over on the 25th, what day was that?
Answer. I cannot say.

Question. Do you know if it was on a Monday?
Answer. I was not present at the time.

Question. Do you know if the 25th was a Monday?
Answer. I do not know without looking at a calender.

Question. You say that he told you that the money was in his pocket when he went to bed and it was gone when he got up, what night was he referring to?
Answer. I do not know.

Question. When did he tell you that?
Answer. After the stocktaking on the 3rd.

Question. You did not know anything about it until then?
Answer. No Sir.

Question. Did you know on Monday? It was the 3rd that the stocktaking took place, and it was the first time you knew about it? Did you know on Monday the 2nd?
Answer. After the stocktaking.

Question. Did not you and Sgt. Titus to go the Paymaster? What did you go to the Paymaster for?
Answer. At the suggestion of Sgt. Titus to see if he could collect money to pay the sergeants' mess, at his own request.

Question. Did you not make this statement to the accused, that you did not blame him for this, but blamed the treasurer for not collecting the money on Saturday night?
Answer. Not exactly, I said that Sgt. Titus was not altogether to blame, that had the treasurer been on the job Sgt. Titus would not be in the jam he was. I also told Sgt. Titus that there was no excuse on his part if the treasurer did not come to him; he was instructed to go to the treasurer.

Question. It is the treasurer's job to collect the money?
Answer. Yes.

Question. What time does the mess close?
Answer. 11 o'clock (2300 hrs).

Question. Do you mean to say that the caterer has to look for the treasurer at night?
Answer. Instructions are that the treasurer collects every morning.

Question. The caterer has to keep the money every night?
Answer. Yes.

Question. The accused claims he was supposed to collect the money every night.
Answer. It is the morning.

3rd Witness for the Prosecution.

Question. What is your full name, regimental number and unit?
Answer. F.54696. L/Cpl.(A/Sgt) Anderson, A.J. H.Q.No.2,Can.Inf.Hldg.Unit)
being duly sworn, is examined by the Prosecutor:-
Question. You know the accused? You succeeded him?
Answer. Yes.

Question. Did you take over the stock?
Answer. Yes.

Question. Did you help with the stocktaking?
Answer. Yes.

Question. Do you know the extent of the deficiency?
Answer. Not the exact amount.

Question. Did you discover you were charged for less than you actually got, in your favour and against the accused?
Answer. Yes.

Question. Who,else was present at the stocktaking?
Answer. CQMS. Hopper and CQMS. Brennan.

Question. Was Sgt. Titus there?
Answer. Yes.

Question. Did you have any conversation with respect to the deficiency?
Answer. No Sir.

Question. What was Sgt.Titus' condition at the time of handing over the stock?
Answer. I would say he was under the influence of liquor.

The defence proceeds to cross-examine the witness:-

Question. That was on what day?
Answer. The 3rd or 4th of September.

Question. Do you know anything about his condition previous to that?
Answer. Not a thing.

4th Witness for the Prosecution.

Question. What is your full name, regimental number and unit?
Answer. G.45503.CQMS.Brennan, C.E. 3 Coy. 2 Can. Inf. Holding Unit.

being duly sworn, is examined by the Prosecutor.

Question. Do you know the accused?
Answer. Yes Sir.

Question. I believe you received instructions from someone to take stock in the sergeants' mess?
Answer. Yes Sir.

Question. From whom?
Answer. CQMS. Hopper.

Question. Was the accused present?
Answer. Yes.

Question. Who else?
Answer. Sgt. Anderson.

Question. Did you then figure out what stock was taken over?
Answer. I was present when CQMS. Hopper figured it out.

Question. Can you tell us anything about the accused's condition at the time was being taken?
Answer. He had been drinking.

Question. Was he helping?
Answer. Yes Sir.

Question. Had you seen him drinking previous to the stocktaking?
Answer. I had not noticed in particular.

Question. Did you have any conversation with him regarding his work as caterer prior to stocktaking?
Answer. No Sir.

Question. After stocktaking?
Answer. No Sir.

Question. He said something in front of you about matters concerning the mess?
Answer. There was some mention of a shortage of money by St.Titus.

Question. To whom?
Answer. I cannot say who it was to. Just to the people who were taking stock he said there was a shortage of money, but not how much.

Question. Anything about the shortage?
Answer. He said it had been stolen from him.

Question. Did he say when?
Answer. No.

Question. When it was mentioned?
Answer. While taking stock.

Question. In the middle or after?
Answer. Just as we finished.

Question. Had the figures been added up?
Answer. No.

Question. Did you have any other conversation with the accused?
Answer. Nothing further.

The defence proceeds to cross-examine the witness.

Question. This was on the 3rd?
Answer. Yes.

Question. Your mention of the sergeant drinking was also on the 3rd?
Answer. Yes.

Question. Do you know anything about his drinking during the period he was caterer?
Answer. No Sir.

5th Witness for the Prosecution.

Question. What is your full name, regimental number and unit?
Answer. P.48067.RSM.Gravel,XGA, (2 Can.Inf.Holdg Unit) Royal 22e Regt. being duly sworn, is examined by the Prosecutor.

Question. Will you please tell the court what you know concerning the accused in this case?
Answer. Sgt. Titus was detailed to take over the duties as mess caterer of the sergeants' mess of the No.2 Can.Inf.Holding Unit on the 25th August 1940. He was instructed that he was personally responsible for the stock on hand, also the cash and purchases.

Question. Did you instruct him yourself?
Answer. Yes.

Question. Did you give him any other instructions with regard to handling of the cash etc in the mess?
Answer. I instructed him to hand over the cash to the treasurer every day. I also told him not to give credit to anyone.

Witness continues:-

At about lunch time on the 3rd September I went to the sergeants' mess and I found Sgt. Titus asleep in the bar-room, and I took the necessary steps to replace him. It was not possible to replace him before 1800 hours that day. CQMS. Hopper and CQMS.Brennan were detailed to take over, and Sgt. Anderson was detailed as the man to take over as caterer. At inventory there was apparently a shortage of £50.8.9. On the morning of the 2nd, Sgt. Titus reported that the money was stolen from his pocket.

Question. Did he mention the amount?
Answer. He reported to me on the morning of the 2nd about £35.0.0. I thought it was a joke, because the previous night, the 1st September, I asked Sgt. Titus if he had lots of cash on hand; he said he had a few pounds, and I told him for his own protection to hand the cash over to the treasurer, and he said he would do so.

The defence proceeds to cross-examine the witness.

Question. You instructed Sgt. Titus that he hand the money over at what time?
Answer. 8 o'clock in the morning.

Question. Then he had to carry it over night?
Answer. Yes Sir.

At this point, D.57131. Sgt. Guay, A. No.2 Can.Inf. Holding Unit, was duly sworn, and interpreted the replies of the witness.

Question. Was anything provided for him to keep the money in?
Answer. No Sir.

Question. He just had to carry it in his pocket?
Answer. Yes Sir.

The President interrogates the witness.

Question. How much money would they take in the day?
Answer. I do not know.

Question. What size is the sergeants' mess?
Answer. Approximately 80 members.

Question. If the money had been handed over he could not possibly have had that amount of money for one day's takings?
Answer. No Sir.

The defence continues with cross-examination.

Question. I believe Friday of that week was pay day?
Answer. I do not remember.

Question. Saturday would be the 31st would it not?
Answer. Yes Sir.

Question. Would not pay day be on Friday the 30th?
Answer. Yes Sir.

Question. You do not know whether the 30th August was pay day or not?
Answer. No Sir.

Question. Would not the sales in the sergeants' mess go up on pay day?
Answer. Yes Sir.

Question. Previous to pay day would they be ordinarily poor days?
Answer. Yes.

Question. In the ordinary course from Monday to Thursday, being just before pay day, the sales would be very small?

Answer. Yes Sir.

Question. Then they would jump on Friday and Saturday?
Answer. Yes Sir.

Question. Is it then quite possible that on Friday and Saturday the sales would amount to quite a lot?
Answer. Yes Sir.

Question. You say that the stocktaking was on the 3rd?
Answer. Yes Sir.

Question. On the 2nd, the day before, Sgt. Titus reported the loss of the money stolen from his pocket?
Answer. Yes Sir.

Question. Do you know if it was the result of Sgt. Titus' report that the stocktaking took place?
Answer. Not exactly.

Question. After Sgt. Titus reported the matter to you, what did you do?
Answer. I went with him to the Paymaster to fix things up, because he was willing to do so.

Question. Whose suggestion was that?
Answer. It was mine, because I was stationed at one barracks for about 7 months, and lots of caterers were short and the case was fixed by the Paymaster, R.S.M. and the caterer who had run short, and no crime was made except one man. The same thing happened with me in 1927/8 when I was caterer; I was short about $20, and the treasurer gave me 24 hours to find the money, and no crime was made against me. The first thing, when Sgt. Titus reported the thing to me, he said I am willing to go to the Paymaster to make an assignment to save my stripes, because he was personally responsible for the stock and was willing to pay.

Question. Do you have anything to do with the quarters that Sgt. Titus lived in?
Answer. Not at that time.

Question. Do you know how many men, if any, were in the same room with him?
Answer. I went to Sgt. Titus' quarters and I think there were about 16 in that room.

Question. Did you go to the room across the hall from him?
Answer. Yes.

Question. How many were in that room?
Answer. There were men in there.

Question. Do you know if any other thefts in the building have been reported recently?
Answer. Not to my knowledge.

Question. Do you know whether the men around were in the habit of walking in this room where Sgt. Titus is or was living?
Answer. There was traffic in and out every day.

Question. Who arrested the accused?
Answer. I had orders to place him under arrest Sir, from superior authorities.

Question. Was any search made to discover the money?
Answer. No Sir.

Question. Was any investigation made as to where the money might have gone?
Answer. No Sir.

Question. Did you have any dealings with Sgt. Titus in the course of your regular duties?
Answer. No Sir.

6th Witness for the Prosecution.

Question. What is your full name, regimental number and unit?
Answer. D.#1769. CSM. Berry, W.G. No.2 Can. Inf. Holding Unit.

being duly sworn, is examined by the Prosecutor.

Question. Do you know the accused?
Answer. Yes Sir.

Question. Were you or not present at a conversation between him and R.S.M. Gravelle?
Answer. Yes.

Question. What was the conversation about?
Answer. The sergeants' mess and accounts. I went as far as the main door and turned back, and the accused was asking the Sergeant-Major if he could sleep in the mess, he was afraid he might be robbed. The Sergeant-Major asked him how much money he had, and he said a pound or so.

Question. Did the Sergeant Major give him permission to sleep in the mess?
Answer. Yes Sir.

Question. Do you know if he slept in the mess?
Answer. No Sir.

Question. This was Sunday evening?
Answer. Yes Sir.

The defence proceeds to cross-examine the witness.

Question. When you gave evidence at the Summary of Evidence you were asked a question by the accused, do you recall?
Answer. Yes.

Question. Was it between the 27th August and 2nd September?
Answer. I answered I had not seen him drinking but that he had had a few drinks. I cannot give the exact date.

Question. Did you ever see him drinking?
Answer. No Sir.

Question. Were you in the mess between those dates?
Answer. Yes Sir.

Question. Did you see him drunk or drinking?
Answer. I consider he had been drinking but did not see him between those dates.

Question. All you know is what you had been told?
Answer. But because of that I took notice when I went by.

Question. Did you go there in the evenings?
Answer. Very seldom.

Question. You would not know how he was in the evenings?
Answer. No idea.

Question. You are sure it was between those dates that you saw him?
Answer. I am not, Sir.

Question. Do you know if the accused supported the loss to anybody except the Sergeant-Major?
Answer. No Sir.

Question. Did you overhear him tell anybody that he had reported the loss?
Answer. No Sir.

Question. Were you present at any time when the accused told Major Belanger that he had reported the loss to Sgt.Odlum?
Answer. I do not recollect.

The Defence proceeds to call witnesses. The accused is first witness in his own defence.

1st Witness for the Defence.

Question. What is your full name, regimental number and unit?
Answer. F.39795. Cpl (A/Sgt). Titus, Raymond White, No.2 Canadian Infantry Holding Unit (West Nova Scotia Regt).

Question. I believe you were appointed caterer of the sergeants' mess, when?
Answer. 25th August.

Question. What day of the week?
Answer. Sunday.

Question. When did you take over?
Answer. Monday.

Question. Did you take over any stock?
Answer. A small tobacco stock.

Question. Tell the Court what money you received.

Answer. On Monday the 26th I got the stock, which was a small stock of tobacco. R.S.M. Gravel gave me instructions that I was to do all the buying and allow no credit, and that the treasurer would collect the money daily. I purchased stock on Monday and it came in Monday afternoon of the 26th. Pay day commenced on Thursday, and Tuesday, Wednesday and Thursday there were very little sales, on Tuesday about £2.0.0, on Wednesday about £3.0.0; on Thursday night about supper time I think there was about £10.0.0. I had to get some change from the treasurer, because everybody came in with pound notes and the change did not last very long, so I asked the treasurer to give me some change, and he gave me £2.0.0. in change. On Friday sales were going up as Thursday was pay day. So Friday noon the treasurer came up to go to dinner, and I said to him, "tomorrow is Saturday and you had better come and get this money because I do not want to carry it on my person, and I have no other place to put it, and he told me he would. Previous to that I asked CSM.Belyea if he could not supply me with something to keep the money in, because all I had was cigarette boxes; he said they would supply me with something to keep the money in, and I also asked him for something to keep my stock-book in, because I could not check the stock without some books or something to go by; he said they he would see, but they never came forward. Wednesday I asked Sgt. Guay, who was on the mess committee if there was not any possible chance of having quarters by myself, as I was sleeping in "C" block with privates and sergeants and because it was dangerous carrying money on my person in a place like that. On Saturday night nobody came, the treasurer never came, and I had about £45.0.0. in my pocket. So I went up to my quarters between 10.15 and 10.30 p.m. I went from the canteen to my quarters and went to bed with the money in my pants pocket. I also had £3.9.0. in my pay-book from my pay. I hung my pants on the rail on the locker door. In the morning when I woke up I went straight for my money, but the money was gone.

Question. What time did you get up?
Answer. 8.15 a.m. so I immediately came downstairs and tried to locate the Provost Sergeant.
Question. Who was the Provost Sergeant?
Answer. Sergeant Odlum. After a while I located the Provost Sergeant and reported to him, and he said he would see what he could do. However, I think he mentioned these words "I would not say too much about it because you might spoil our chances to get it". On Monday morning I went to the R.S.M. and reported it to him. He said "what are you going to do", I said "well Sir I suppose I am responsible for it and will have to pay. He said "well, we will go and see the Paymaster". The R.S.M.

CSM. Hopper and I went to the Paymaster to see if we could arrange to pay. He said he would look into the matter. The next thing I knew I was arrested for embezzlement.

Question by the President. What did the Paymaster say?
Answer. You will have to take the matter up with Aldershot.

Defence resumes.

Question. You offered to pay?
Answer. Naturally, as I was responsible for the money.

Question. Are you still willing to pay?
Answer. Yes, because I am responsible.

The Saturday sales I never made up until the morning following, so I had £35. to £40. on Saturday when I started, so Saturday sales would bring it up to £48. to £50.

Question. You reported to the Sergeant-Major that you had lost about £35.0.0?
Answer. £38.0.0. to be correct.

Question. You found you had lost the money on Sunday morning, 8.15.a.m. about £48.0.0.?
Answer. Saturday sales would bring it up to £48.0.0.

Question. Sunday morning you say, at 8.15 a.m. you found you had lost money which was probably about £48.0.0. On Monday morning you reported you had lost £35.0.0.
Answer. £38.000. was the amount I reported to the R.S.M.

Question. Why would it be less than the day before?
Answer. That was Saturday sales added to the £38.0.0. I made my cash up in the morning for the previous day.

Question. When you went to your quarters that night, how many others slept with you?
Answer. At that time 14, and across the hall 18 privates.

Question. Were any of the other men in your quarters in bed when you went in?
Answer. Only one.

Question. All the rest out?
Answer. Yes.

Question. Did you go right to bed?
Answer. I did.

Question. Did you go out of barracks the next day?
Answer. No. I did not leave the camp grounds for over a week.

Question. There has been some evidence given here about your drinking. Tell us, between 25th August and 2nd September, about how much you drank?

Answer. From 25th August to 1st September, I did not even have a bottle of beer.

Question. Were you ever invited to have one?
Answer. Yes, several members offered me a drink, but I refused.

Question. How long have you been in the Army?
Answer. Enlisted 28th October 1939.

Question. Were you ever in the Army before that?
Answer. Yes. Sept.23rd 1914 to Sept.12th. 1917. Was P.T.Instructor in Canada - 119th Batta. and qualified for Lieutenant in 1916. R.C.R. Halifax.

Question. Have you ever been up on a charge before?
Answer. Never been before a Company Officer.

The Prosecutor proceeds to cross-examine the witness.

Question. What did you do in civil life?
Answer. I ran a store, antique furniture, glassware, etc.

Question. You are accustomed to handling cash, sales etc.
Answer. Yes Sir.

Question. You said you complained you did not have books to keep stock.
Answer. Yes Sir.

Question. What books did you keep?
Answer. Only a sales book.

Question. Where did you get the totals from, how did you arrive at the total? What did you do with the money?
Answer. Put it in my pocket.

Question. Then you would mark it down in your book, when?
Answer. In the morning.

Question. Not at night?
Answer. No Sir.

Question. Just simply put the money in your pocket and would not know how much until the following morning, and during all the time you were caterer you slept in the same place, and did not like the looks of it - you were nervous?
Answer. Yes Sir.

Question. Were you afraid you might be robbed?
Answer. To come extent.

Question. You asked permission to sleep at the sergeants mess. Did you?
Answer. No.

Question. Could you not, when you got permission, did you not know whether there was, or was not room to sleep there.
Answer. Yes.

Question. And you did not sleep there?
Answer. Sunday night after I lost the money.

Question. But the Sergeant-major did not know you had lost the money, why did you not tell him?
Answer. I thought it best not to tell him, I reported it to the Provost Sergeant.

Question. The R.S.M. is head of the men, why didn't you do it until Monday?
Answer. I thought it right to report it to the Provost Sergeant.

Question. On Monday you did not know how much money you had lost?
Answer. Not exactly.

Question. You did not know how much you had. Why were you not nervous about the money being stolen from you, knowing you were responsible for it, and the treasurer had not taken it from you. Why did you not know how much money you had?
Answer. I did not like to pull the money out before a crowd of fellows.

Question. Did you see the R.S.M. on Saturday night?
Answer. I do not think so.

Question. Did you see any of the mess committee on Saturday night?
Answer. They may have been in the canteen but I cannot recollect.

Question. You say the treasurer did not come to pick up the cash. Did you expect him to?
Answer. Yes, I asked him to on Friday.

Question. What about Tuesday's takings?
Answer. I kept what money I had, Tuesday was only two or three pounds.

Question. You never went to the treasurer?
Answer. I never knew where he was.

Question. Did you report to the R.S.M. that the treasurer did not come to collect?
Answer. No.

Question. Did you ask where you could find him?
Answer. No Sir.

Question. From Saturday night when you closed at 11 p.m.
Answer. I closed before 11 p.m.

Question. What time?
Answer. Between 10.20 and 10.30 p.m.

Question. You just had the money in your pocket and went to your quarters direct.
Answer. Yes Sir, I went to my quarters, took off my tunic, only one sergeant was there.
Question. Only one person?
Answer. 13 others were out to a dance.

Question. What did you do?
Answer. I hung it up on a peg over my bed, then I took my pants off and hung them on the locker closet door.

Question. Have you a separate room?
Answer. No Sir.

Question. Had you some money of your own.
Answer. Yes Sir, £3.0.0.

Question. That was the amount of money you had.
Answer. Yes.

Question. Do you smoke and do you drink?
Answer. Yes Sir, occasionally drink.

Question. On Sept.2nd?
Answer. Two or three bottles of beer.

Question. Stock was taken on Sept.3rd.
Answer. Yes.

Question. Did you have something to drink that day?
Answer. Yes Sir, and I also had some aspirin codein tablets which I take for arthritis.

Question. You had some liquor?
Answer. I had 2 or 3 bottles of beer.

Question. On the 2nd September.
Answer. No Sir.

Question. You slept right through.
Answer. Yes Sir.

Question. Did you hear anyone come in?
Answer. No Sir.

Question. You got up at what time?
Answer. 8.15 a.m. I put my pants on, felt for the money, and the money was gone.

Question. What else did you have in your pockets?
Answer. All I had was my watch.

Question. Was that gone?
Answer. No.

Question. Was it attached?
Answer. No Sir.

Question. You had money in both pockets.
Answer. Yes Sir.

Question. It was all gone?
Answer. No, the change was there.

Question. How much change?
Answer. Two or three shillings.

Question. Otherwise all paper money?
Answer. All pound or 10/- notes.

Question. All in one pocket?
Answer. Yes Sir.

Question. You found it was all gone?
Answer. Yes Sir.

Question. Then what did you do? What about your own £3.0.0?
Answer. I did not know what to do. My £3.0.0. was in my pay book, it had not been touched. I think Sgt. Quentin was the first one I spoke to, I said I have lost my money, who sleeps in the room with us.

Question. Were other boys there?
Answer. He was the only one there when I went in.

Question. Where was he sleeping?
Answer. The second bed from me. I also mention I think, to Sgt.Ross. He said the best thing for me to do was to see the Provost Sergeant. On the way down I met Sgt. Taylor, a particular friend of mine, I told him.

Question. You know that the deficiency was £50.8.0.
Answer. Yes Sir.

Question. That is correct? You checked the figures?
Answer. Yes Sir.

Question. Your story is that this money was taken from your trousers?
Answer. Yes Sir, after I went to bed.

Question. And you do not know by whom?
Answer. To be exact, I have not got enough proof.

Question. You have some suspicions?
Answer. Yes.

Question. Have you mentioned that suspicion to anyone, did you tell anyone? Did you tell the Provost Sergeant?
Answer. Yes Sir.

Question. Did you give him a name?
Answer. I think I did - I am pretty sure I did.

Question. You found your trousers hanging where you had hung them?
Answer. Yes Sir.

Question. Will you tell the Court why under all the circumstances you did not put your money under your pillow?
Answer. I never thought of that.

Question. Why did you offer to pay back this money through the Paymaster?
Answer. Well I was responsible for the money, it was the only thing I could do.

Question. How do you figure you are responsible for money that has been stolen when you have been robbed?

Answer. I think I was responsible for the money and there was nothing else I could do.

Question. When did you get your pay?
Answer. On Friday I think about 1645 hours.

Question. Your pay was intact on Saturday when you went to bed?
Answer. Yes Sir.

Question. Had you not spent any money at all? on Friday or Saturday?
Answer. I did not need anything.

Question. You asked the Treasury to call in for the money on Saturday night, you saw him on Friday and asked him to come in on Saturday?
Answer. Yes Sir, to get what I had, I asked him on Friday.

Question. Why did you not give him the money you had on Friday, you had from your statement about £36 on Friday?

Answer. No Sir, mostly Friday night.

Question. Then you had about £24 at the time you were talking to the Treasurer?
Answer. Yes Sir.

Question. And you knew he should have collected the money on Thursday, or Friday morning?
Answer. Yes Sir.

Question. Why did you not insist then?
Answer. I needed it for change.

Question. Did you have it all in change, £24?
Answer. Yes Sir.

Question. Then your takings during Tuesday, Wednesday and Thursday were all in silver?
Answer. Yes Sir.

Question. Where did you keep it?
Answer. In cigarette tins and some in boxes.

Question. But you did not ask to be relieved of some of it?
Answer. Not on Friday, I told him to get it at Saturday noon, because I did not want to keep it over the week end but he did not come.

Question. Have you any assistants in your Mess?
Answer. No Sir except a helper to bring up the cases.

Question. On Friday night you had £25 all silver, while on Saturday night after an additional two days' business it was all paper except for two or three shillings.
Answer. Yes Sir.

Question. What business did you do on Monday?
Answer. About £11 which I turned over to the Treasurer.

Question. You did not make any entry in your Cash Book about how much you took in on Monday?
Answer. No Sir.

Question. When did you make these entries you show on your slip except August 31st?
Answer. I put all the dates down at the same time at the beginning of the week.

Question. When did you put the figures down?
Answer. Each morning.

Question. What figures did you give Sgt. Odlum?
Answer. I thought it was £38 plus the sales I had on Saturday.

Question. Why did you not give him the exact amount?
Answer. I did not have it.

Question. Where did you get the figure from you gave Sgt. Odlum?
Answer. The money I had in my pocket on Saturday night.

Question. Did you count it before you saw Sgt. Odlum? Did you give him the exact amount of these figures?
Answer. Yes.

Question. Did you make a search for this money?
Answer. I did everything I could to locate it.

Question. What did you do?
Answer. Enquired of Sgt. Quentin if he had seen anybody in the room, and I did everything I could.

Question. What did you actually do?
Answer. I asked Sgt. Quentin if he had heard anybody come in. There was nothing else I could do.

Question. In fact you did not know how much to look for?
Answer. No.

Question. You did not know how many bills or what denomination except roughly?
Answer. All I know was what I had on Friday plus Saturday sales.

Question. You did not keep the numbers?
Answer. No Sir.

Question. You never thought of putting the money in a box and entrusting it to someone?
Answer. No Sir.

Question. Or the Orderly Room?
Answer. The Orderly Room would be closed when I closed up.

Question. You did not make any arrangements?
Answer. No.

Question. There was no room in the Sergeant's Mess for you to sleep?
Answer. No Sir except on a chair.

Question. What sort of bed do you sleep in?
Answer. A cot.

Question. Could not a cot have been put in the Sergeant's Mess, you asked the Sergeant Major and he said you could?
Answer. I did not think they would allow it.

Question. You had all change on Friday and all bills on Saturday. Was there no change on Saturday night at all?
Answer. All bills. They were paid on Friday and Saturday and as soon as they were paid they came in with £1 notes.

Question. No change at all?
Answer. No Sir.

Question. Did you have any change when you closed up that night? Did you have any change in hand on Saturday night?
Answer. Yes Sir.

Question. Did you take it home with you?
Answer. No, I had it in a biscuit tin.

Question. You spoke to Sgt. Quentin. Did you make any attempt to locate it?
Answer. He said "where can we look for it?"

Question. Did you make any search?
Answer. No Sir.

Question. Did you make any enquiries about the room outside of Sgt. Quentin?
Answer. Around the room.

[redacted]

2nd Witness for the Defence.

Question What is your full name, regimental number and unit?
Answer. D.81995. Sgt. Odlum, J, 2nd Can. Inf. Holding Unit.

Being duly sworn, is examined by the defence.

Question. Do you know the accused?
Answer. Yes.

Question. Do you remember him making a report of theft to you?
Answer. Yes.

Question. Do you recall what date?
Answer. Not exactly sure, I think Sunday morning 1st September.

Question. About what time?
Answer. About 8.30 a.m.

Question. What did he report?
Answer. That during the night somebody had stolen his money, about £35 I think.

Question. Did you make any investigation and make any discovery?
Answer. We investigated as far as possible but there was nothing we could do.

Question. Were you in the mess on Saturday night and did you see the accused?
Answer. Yes between 9 o'clock and 9.15 p.m.

Question. What was his condition?
Answer. He was sober.

Question. Had you been in during the week while he was there?
Answer. Every day during the week.

Question. At any time would you say the accused was under the influence of liquor?
Answer. I saw him take a drink, but was none the worse.

Question. Was he a heavy drinker?
Answer. No Sir.

Question. Do you know of any other thefts that took place in the same building the accused was living.
Answer. Not except for a man who lost part of a carton of cigarettes, not in the same building.

Question. Did you report that the accused had reported this loss to you?
Answer. I reported to the R.S.M. the next morning.

Question. You were not present at the summary of evidence?
Answer. No Sir.

Question.

Prosecutor proceeds to cross examine witness.

Question. Did you make a note of his complaint?
Answer. No Sir.

Question. You are sure it was Sunday morning?
Answer. Yes.

Question. When he made the report to you did he give you any definite amount?
Answer. As far as I remember he said in the vicinity of £35.

Question. Did he say £35 and Saturday's takings?
Answer. No Sir. I asked him how much he had lost and he said about £35.

Question. Did he tell you he suspected anyone?
Answer. He mentioned a Sergent in the same room.

Question. Did he mention the name of anybody?
Answer. I could not see any reason for his suspicion.

Question. What did you tell him to do further?
Answer. I told him to report to the R.S.M. as the Senior Officer of the Mess; I believe the Sergeant Major was away that morning.

Question. You saw him on that Saturday night in question, about what time?
Answer. In the vicinity of 9 o'clock in the mess.

Question. Did you talk to him?
Answer. I had a drop of beer at the counter.

Question. You were quite friendly?
Answer. Yes.

Question. Did he mention any problem he had with money?
Answer. No Sir.

Question. Did he mention that he was afraid he might be robbed?
Answer. No Sir.

Question. Did he mention that he had an idea he might sleep in the mess?
Answer. No Sir.

Question. You are members of the same regiment?
Answer. No Sir.

Question. How long have you known him?
Answer. Seven weeks.

Question. You are quite friendly?
Answer. Yes.

Question. He stated you have sometimes offered him a bottle of beer?
Answer. I did on that Saturday night, there was no one else there at the time.

Question. At any other time?
Answer. Not that I remember.

The Prosecutor addresses the Court.

Fool or rogue? I fail to see anything to support the alternative that he is a fool, because he is a man of about 42 years of age, has had some experience in handling cash, and it is unbelievable that he could act in the manner he has acted to protect the interests of himself and the sergeants' mess, in the light of his experience and as an intelligent soldier. I am driven to the conclusion that the man before you is guilty of the allegation in the charge, and in support of that, apart from all the evidence and the circumstances that have been unveiled before you, I would like to point out discrepancies in the evidence of the two witnesses for the defence.
Sgt. Odlum's evidence is the same as that of the R.S.M as to the amount involved, £35.0.0. This contradicts the accused in that he said he told Sgt. Odlum the exact amount by adding the amount he had in his pocket. Both of these witnesses are disinterested, perhaps Sgt. Odlum more so. Their evidence jibes, and contradicts that of the accused. The accused simply did not know how much he had lost, and reporting the theft, did not give it accurately, although he should have. What was his motive im not, after he was suspicious he might be robbed, and was not satisfied where he was situated, particularly that Saturday night, he did not tell the Provost Sergeant; why did he not entrust the money to the Provost Sergeant from his fears that he might be robbed.
The Provost Sergeant told him to report to the R.S.M. immediately. He tells us he was told to keep it quiet, and he did not report to the R.S.M. and did not say anything to him until the Monday, and it was on that occasion he told him that he had been robbed of £35.0.0.
The whole story of the accused to me does not ring true.
It is a matter for you whether you accept his story or not, but his actions throughout were not consistent with those of a man he appears to be.

The Defence addresses the Court.

I do not agree with what the Prosecutor said. He suggests that the fact that the accused did not entrust the money to the Provost Sergeant, which he should have done or might have done, is cause to find this man guilty. That might be evidence of a certain amount of neglect but not of embezzlement. As far as Sgt. Odlum telling him to report to the R.S.M and telling him also not to say too much about it, that is the reason he kept quiet on Sunday. We admit that the money is lost and the accused is responsible. At the same time there was also neglect on the part of the treasurer and also those in charge, the mess committee, because he had been asked to be moved to quarters where he would have a chance to look after the money, and he had also asked, which is not denied by the treasurer, that the treasurer call on Saturday, which the treasurer did not do.
I do not see how the accused can be blamed, because it is certainly not the action of a guilty man, after embezzeling £50.0.0. the night before, to report to the Provost Sergeant the next morning.
He made out a slip for the full week including Saturday; the only entry not made was Saturday. If he intended to steal the money, would he have filled in the amounts, and everything was filled in up to Friday.
I think that is one of the strongest points in the accused's favour.
I cannot understand why would a man who had just taken this money, immediately report to the Provost Sergeant, and then go up to the

Paymaster to pay it back; there was no point in stealing. He had not been out of the camp for a week.
I submit there is very grave doubt in this matter; there may possibly be a little neglect, but more than himself can be blamed for the neglect. Lastly, there is quite a difference of opinion as to whether the treasurer should go for the money or he go to the treasurer. There is certainly a very grave doubt, and if there is any reasonable doubt, the prisoner is entitled to the benefit.

The Court is closed for the consideration of the finding.

The Court find that the accused is GUILTY.

CHARGE SHEET.

The accused Number, F39795 Cpl. (A/Sgt.) Raymond White, TITUS, West Nova Scotia Regiment, (No.2 Canadian Infantry Holding Unit.) a soldier of the Canadian Active Service Force, is charged with:-

Section 18 (4) Army Act. Embezzling property belonging to a Regimental Mess,

in that he,

at Louisburg Barracks, Bordon Camp, England, on 3rd September 1940, holding as Mess Caterer of the Sergeants' Mess of No.2 Canadian Infantry Holding Unit.) C.A.S.F., fifty pounds, eight shillings and nine pences for and on behalf of the said Mess, fraudulently embezzled the same.

Bordon Camp,
Louisburg Barracks,
14th September 1940.

(F.S. Mathewson.)Major.
Officer Commanding.
No.2 Cdn. Inf. Holding Unit.

Cards

	L.	S.	P.
Aug. 24/40 change	2	- 0	- 0.
Aug. 24/40 dates	3	- 5	- 3
Aug. 27/40 "	3	- 12	- 11
" 28/40 "	3	- 9	6
" 29/40 "	12	- 2	- 7
" 29/40 "	12	- 6	- 8
" 30/40 "			
" 31/40 "			
Total	36	16	11

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CUNNINGTON & Co.,

(Proprietor: W. H. T. CUNNINGTON)

General Merchants & Camp Outfitters,

7, PEABODY ROAD,
SOUTH FARNBOROUGH, HANTS.

WHOLESALE & RETAIL

26. 8. 1930.

M Sergts Mess
Mess Holding Unit
Aldershot

2 Mess Tables	5	13	0
1 Mess Table	3	2	11
1 Mess Table	2	17	5
3 Forms		3	0
2 Forms		6	0
1 Form		3	3
2 Tin Chests		18	0
2 Tins		3	0
		12	15	5

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JAMES HUNT LTD. FULHAM, S.W.6.

COURAGE & Co., LTD.

THE BREWERY, ALTON

31-8-[illegible]

SOLD TO

Mr. [illegible] Restaurant Sgts Mess

No 2 Canad Infantry Bde Louisburg Barracks			
Sept 2/2.			
16 doz bots OK	6	10	8
16 - bots NBA	6	10	8
10 - ½ bots SAA	3	19	2
6 - ½ - Bass	2	1	6
6 - ½ - Watch	2	1	6
4 - nips D Courage		19	4
½ doz syphs soda		3	-
4 - ½ grape		8	-
6 bots lime juice		9	-
6 - Dry Martini	1	12	3
12 ½ bots " "	1	14	3
	26	9	4

BOTTLES & CASES—

Doz. Ale **Bottles** 29 **Cases**	8	14	-
4 " M.W. " 2 "		8	-
½ " Syphons 1 Cases		8	-
Crates and Bottles			
Jars 2 Wine & Spirit Cases		4	-
Cordial Cases		2	-
Cyder Cask			
Flagons			
M.W. Jars and Crates		9	16 -
TOTAL £		36	5 4

The Casks of COURAGE & CO., Ltd., are vessels to carry beer, not measures, but care is taken that they contain not less than their reputed quantities.

D—4854

COURAGE & Co., LTD.

THE BREWERY, ALTON

SOLD TO The President Aug 26th 1940

Mr. S/Mess No2 Canadian H Unit

				Hamburg	Barracks Bordon	
36030	Qr	Bottle	OK	18	5	-
36030	"	"	MBA	12	5	
11 H	"	12	" HS		19	H
726	"	12	" Bass	2	1	6
726	"	12	" Worth	2	1	6
11 H	Qr	Bottle	4 Bass		8	-
726	"	2	Grape Fruit		12	-
726	"	3	Dry 4 Ale		15	-
					31	5	H

BOTTLES & CASES—

96	Doz. Ale Bottles	38	Cases	11	8
16	" M.W. "	8	"	1	12
	" Syphons		Cases		
	Crates and Bottles				
	Jars Wine & Spirit		Cases		
	Cordial		Cases		
	Cyder Cask				
	Flagons				
	M.W. Jars and Crates				

TOTAL £	13	-	-
	44	5	H

The Casks of COURAGE & CO., Ltd., are vessels to carry beer, not measures, but care is taken that they contain not less than their reputed quantities.

D—4934

Cigarettes

Players	1-5½	19 Pkts
Three Nuns	16½	3 P.
Woods	6½	64
"	1-1	13
Harvest H.	1-4½	12
Petrol	1	19
Raisins	2d	18

Drinks

Soft	3d	101
Cigars	"	23
Pleasure Cruise	4s	8½ B
"	7s	4
	6d	2

Aug 25/40

Old Asiatic Nuppo Pinnace
New Asiatic Capt. R. H. Fuitins

Mr Blyth
Freedom Bay
Mars Bay
C.I. H.M.

STOCK TAKING AND CLOSE DOWN OF SERGEANTS' MESS CANTEEN. 3rd Sept.1940.

Stock Received.		On hand	Sold.		Amount.
COcurage Ale.C.K.L N.B.A.	II04	38I	823 @ 9 d.		30--I7 3
½ bottle S.A.A.	I20	52	68	6 d.	I -I4 -0
½ bottle Bass	I44	53	9I	8 d.	3 - 8 -0
½ bottle Worthington	I44	NIL	I44	6 d.	3 -I2 -0
D.Courage	48	NIL	48	8 d.	I -I2 -0
M.Stout	48	NIL	48	6 d.	I - 4 -0
Bottles Lime Juice	6	5 5/6			
Bottles Dry Martini	6	NIL	6	7/-s.	2 - 2 -0
Half Bottles Dry Martini	I2	Nil	I2	4/6d.	2 -I4 -0
Bottles Pleasure Cruise	6½	NIL	8½	4/-s.	I -I4 -0
Bottles Pleasure Cruise	4	NIL	4	7/-s.	I - 8 -0
Bottles Courage Nips	24	NIL	24	6 d.	I2 -0
Minerals	293	I97	96	3 d.	I - 4 -00
Package 3 Nuns Tobacco	3	NIL	3	I/5½d.	4 -4½
Package Players 20s.	69	2I	48	I/5½d.	2 -I0 -0
Package Woodbines 20s.	63	47	I6	I/I d.	I7 -4
Package Woodbines IOs.	64	47	I7	6½d.	9 -2½
Package Harvest Gold	I2	5	7	I/5½d.	IO -2½
Petrols	I9	5	I4	I d.	I -2
Raisins	42	NIL	42	2 d.	7 -0
Package Walters 30s	40	NIL	40	I/7½d.	3 - 5 -0
Wafers	24	IO	I4	I d.	I -2
Soda Splits	I44	58	86	I d.	7 -2
Biscuit Packets	I44	98	46	2 d.	7 -8
Cigars	23	NIL	23	3 d.	5 -9

	6I - 7 -3½
Received from Treasurer for Change	2 - 0 -0
	63 - 7 -3½
3rd Sept.I940. Turned in to Treasurer by Caterer	II -I2 -6½
Amount owing by Caterer.	£ 5I -I4 -9
Received from Stock sold overlooked on Stock Taking of Sept 2.	1 - 6 -9
Balance Due	50 - 8 -

The above stock is at selling price scale and was taken on the evening of 3rd Sept. I940, in the presence of Sgt. Titus.
also present were C.S.M.J.Brannan
Sgt. Anderson R.T. / Sgt Anderson R.T.
and completed by L.W.Hopper Q.M.S. Mess-Auditor Pro-Tem.

4th September I940.

L. W. Hopper Q.M.S.
Mess. Auditor.
Sgts Mess.
No. 2 Cdn. Inf. Holding Unit.

Army Form B.122

Date of enlistment 28-10-39 — Sheet No.

No. F39795 Name Titus R.W. — Squ., Batty., or Company — Corps

Date of last entry in Company Conduct Sheet — No. and date of last drunk — G.C. Badges — Long Service and G.C. Pay — Signature O.C. Company, etc. (Sgd) T.A. Hebb Capt

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true Copy

J.W. Lewendyke Capt
Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

[P.T.O.

Date of enlistment 28-10-39 Sheet No.

No. F39795 Name Titus. R.W. Squ., Batty., or Company Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. (Sgd) T.A. Hebb Capt.

Place	Date of offence	Rank	Cause of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Army Form B.122

Certified true Copy.—

A.W. Lewendge Capt. Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

[P.T.O.

Description of Court by which tried, or station of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of September 1940

J. H. Lumsden Capt
Adjutant,
No. 2 Int. Rifle Holding Unit, (C.A.S.F.)

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

F39795 Gnr. Hgh. Wm. Rfd. of the Roy. Canadian Regiment

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the above accused, exclusive of convictions by a court martial or a civil court, of which particulars are set out in the Schedule hereto, and of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental Conduct Sheet, Squadron, Battery or Company Conduct Sheet, or Company Defaulter Sheet, as the case may be, is to be produced in connection with this statement at the hearing of the charge, and the entries therein relied on are to be read out in open court.

	*Within last 12 months.	*Since Enlistment.
For Drink	times	times
For Drink	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct,

nil or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 73 of the Army Act, and dispensations with trial under Section 47 of the Army Act, are set out in the Schedule annexed to this statement.

*The numbers herein required should be reckoned from the date of the award of the Conduct Badge, pro-vided that offences in each entry, and awards in respect thereof, which are subsequent to the offence or award in respect of which the Conduct Badge was awarded, are disregarded in reckoning the numbers.

†Strike out the words inapplicable, or the entries for which are to be read separately and dated.

Wt. 43865/984 30,000 8/40 W. & Ltd. 12-4024

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for —
— beginning on the — day of —

4. The accused has been in confinement, awaiting trial on the present charges

for — days in Civil Custody,

and 14 days in Military Custody.

Total 14 days.

Of which — days were spent in hospital.

5. The [illegible] according to his ~~record of service~~ / attestation paper is 48 years

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 28-10-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is —

8. The accused is entitled to deferred pay or gratuity in respect of — years' service.

9. The accused is entitled to reckon — years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

of the

Army Number, Rank and Name

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

CHARGE SHEET.

The accused Number F. 39795 Cpl. (A/Sgt/ Raymond White, TITUS, West Nova Scotia Regiment, (No. 2 Canadian Infantry Holding Unit.) a soldier of the Canadian Active Service Force, is charged with:-

tion 18 (4) Embezzling property belonging to a Regimental Mess,
my Act.

in that he,

at Louisburg Barracks, Bordon Camp, England, on 3rd September 1940, Holding as Mess Caterer of the Sergeants' Mess of No. 2 Canadian Infantry Holding Unit). C.A.S.F., fifty pounds, eight shillings and ninepences [redacted] and on behalf of the said Mess, fraudulently embezzled the same.

Bordon Camp.
Louisburg Barracks,
14th September 1940.

(F.S.Mathewson).Major.
Officer Commanding,
No.2.Cdn. Inf. Holding Unit.

ARMY FORM B 116.

No. 2 Canadian Infantry Holding Unit REGIMENT

STATION Bordon, Hants. Date 14 Sept 1940

Application for a District *Court-Martial*

SIR,

I have the honour to submit one charge against No F39795 Cpl (A/Sgt) Titus, Raymond White of the Unit under my command, and request you will obtain the sanction of Commandant, "A" Group that a District Court-Martial may be assembled for his trial at Bordon, Hants

The Case was investigated by (*a*) Major F.S.Mathewson, Major P.E.Belanger and Major T.B.Rogers

A Court of Inquiry was held on (*b*) ..... (date)

at ..... (Station).

President ..... } Ranks, Names and Corps.

Members ..... }

The accused is now at Bordon His General Character is (*c*) fair

I enclose the following documents (*d*) :—

1. One Charge Sheet (in duplicate) (*e*).
2. Summary of Evidence, original (*f*) and three ~~four~~ copies.
3. Original Exhibits (*g*).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
5. List of Exhibits (*h*).
6. Correspondence (*g*).
7. Statement as to character (A.F.B. 296) and regimental and company, etc., conduct sheets of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (*h*). [R.P. 14 (B)].

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer } F.S.Mathewson Major

To Commandant
"A" Group Holding Units.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. F39795 Cpl (A/Sgt) Titus, R.W. Regiment

is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer O.O.Rader Major RCAMC
(Asst. Director Medical Services)

* Insert "fit" or "unfit."

(*a*) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence [R.P. 19 (B) (iii)].

(*b*) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges ; otherwise to be struck out [R.P. 19 (B) (iii)].

(*c*) To be filled in by the Commanding Officer.

(*d*) Any items not applicable to be struck out.

(*e*) One copy to be sent to the President ; one copy to be filed with the application for trial.

(*f*) Original summary of evidence to be sent to the President.

(*g*) 2, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(*h*) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 45 (2) the fact should be recorded at the top of this form.

(11,902) W.L.F.20/532/918 20,000 8/39 A & E.W. Ltd. Op.440 Forms/B116/10
(12,456) W.L.33776/616 60,000 1/40 " "

LIST OF WITNESSES.

in the case

of

Number F39795 Cpl. (A/Sgt.) Titus, R.W. West Nova Scotia Regiment. (No.2 Canadaian Infantry Holding Unit. C.A.S.F.

PROSECUTION.

G45502	Sgt.	Firlotte, R.B.	2/C.I.H.U.
F29610	CQMS	Hopper, L.F.	"
G45503	"	Brennan, C.H.	"
F54696	L/C.	A/Sgt. Anderson. A.J.	"
F43670	CSM.	Leask, W.A.	"
P48067	RSM.	Gravel, X.C.A.	"
D81769	CSM.	Berry, W.E.	"

DEFENCE

-N I L-

STATEMENT OF ACCUSED TO BE REPRESENTED
AT HIS TRIAL.

I, Number F 39795 Corporal, A/Sergeant R.W.Titus West Nova Scotia Regiment, (No.2 Canadian Infantry Holding Unit) intend to employ counsel to appear at my trial by court-martial.

R. W. Titus

(R.W.Titus)A/Sergt.

SUMMARY OF EVIDENCE.

in the case of

Number F39795 Cpl. (A/Sgt.) Raymond White TITUS, Est Nova Scotia Regiment. (No.2 Canadian Infantry Holding Unit.)

1st Witness for prosecution. Number G45502 Sgt. Firlotte, R.B. Carleton & York Regt. (No.2 Cdn. Inf. Holding Unit./ being duly sworn, states:-

I am the treasurer of the Sgts' Mess (No.2 Canadian Infantry Holding Unit.) and as such it is my duty to collect the money of the sales made at the Sgts' Mess by the Sgt. Caterer.

A/Sgt. Titus was appointed Caterer of the Sgts' Mess on 25 Aug 40. A copy of the Sgts' Mess Rules and Regulations are posted in the Mess where they can be seen and read by all members, therefor, Sgt. Titus must have been aware of the reO regulations concerning the money collected out of the sale of refreshments.

On the evening of the 28 Aug 40 he said that very little sale had been made, being just before pay day, he had only a couple of pounds. He asked me for two more pounds for change as he claimed he did not have enough to carry on. I gave him two pounds out of the money of the Sgts' Mess which I had on hand. A/Sgt. Titus did not in accordance with the Mess Rules h and in any money collected from the sales of refreshments at any time.

During the day of the 3 Sep 40 R.S.M. Gravel informed me that A/Sgt. Titus had been drinking whilst acting as Caterer. He had lost some money and that he would be replaced by another caterer. He ordered me to be present at the stock taking that same evening.

As ordered I went for the stock taking that evening but was told that two independent members would check the stock.

The two members were CQMS Hopper, CQMS Brennan & A/Sgt. Anderson, the caterer taking over and A/Sgt. Titus the caterer handing over.

After the inventory of the stock had been taken A/Sgt. Titus handed over to me the sum of £11-12-6½ for which I gave him a receipt.

The accused declines to cross-examine this witness.

2nd Witness for prosecution. F29610 CQMS. Hopper, L.F. West Nova Scotia Regiment, No.2 Canadian Infantry Holding Unit.) being duly sworn, states:-

On 3 Sep 40 I was asked by Major Morgan to take the Inventory of the stock of the Sgts'Mess.

Assisted by CQMS. Brennan and the incoming caterer A/Sgt. Anderson and in the presence of A/Sgt. Titus, the Mess caterer, the stock on hand was checked by each and every one of us.

The total stock received from the date that A/Sgt. Titus took over as caterer plus the stock on hand on taking over was compiled. To arrive at the total amount of sales, a deduction was made from total stock received plus the stock on hand on taking over which amounted to £61-7-3½ together with £2-0-0 handed to the caterer to make change making a total of £63-7-3½.

I then instructed Sgt. Firlotted the Treasurer to collect any money A/Sgt. Titus might have in his possession. A/Sgt. Titus handed over the amount of £11-12-6½ thus leaving a deficit of £51-14-9.

At the time that the inventory was taken, about 1800 hrs. on 3 Sep 40, A/Sgt. Titus was under the influence of liquour, but he could still carry on with his work.

As an explanation to this alleged deficiency he said that a certain amount of money was in his pants pockets when he arrived on the night of 31 Aug, when he got up, the next morning he found that his money had gone.

2nd Witness for prosecution.

He mentioned that had the treasurer collected the money on Saturday 31 Aug. he would not be in such a difficulty.

A/Sgt. Titus did not mention any thing about the disappearance of money from his pockets until the alleged deficiencies were discovered.

On rechecking the sales and the stock with the new caterer A/Sgt. Anderson it was discovered that the amount of £1-6-0 had been overlooked thus leaving a deficit of £50-8-9.

The accused declines to cross-examine this witness.

3rd Witness for prosecution.

G45503 CQMS. Brennan, C. E. No.3 Coy. (No.2 Cdn. Inf.Holding Unit.) being duly sworn, states;-

I corroborate CQMS. Hopper's statement with the exception that the accused did not mentioned any thing before me regarding his money having been stolen, from his pants pockets All he said in front of me was that he had lost the money belonging to the Sgts' Mess.

The accused declines to cross-examine this witness.

4th Witness for prosecution.

F54696 L/Cpl.)A/Sgt.) Anderson, A.J. (No.2 Cdn. Inf. Holding Unit.) being duly sworn, states;-

On or about 1800 hrs. 3 Sep 40 I took over the charge of caterer in the Sgts' Mess (No.2 Cdn. Inf. Holding Unit.) As such I was present when the inventory of the stock on hand was made by CQMS. Hopper and CQMS. Brennan in the presence of A/Sgt. Titus who was handing over.

To my estimation A/Sgt. Titus was under the influence of liquour when he handed over the stock.

After the inventory of the stock on hand had been completed, I was handed in a complete list of the stock for which I signed a receipt.

No money was left over in the till except two pounds for change which were given to me by the Treasurer.

On the 5 Sep 40 I discovered that five small packages of Woodbine Cigarette were missing from a cartoon which had been counted at the stock taking as a full cartoon. Since then no other shortages have been discovered.

The accused declines to cross-examine this witness.

5th Witness for prosecution.

F43670 C.S.M. Leask, W.A. West Nova Scotia Regiment, (No.2 Canadian Infantry Holding Unit.) being duly sworn, states;-

On the afternoon of the 4 Sep 40 I was asked by Major Morgan to assist CQMS Hopper in rechecking the stock on charge to the cate rer of the Sgts' Mess.

After the closing of the bar for the day's business, the inventory of the stock was taken by CQMS. Hopper, A/Sgt. Anderson and myself.

After checking over and according to the list of articles produced by CQMS. Hopper, a deficiency of £50-8-9, existed.

On the 3 Sep 40 I would say that A/Sgt. Titus had been drinking and at noon on that day he should not have been ca tering.

W A Leask CSM

The accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE (Cont.) (3)

6th Witness for prosecution. P48067 R.S.M. Gravel, X.C.A. Royal 22e Regiment, (No.2 Canadian Infantry Holding Unit.) being duly sworn, states;-

A/Sgt. Titus took over the duties as Mess Caterer at the Sgts' Mess, 2 Cdn. Inf. H.U. on the 25 Aug 40 from Sgt. Pineau. On taking over he was instructed that he was personnally responsible for the stock on hand and any additional stock that may be purchased. I also instructed him that he was to hand over the money from the previous daily sales to the Treasurer. Furthermore he was told not to make credit to anyone.

About lunch time on the 3 Sep 40 I went to the Mess and I found A/Sgt. Titus asleep in the bar room. He was under the influence of liquour. I immediately took necessary steps to have him replaced as Caterer.

It was only about 1800 hrs. that day that the change could be made. I ordered CQMS. Hopper & CQMS. Brennan to carry out a complete checking up in the presence of A/Sgt. and A/Sgt. Anderson which was done.

This checking up revealed taht A/Sgt. Titus was short of £50-8-9.

The matter was immediately reported to the C.O.

On the morning of the 2 Sep 40, A/Sgt. Titus reported to me that he had money stolen from his pockets, the amount mentioned was about £35-0-0. At first I thought it was a joke because the previous night, that is, on the 1 Sep 40. I asked him in the presence of CSM. Berry if he had lot of cash on hand. He smiled and said that he had just a few pounds. I told him then for his own protection to hand over the money to the Treasurer. He said he would.

X.G.R. Gravel

The accused declines to cross-examine this witness.

7th Witness for prosecution. D81769 C.S.M. Berry, W.C. (No.2 Canadian Infantry Holding Unit., being duly sworn, states;-

On Sunday 1 Sep 40 after supper R. S.M. Gravel and I were just on the point of leaving the Mess when the R.S.M. asked the accused how much money he had on hand. I heard him distinctly saying that he had a pound or so and in the course of the conversation he asked permission to sleep in the Mess as he was afraid he might be robbed.

Q.- by the accused.

At any time between the 25th Aug and the 2 Sep 40 whilst acting as caterer, did you see me drunk?.

Ans.- I would say that he did drink during that period but I could not say that he was drunk.

W. Berry

The accused declines to ask any further question to this witness.

The accused was given the following caution.
Do you wish to make any statement or to give evidence upon oath?. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

R. P.4 (C)(D)(E)&(F) were complied with.
The accused reserves his defence.

Taken by me in the presence of the accused at Louisburg Bks. Bordon Camp, England this 14th day of September 1940.

P.E. Belanger

(P.E. Belanger, Major.
2nd in Command.
No.2 Cdn. Inf. Holding Unit

Re F.39795
A/Sgt Titus
R.W.
No.2 Cdn Inf.H.U.

Under authority of A.A.57(a)(8) and A.A.57(2) the stoppages of pay of £51.14.9. awarded are hereby remitted. Such remission will be published in Part II Orders of the Unit concerned.

P.J.Montague

(P.J.Montague)Major-General
Senior Officer
Canadian Military Headquarters

Promulgated and extracts taken in the case of

F.39795 A/Sgt Titus,R.W.

(Dated) 10 Nov 44. (Signed) .....Lieut.Col.
Officer Commanding,
No. 2. Cdn. Inf. Holding Unit.
C.A.S.F.

105a

9 32202 Pte Tobias D.
2 Ch. Inf Hosp Unit

101/T/122

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 25th day of February, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Major	R.W. Lent	Lorne Scots

Members.

Rank.	Name.	Regiment.
Major	W.H. Colling	No.1 R.C.A.S.C. Hldg Unit
Lieutenant	W.B. Bate	No.1 Cdn Arty Hldg Unit
Lieutenant	F.W. Krause	No.2 Cdn Arty Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed L. F. Page Brigadier

Commanding Canadian Base Units.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G-32202 PTE. TOBIAS, D. (C & Y Fd Unit) No.2 Can Inf Hldg Unit.	First charge A.A. Sec.15 (1) as per charge sheet	GUILTY	GUILTY	I confirm the finding & sentence of the Court but remit 30 days of the sentence L
	Second Charge A.A. Sec.15 (1) as per charge sheet	GUILTY	GUILTY	
	Third Charge A.A. Sec.15 (1) as per charge sheet	GUILTY	GUILTY	
	Fourth Charge A.A. Sec.24 (2) as per charge sheet	NOT GUILTY	GUILTY to extent of 8/4 loss of kit only. TO UNDERGO DETENTION FOR A PERIOD OF 120 DAYS AND TO UNDERGO STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF 8s 4d.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— NO.

(Signed) L. F. Page Brigadier (Signed) R.W. Scott Major
Commanding Canadian Base Units *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of February, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 27th day of February 1941.

R.W. Scott Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 702 M.M.L. 1929.

~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 5th day of March 1941.

L. F. Page Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of G 32202 Pte. Tobias D

(*a*) (Dated) 8 Mar 41 (Signed) H.G. Matheson Lieut. Col.
Officer Commanding,
No. 2 Cdn. Inf. Holding Unit.
C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(12759) Wt. 40115—953 500 M. 12/40 P.St. G. 840

CHARGE SHEET

The accused, G-32202, Private David Tobias, Carleton & York Regiment Field Unit, (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Army (Overseas), is charged with:

First Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

in the Field, at 0600 hours, 2nd July, 1940, absented himself without leave from the Carleton & York Regiment until apprehended by the Military Police at Nottingham, at or about 1700 hours, 6th August, 1940.
(Total absence 35 days and about 11 hours).

Second Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Nottingham, at 0430 hours, 10th August, 1940, when in close confinement, absented himself without leave until apprehended by the Civil Police in Coventry at 1000 hours, 1st September, 1940.
(Total absence 22 days 5 hours 30 minutes).

Third Charge
Sec. 15 (1)
Army Act.

When on active service, absenting himself without leave,

in that he,

at Louisburg Barracks, Bordon, Hants, when in close confinement, on September 16th, 1940, absented himself without leave until apprehended in Coventry by Military Police on 26th September, 1940.
(Total absence 11 days).

Fourth Charge
Sec. 24 (2)
Army Act.

Losing by neglect his equipment, clothing and regimental necessaries,

in that he,

at Camp 102, Witley, Surrey, on 7th February, 1941, was deficient of: 1 pr boots ankle, 22s 6d; 1 pr drawers woollen, 6s 3d; 1 knife clasp, 3s 4d; 1 bag ration, 2½d; 1 belt waist web, 5s 4d; 2 straps shoulder haversack, 4s 3d.
(Total value £2. 1. 8¼).

Camp 102,
Witley, Surrey,
11th February, 1941.

P.E. Belanger
(P.E. BELANGER), Major,
Commanding
No. 2 Cdn. Inf. Holding Unit.

To be tried by Field General Court Martial

Bordon, Hants
This 15 day of Feb 41.

L. F. Ruttan
.....Brigadier
Commanding Cdn Base Units

C-32202, Pte. Tobias, D., (C & Y Fd. Unit) No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 27th day of February, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. G.A. Addy
Defending Officer - Lieut. B. Wallace

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Not guilty, sir.

R.P. 35(B) is complied with in connection with the first three charges.

The prosecutor proceeds to call witnesses.

First witness for the prosecution, G-45503, C.Q.M.S. Brennan, C.E., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the prosecutor.

Q7 - Do you recognize the accused, Pte. David Tobias?
A7 - Yes, sir.
Q8 - In the court-room?
A8 - Yes, sir. (Indicates the accused)
Q9 - Did you make an inspection of Pte. Tobias' kit on the 7th February, 1941?
A9 - Yes, sir.
Q10 - Is this your signature? (Indicates summary of evidence)
A10 - Yes, sir.
Q11 - Is that a correct list of his deficiencies?
A11 - Yes, at that time.
Q12 - Has he recovered any of these articles to your knowledge?
A12 - Yes, sir, I made a kit inspection on the 25th and he had recovered the boots ankle, drawers woolen and belt waist web, therefore he is still lacking the bage ration and the clasp knife and the two shoulder straps.

The Defending Officer declines to cross-examine this witness.

Lieut. G.A. Addy, being duly sworn, states: I have checked the prices on this charge and they are correct except for the straps haversack which are 4s 0½d each. That would make it 6s 1½d.

R.P. 40 is complied with by the Court and the accused elects to make a statement which is not given under oath.

G-32202, Pte. Tobias, D., No. 2 Cdn. Inf. Holding Unit, states as follows:

When I was apprehended my clasp-knife was taken away by the provost sergeant and put in a box and I forgot about it until a few days ago when they were going through the box and found my clasp-knife. (The clasp-knife is produced for the inspection of the Court)

Defending Officer - Were you issued that knife by the Carleton & York Regiment?
Accused - No, sir, it was issued to me by the St. John Fusiliers, they do not issue that knife now, it is a smaller knife.

First witness for the defence, G-45401, Sgt. Allen, E.W., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q13 - Do you know the accused?
A13 - Yes, sir.
Q14 - As provost sergeant did Tobias come under your observation?
A14 - Yes, sir, since the 15th December. We were moving from Bordon and took all the prisoners pending the removal.
Q15 - How has behaved while in detention?
A15 - He has been very good and worked well
Q16 - Has he given you any trouble?
A16 - No, sir.
Q17 - Is he a very good worker?
A17 - An exceptionally good worker.

The prosecutor declines to cross-examine this witness.

Second witness for the defence, P-43067, R.S.M. Gravel, X.G.A., No. 2 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q18 - In your capacity as R.S.M. do you know the accused?
A18 - Yes, sir.
Q19 - Would you the Court how he behaved under your observation?
A19 - He was a very good prisoner and volunteered for work and and for service as a fatigue on many duties carried out by the prisoners. His conduct was very good.
Q20 - No complaints at all?
A20 - No, sir.
Q21 - An exceptionally good worker?
A21 - A good worker, sir.

The prosecutor declines to cross-examine this witness.

The Court is closed for the consideration of the finding.

Lieut. G.A. Addy, No. 2 Cdn. Inf. Holding Unit, is duly sworn.

Q22 - Have you any evidence to produce as to the character and particulars of service of the accused?
A22 - I produce A.F.B. 296 and M.F.M. 6 of the accused.
Q23 - Is the accused the person named in the statement which you have heard read?
A23 - Yes, sir.
Q24 - Have you compared the contents of the above statement with the regimental books?
A24 - Yes, sir.
Q25 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A25 - Yes, sir.

The accused declines to cross-examine.

Q26 - Do you wish to address the Court?
A26 - (Defending Officer) Forthe information of the Court, this is the third time Tobias has been arraigned before a court-Martial the first two times were thrown out at the behest of the Court or the prosecutor and we are anxious to have this dealt with.
Q27 - Why?
A27 - They couldn't determine at first whether he belonged to the Carleton and York Regiment or the St. John Fusiliers. Capt. Price, who defended Tobias the last two times states they were thrown out for technical reasons and the case was postponed because of one or two technical discrepancies. Tobias has been in detention five months. He has pleaded guilty to three charges before him. It has been declared by the R.S.M. and the provost sergeant that to make amends he has been going out of his way to pay for his punishment. The five months detention should be taken into consideration and I think it is very serious. That is all, sir, I would just ask the leniency of the court in that regard.

Questions to the accused by the President.

Q28 - When did you join the army?
A28 - August 27th, five days before [illegible]
Q29 - How old are you?
A29 - Nineteen.
Q30 - Married?
A30 - No, sir.
Q31 - Where did you join up?
A31 - St. Johns, N.B.
Q32 - When did you come to England?
A32 - 22nd May, sir.
Q33 - Did you get landing leave?
A33 - No, sir.
Q34 - Why?
A34 - I don't know.
Q35 - Any trouble then?
A35 - No, sir.
Q36 - When did you first get leave?
A36 - I haven't had any since coming over, sir, I was with the reinforcements for two or three weeks and then transferred to the regiment.
Q37 - At that time you were moving about?
A37 - Yes, sir.
Q38 - All leave was cancelled and you couldn't get any. Why did you go absent on the 2nd July?
A38 - I went on the 29th June, Saturday, to Oxford and at one o'clock in the morning I missed my train by five minutes and grabbed another train and the next think I knew I was in Reading. I figured I was in for it then and that I might as well make a week of it. Then my regiment, moved. I was apprehended in Nottingham by the civil police and they asked me what my regiment was and I told them the Carleton and York and in my pay book it still showed the St. Johns Fusiliers and they wanted me to confess what regiment I belonged to. Then I tried to go out and find my regiment myself. I came back to Reading and saw Sgt. Butler and asked where the regiment was and he told me he didn't know because he was on the Odiham guard.
Q39 - First of all you broke away from the Nottingham police?
A39 - Yes, sir. I was picked up by the civil police and they turned me over to the military police. Then I was picked up and brought back to Bordon and I was there about two weeks and opportunity knocked at the door and I walked out. The way I escaped down there was they were bringing in a drunk and the door was left unguarded and I walked out of the door. I shouldn't have, sir.
Q40 - What have you been doing since the 26th September?
A40 - I've been in detention since that time.
Q41 - Have you been tried before on any of these offences?
A41 - Yes, sir.

The Court is closed forthe consideration of the sentence.

Exhibit

SUMMARY of EVIDENCE

in the case of

G 32202, Private David Tobias, Carleton-York Regiment Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Army (Overseas).

Evidence taken on oath by order of the Commanding Officer.

First Witness Prosecution

Lieut. W. H. DeVeber, being duly sworn states: I am Acting Records Officer of No. 2 Canadian Infantry Holding Unit. I produce herewith:

(a) Certificate by Major F.D. Tweedie, 11-9-40
(b) A.F.B. 252
(c) Statement by Lieut W.H. Bolton, 10th Bn. The Sherwood Foresters, 10-8-40.
(d) A.F.B. 252, 2-9-40
(e) M.F.B. 264, 27-9-40.

All concern the accused, whom I recognise.

W H DeVeber Lieut.

Accused declines to cross-examine this witness.

Second Witness Prosecution.

G 17763 Cpl. Orr, J.A., being duly sworn states: On Sunday night, September 15th, 1940, I was Guard Commander at the Guard Detention Room, No. 2 Canadian Infantry Holding Unit, Louisburg Barracks, and as such I was responsible for those in confinement in the Guard Room. Some time during the night of 15th/16th September, 1940, the accused escaped. How it did happen, I cannot say. At that time, there were about twenty-five men in the Guard Room, and it was difficult to handle due to the Black-out.
Any time a man in the Guard Room wishes to go to the latrines he had to go to the next building, and it is extremely difficult to check and keep proper supervision. The men on guard were practically all inexperienced and new at this kind of work and it is possible that the accused may have slipped away without being noticed.

J A Orr Cpl.

Accused declines to cross-examine this witness.

Third Witness Prosecution

G 45503, C.Q.M.S. Brennan, C.E., being duly sworn states: I am C.Q.M.S. of No. 3 Company, No. 2 Canadian Infantry Holding Unit. I made an inspection of the kit of G 32202, Pte. Tobias, David on 7 February, 1941, and found him to be deficient of: 1 pr. Ankle Boots, £1-2-6; 1 pr. woollen drawers, 6s 3d; 1 clasp kinfe, 3s 4d; 1 ration bag, 2½d; 1 belt waist web, 5s 4d; 2 shoulder straps haversack, 4s 2d.
Total value, £2-1-8½.

E C Brennan C.Q.M.S.

The accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

Malcolm MacPherson
(Malcolm MacPherson) Lieut.
Officer detailed by O.C. No.2 Cdn. Inf. Holding unit to take summary of Evidence.

LIST OF WITNESSES

in the case of

G 32202, Private David Tobias, Carleton and York Regiment Field Unit (No. 2 Canadian Infantry Holding Unit), a soldier of the Canadian Army (Overseas)

PROSECUTION

Lieut. W. H. DeVeber, No 2 Canadian Inf. Holding Unit.

G 17763 Cpl. Orr, J. A. do do do do do

G 45503 C.Q.M.S. Brennan, C.E. do do do do

LIST OF EXHIBITS

in the case of

G 32202, Private David Tobias, Carleton and York Regiment Field Unit (No. 2 Canadian Infantry Holding Unit) a soldier of the Canadian Army (Overseas)

(a) Certificate by Major F. D. Tweedie, 11-9-40
(b) A.F.B. 252, 7-8-40
(c) Statement by Lieut. W.H. Bolton, 10th Bn The Sherwood Foresters
(d) A.F.B. 252, 2-9-40
(E) M.F.B. 264, 27-9-40

Army Form B.122

Date of enlistment 3-9-39 Sheet No. 2

No. G32202 Name TOGIAS, D. Sqn., Batty., or Company "D" Corps I. T. C.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. | CHARACTER: FAIR.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ALDERSHOT, N.S.	1-5-40	PTE.		I BEING A.W.L. FROM ROLL CALL AT 2200 HRS. 30-4-40 AND 0600 HRS. 1-5-40. II BEING A.W.L. FROM TATTOO ROLL CALL AT 2215 HRS 1-5-40 WHILE UNDER OPEN ARREST. III INSUBORDINATION.	PTE MICHAUD J. CPL. L.A. SMITH	14 DAYS C.B.		G.G.K. HOLDEN, LT.-COL.	

P.T.O.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. [illegible] Rank. Pte.

Name. Tobias, P. Regiment. CMR No. 3 Coy.

is fit

to undergo trial by Court-Martial.

Date. 27th. Feb. 41

M.O. Signature.

Description of Court (i.e., Field Trial, or name of Officer disposing of the charge or dispensing with Trial)	Date and place of Trial or summary award or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Statement of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of February, 1916.

Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G 37207 Private David Tobin of the No. 2 Canadian Infantry, Holding Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement filled out or not to be answered to the proceedings.

(See Para. 664, K.R., 1905.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

†INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.		*Since Enlistment.	
For Absence without Leave	2	times	2	times.
For Insubordination	1	times	1	times.
For		times		times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct.~~

or

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

or

~~Previous convictions~~† of the accused by a court martial or a civil court, summary awards under Section ~~47 of the Army Act~~, and dispensations with trial under Section 73 of the Army Act, are set out in the ~~Schedule~~ annexed to this statement.

Wt. 43648/504 50,000 2.40 W. S. Ltd. 32—4004

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 138 days in Military Custody.

Total 138 days.

Of which ~~four~~ 25 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 1-11-39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 3/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 1 3/12 years' service.

9. The accused is entitled to reckon 1 3/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or~~ entitled to .....]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	, years,	
In the rank of	, years,	
In the rank of	, years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name ..... of the .....

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or charge of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*)

MM-20
SGMM TOBIN E.

Correspondence to be PINNED here.

24184 Signn Tobin, E.
C.S.R.U.
BOR. 5-6-2/2
MM-20

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this SECOND day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP, CANADIAN REINFORCEMENT UNITS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences specified in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial to reference to a superior authority]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named appointed or detailed hereunder:

*[I am unable to appoint

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

1943 A/Brigadier

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece	HQ CRU

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by	1 CSRU
A Lieutenant	to be detailed by	1 CERU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.R. Shields) Brig
Commanding "B" Gp, C.R.U.
Convening Officer.

A.S. Pettapiece 1943

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.24184 Signm TOBIN, Eric 1 C.S.R.U.	First Charge A.A.Sec.15(1)	~~Guilty~~	~~Guilty~~ ~~Detention for a period~~ six (6) months and to be put ~~of the date of~~ stoppages of pay until he has made good the sum of £5.6.6. in respect of the costs of his apprehension and return. 8 Aug 43	I confirm the finding and sentence of the Court but mitigate the punishment to one of (120) one hundred and twenty days detention with stoppages as awarded. P R Dewes Brig 4 Aug 43
See Attached Charge Sheet				

~~* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—~~

~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~

~~Answer (to be recorded on separate sheet if necessary).~~

(Signed) P R Dewes (P.R. Shields) Brig
Commanding "B" Gp, C.R.U.
Convening Officer (c)

(Signed) Arthur S. Pettypiece, Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 3rd day of August 1943.

Arthur S. Pettypiece, Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~* See footnote (b) on page 762 M.M.L. 1929.~~ ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 4 day of Aug 1943.

P R Dewes Brig
Confirming Officer.

Promulgated and extracts taken in the case of D24184 Signmn TOBIN E. pt II D.O 1970/7 Aug 43

(a) (Dated) 7 Aug 43 (Signed) L O Pfeffer Capt
A/C.C.S. TRAINING WING.
NO. 1 CDN. SIGS. REIN. UNIT.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(32726) Wt. 40115—731 400 m 1/43 P. St. G. 540

CHARGE SHEET

The accused, D.94184 Signalman TOBIN, Eric (Royal Canadian Corps of Signals) on strength of the No. 1 Canadian Signals Reinforcement Unit, a soldier of the Canadian Army Overseas,

is charged with,

FIRST CHARGE
Section 15(1)
Army Act.

WHILST ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE,

in that he,

at Delville Barracks, Cove, Hants, did absent himself without leave from 0800 hrs 17 Mar 43 until apprehended by Military Police at 0900 hrs 24 Jul 43. (Total absence 129 days, 1 hour). Cost of apprehension and return Five shillings and two pence (£0.5s.2d.).

Delville Barracks
Cove, Hants,
27 July 1943

(W.O. Peffers) Lt.-Col.,
Commanding RCCS Training Wing,
No. 1 Cdn Signals Reinf Unit.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

2 Aug 43

Arthur S. Pettapiece, Major
President

NO. I CANADIAN SIGNALS REINFORCEMENT UNIT

This is to certify that I have this day examined D.24184 Sigmn. TOBIN, Eric and found him F.F. to undergo trial by Field General Court Martial.

3rd August 1943.

B.W. Lamb Capt.
Medical Officer, No. 1 C.S.R.U.

Arthur L. Kettyens
Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Blandin Barracks, Aldershot, Hants.
ON THE 3rd DAY OF August 1943

The accused D24184 Gnr. Tobin, E. .....Unit. 1 C.C.R.H. .....:

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. L. R. Stapeis .....Unit. H.Q. 1 C.C.R.H. .....
Members Capt. D. H. MacLean .....Unit. 1 C.C.R.H. .....
Lt. J. A. Mathieu .....Unit. 1 C.C.R.H. .....

The officers under instruction are duly sworn:-

Lt. H.R. Bamfield - 1 C.C.R.H.
Lt. R.H. Fisher - 1 C.C.R.H.
Lt. A.C. Hogg - 1 C.C.R.H.

Prosecutor S.S.M. B. Kirk .....Unit. 1 C.C.R.H. .....
Defending Officer Lt. J. Boyce ..Unit. 1 C.C.R.H. .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFH 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER

attached sheets.

Arthur L. R. Stapeis
Major

This is Appendix "A" to the Summary of Evidence in the Case of Signmn Tobin. 29 July 43 [illegible] Lieut RCAF

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Delville Barracks, Cove, Hants on the 14th day of April 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-24184 Signmn. Tobin, E.A., R.C.C.S. Training Wing, 1 C.S.H.U.

DECLARATION.

The Court declare,

that D-24184 Signmn. Tobin, E.A., R.C.C.S. Wing, No. 1 Cdn Signals Reinf Unit, illegally absented himself without leave at Delville Barracks, Cove, Hants, on the 17 Mar 43 at 0800 hrs, that he is still absent and than on the 14th day of April, 1943, he was deficient the items as set out.

Deficiences of kit are itemized in the statement of B-33126 L/Cpl. Cox, D.R. The total value of these items at ¾ vocabulary price is ten pounds, fourteen shillings, two pence (£10 14s. 2d.).

Signed at Delville Barracks, Cove, Hants, this 14th day of April, 1943.

Article		Full Price			¾ Price		
		£			£		
Badges, Canada	2			11			8
Blouse, B.D.	1	1	7	8	1	1	6
Trousers, B.D.	1	1	7	11	1	1	8½
Boots, ankle, prs	2	2	3	0	1	12	3
Brushes, Tooth	1			4½			3
Cap Field service	1		3	8		2	9
Greatcoat.	1	3	17	½	2	17	9
Combs, hair	1			2			1½
Dressing, F.P.	1		1	1			9½
Forks, table	1			5			3½
Jerseys, pullover	1		6	9		5	1
Knives, clasp	1		5	2½		3	10½
Knives, table	1			9½			7
Shorts, cotton, K/s	1		1	11		1	5½
Bags, ration	1			1½			1
Braces, left	1		3	3		2	5½
Braces, right	1		2	11½		2	2½
Haversack	1		10	5		7	9
Packs	1		10	6½		7	10½
Straps, shoulder	2		6	8		5	0
Straps, web supporting	2		2	2		1	9
Tins, mess	1		3	1		2	4
Eyeshields A/G	6		2	3		1	6
Resp. haversack	1		6	6		4	10½
Outfits, anti-dim	1			2½			1½
Capes, A/G	1	1	6	3½		19	8½
Overalls, comb.	1		18	7		9	5½
TOTAL		14	3	11½	10	14	2

CHARGE

Appendix B

Army Form B-252
(See King's Regulations)

CANADIAN ROYAL CORPS SIGNALS Regiment

3 Battery, Squadron, Troop or Company

CHARGE against No. D/241184 Rank SIGNALMAN

Name TOBIN. E

Place SLOUGH Date of Offence ?

OFFENCE W.O.A.S ABSENT FROM UNTIL APPREHENDED BY THE MILITARY POLICE IN HIGH STREET AT ABOUT 0900 HRS

Names of Witnesses :—

CPL. D DINNER C.M. POLICE (P)

CPL. W. LAWAR C.M. POLICE (P)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

This is Appendix "B" To the Summary of Evidence in the case of Tobin

27 Jul 43. G.B. Hinde, Lieut, RCCS

A/Lieut. O.C. H.Q. 21 Army Group Signal Regt. (Armoured)

20133. W.L.W. (M.S.) 2,000,000. 5/42. K. & H., Ltd. G667/47.

This is appendix "C" to the Summary of Evidence in the Case of Signmn Tobin, R. Kirkland

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr. 43

I CERTIFY that No. . . . . Rank . . . . Name . . . . . .

Unit . . . . . was arrested at . . . . . .(place)

at . . . . .(hour) on . . . . . .(date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian clothes) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
24 July 43

for R. A. Stinson Lieut.
. . . . . Capt.
(W. Form) D. A. P. M.,
London Area

Appendix "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No D24168 Rank Sgm Name Loben C Unit C.S.P.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Windsor

Date	Particulars	Amount £	s	d
25 July 43	Escorts return fare from LONDON To Windsor		3	5
	Prisoners single fare to LONDON From Windsor		1	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is Appendix "D" To the Summary of Evidence in the case of L. Loben.

Sgm

Capt.

27 Jul 43

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/P & S/483

CB Clerk Lieut. RCCS.

Appendix B

Army Form B 252
(See King's Regulations)

CHARGE

CANADIAN ROYAL CORPS SIGNALS — Regiment / Battery / Squadron / Troop or Company

3

CHARGE against No. 1D/241184 Rank SIGNALMAN

Name TOBIN. E

Place SLOUGH Date of Offence ?

OFFENCE W.O.A.S ABSENT FROM UNTIL APPREHENDED BY THE MILITARY POLICE IN HIGH STREET AT ABOUT 0900HRS

Names of Witnesses:—

CPL. D DINNER C.M. POLICE (P)

T/CPL. W. LAWER C.M. POLICE (P)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

This is Appendix "B" to the Summary of Evidence in the case of Tobin

Signature and Rank: 27 Jul 43. G.B. Hinks, Lieut, RCCS

Adjutant

No.

20M/3/43 S42 K. & H., Ltd. G/67/42.

STATEMENT OF EVIDENCE IN THE CASE OF —
No 2/24184 SIGNALMAN TOBIN. E.
CANADIAN ROYAL CORPS. SIGNALS
No. 3 COMPANY
COVE. ALDERSHOT.

Ser. H SLOUGH on the 24th JULY 1943 at about 0900HRS on war on duty in HIGH STREET SLOUGH accompanied by Y/CPL LAWER. W C.M.POLICE (P) saw the above named soldier knowing him to be an absentee arrested him and conducted him to the MAIN GUARD ROOM at COMBERMERE BARRACKS WINDSOR handed him over to the N.C.O Y/c to be detained pending the arrival of an escort from his unit. He was dressed in uniform

SLOUGH
24th JULY 1943

D. Dunn Cpl
C.M.POLICE (P)

REMARKS

Sir. I have read over & corroborate the above statement.

SLOUGH
24TH JULY 1943

W. Lawer L/Cpl
C.M.POLICE (P)

This is Appendix "C" to the Summary of Evidence in the Case of Sigmn Tobin, 69 Fd Amb

29 July 43

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr. 42

I CERTIFY that No. . . . . Rank . . . . Name . . . . . .

Unit . . . . . was arrested at . . . . . .(place)

at . . . . .(hour) on . . . . . .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothes~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer of the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

T. A. Tinson Lieut.

. . . . . Capt.

for (W. Forn) D. A. P. M.,
London Area

London
24 July 43

Appendix "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 2411[illegible] Rank Sgm. Name Loben C. Unit C.S.P.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Windsor

Date	Particulars	Amount		
25 July 43	Escorts return fare from LONDON To Windsor		3	5
	Prisoners single fare to LONDON From Windsor		1	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is Appendix "D"
To the Summary of Evidence
in the case of
Sergeant Loben.

Capt.

27 Jul 43

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.H. Clark Lieut. RCS

C.M.H.Q. 1000-55
40/P & S/483

This is Appendix "C"
to the Summary of Evidence in
the Case of Signalman Tobin S.B. Private Court
24 of 149

"CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (2) (3d) A.C.I. 2253/42

I Certify that No. D/34184 Rank SIGNALMAN Name. T.O'BRIEN. E.

Unit CANADIAN ROYAL CORP SIGNALS Was arrested at SLOUGH Hour 0900

Date 24th MAY

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken on arrest.

.....

O.C. Regimental Wing, R.A.O.C.

Case of: Sigmn Tobin, E.

Sigmn. TOBIN, E. regimental number D-24184, the accused pleads guilty.

The accused joined the army the 15 Sep 1939 and until 17 Mar 1943 when he absented himself had never committed a crime. He was awarded a good conduct stripe 15 Sep 41. I have known the accused from joining date onwards. I can say his sense of duty, and character, is of the very best.

He has been employed at the following trades cook, driver i/c, carpenter and technical storeman. These he has worked at and given a very satisfactory account of himself.

I know the accused has undergone a mental strain over a period of three years.

He arrived in England 7 Sep 1940 with 2 Divisional Signals. About January 1941 he received a confidential letter from Dependents Allowance Branch stating, his wife was living with another man. The Dependents Allowance Branch requested him to sign forms and terminate his separation allowances. The accused has been married for fourteen years, is the father of two boys, thirteen years and eight years of age. He has never had reason to ever doubt his wife. So refused to terminate the allowances and to send his children to an orphanage. The matter appeared to be cleared at that time. However in September 1941 his wife wrote and said, "She suffered stoppages of $150.00 due to Dependence allowance Branch action." The accused saw the Paymaster and had this rectified, after several ~~incidents~~ interviews.

In December 1941 just before Christmas the accused suffered injury to his right hand and arm due to an accident, was sent to the hospital. His right arm has had a tremor ever since. The man's civil trade, Watch Mechanic, is lost to him.

Correspondence from Canada since 1942 has not been all that could be desired. All the various incidents related have preyed on this man's mind. He has suffered them in silence.

On 17 Mar 1943 his trades pay, or proficiency pay was withdrawn. So far as accused knew for an unknown reason. Yet, two other men who were working at the same trade, Technical Stores, received it.

The accused finally feeling he was useless to the Army, to himself, and family, was at his wits end as to what to do. I believe the accused was mentally stressed. He did not realize the seriousness of his misdemeanour.

I plead with the court for leniency in this case on the stated grounds, ~~Further details should be entered in confidential envelope in civil life and Army records.~~

A Bayce Lt.
Defending Officer.

3 Aug. 1943.

SUMMARY OF EVIDENCE

IN THE CASE OF

D-24184 Sigmn. Tobin, E., Royal Canadian Corps of Signals, on strength of No. 1 Canadian Signals Reinforcement Unit, Canadian Army Overseas.

Documentary Evidence

(1) Certified True Copy of the Record of the Declaration of the Court of Inquiry. (Attached as Appendix "A")

(2) Charge Report and Accompanying Statement of Evidence (A.F.B.252).

I certify that owing to the exigencies of the Service the attendance of Cpl. D.Dinner and L/Cpl. W. Lawer cannot in my opinion be readily procured, and a written statement of their evidence, purporting to be signed by them is attached as Appendix "B".

C B Kirk Lieut

The above mentioned statements were read over to me, and I do not require the attendance of these persons at my trial. E.T.

E Tobin

(3) Certificate of Apprehension, in accordance with P.C.2797. (Attached as Appendix "C")

(4) Statement of Expenses incurred in Apprehending and Returning the Accused. (Attached as Appendix "D")

The accused was then asked;

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or ~~whatever~~ any evidence you give will be taken down in ~~writ~~ writing and may be given in evidence.

The accused declined to make a statement.

I certify that the forgoing Summary of Evidence was taken down before me in the presence of the accused, and that R.P.4 (C) (D)(E) (F) &(G) have been complied with.

C B Kirk

(C.B.KIRK)Lieut.,
R.C.C.S., No 1 C.S.R.U.
Officer detailed to take
the Summary of Evidence.

29 July, 1943

Arthur S. Pettapiece
Major

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2968)

No. D24184 Name TOBIN E. | Sqn., Battery, or Company | Corps R.C.C.S. | Date of enlistment 15 Sep 39 | G.C. Badges One | Service or Proficiency Pay N11 | Character

Date of last entry in Company Conduct Sheet N11 | No. and date of last drunk N11 | Period not reckoning towards freedom from extra fine N11 | Sheet No. One | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Completed 2 years service - no entries					

CERTIFIED TRUE COPY of RECORDS IN MY POSSESSION

ADJT.
R.C.C.S. TRAINING
NO. 1 CDN. SIGS. REGT

Adam S. Pettypiece, Maj'r

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	(or unit)
D.24184	Sigmalman	TOBIN, Eric	No. 1 C.S.R.U.

1. The following is a fair and true summary of the entries in the Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and ~~six (6)~~ (10) days in military custody, making a total of ~~6~~ 10 days in custody, of which Nil days were spent in hospital.

EBK EBK

5. The present age of the accused according to his attestation paper is 34 years 2 months

6. The date of his attestation specified in his attestation paper 15 September 1939

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 10½ mons.

8. The accused is entitled to reckon 3 yrs 10½ mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of reward military (one good conduct stripe)

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... Unit ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~thirty-first~~ Third day of ~~January~~ August 1943

613K

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Peter S. Pettapiece, Major

68K.

III. 97
PTE TOBIN N.H.

COPY

LRPG V LRIZ SERL 33

FROM: CANMILTRY 271430B

TO: ADNAP FOR CANDEX FOR 2 ECH

A2820 BT

RESTRICTED (.) PARA ONE (.) CERTIFIED COPIES FGCM PROCEEDINGS HEREIN RECEIVED 22 APR 44 ENDORSED BY MGA 27 APR AS FOLLOWS (.) PARA TWO (.) M30851 PTE LETENDRE NJ M10902 PTE PELLOWE BA BOTH SERIAL 38/1 F97503 PTE TOBIN HM SERIAL 43/1 ENDORSED (.) QUOTE (.) I CONFIRM THE FINDINGS AND SENTENCE AND DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A MILITARY PRISON (.) UNQUOTE (.) PARA THREE (.) G10037 PTE BREAULT R SERIAL 43/1 ENDORSED (.) QUOTE (.) I CONFIRM THE FINDINGS AND SENTENCE BUT REMIT ONE YEAR PENAL SERVITUDE (.) I DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A MILITARY PRISON (.) UNQUOTE (.) PARA FOUR (.) K52349 PTE PONTELLA R SERIAL 37/1 ENDORSED (.) QUOTE (.) I CONFIRM FINDING AND SENTENCE CUT REMIT ONE YEAR PENAL SERVITUDE (.) UNQUOTE (.) RETURN PONTELLA U K EARLIEST TO SERVE SENTENCE

OT 281245 HJN B

R SRL 33 281246 NAB

(RECEIVED AT CDN SECTION GHQ 2 ECHELON 1430 hrs 28 APRIL 1944)

CERTIFIED TRUE COPY

"APP 2"

III-97

Lt Hayes Staff

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twentieth day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1) Three Officers to form the Court.) "TGG"

*(2) A Field Officer as President.)

for the following reasons, namely:—]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	Y Trudeau	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	C F Pattipiece	Carlt & York R
Capt	H S Hopper	Sask L.I.
Lt	S B Beaton	R N S R
aiting		

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G.Gibson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F97503 Pte. TOBIN Herbert Hudson. Carlt & York R	First Charge Sec 9(1) A.A.	Guilty	Guilty	I reserve confirmation of the sentence for Superior Authority.
	Second Charge Sec 8(2) AA.	Guilty	Guilty	"T.G.Gibson, Brig"
			3 years of penal servitude.	"F.T."
				I confirm the findings and sentence and direct that a part of the sentence, not exceeding two years shall be served in a military prison (sgd) P.J. Montague Maj. Gen Major General IC Administration Canadian Military Headquarters 27 Apr 44

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No.
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) "T.G.Gibson" Brigadier, (Signed) "Fernand Trudeau" Major
Commanding 3 Cdn Inf Bde, *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of January 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3 ~~The Interpreter~~)
*(4 ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 21st day of January 1944.

"Fernand Trudeau, Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 27th day of April 1944.
(sgd) P.J. Montague. Maj.-Gen
Major General IC Administration
Canadian Military Headquarters.
Confirming Officer.

Promulgated and extracts taken in the case of F97503 Pte Tobin, H.H.
(*a*) (Dated) 16 May 44 (Signed) Comd Carleton & York R. Lt.-Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

25066) W.P.2530/411 40,000 12/42 A.& E.W.Ltd. Gp.698

CHARGE SHEET

The accused F97503 Private Norbert Hudson Tobin a soldier of the Carleton & York Regiment, Canadian Army Overseas is charged with:

First Charge
Sec 9 (1) A.A. When on active service disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office,

in that he

In the Field on 15 November 43 when personally ordered by G21055 RSM Jessome, E.A. to leave the guard room immediately, and rejoin his company did not do so, at the same time saying, "No, I will not leave the guard room." or word to that effect.

Second Charge
Sec 8(2) A.A. When on active service using insubordinate language to his superior officer,

in that he,

In the Field on 25 October 43 at about 1800 hrs after having been ordered to go on patrol by Lance Corporal Ruff his section leader, said, "I am not going on patrol."

"J.E.C.Pangman"

(J.E.C. Pangman) Lt-col.,
Comd, Carlt & York Reg't.

In the Field
25 Nov 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G.Gibson"

(T.G.Gibson) Brig
Comd 3 Cdn Inf Bde

In the Field
20 Jan 44

"B 2"

"Fernand Trudeau, Major"

MEDICAL OFFICERS CERTIFICATE

K.R (CAN) PARA 557

I certify that I have this morning examined

No. F 97503 Pte Tobin, N.N.

of the Carleton & York Regiment and in my opinion he

is fit to undergo Trial by Court Martial.

Station In The Field

Date 21 Jan 44.

"B 3"
"Fernand Trudeau, Major"

"G.N. Hryrinsky" Capt
Medical Officer,
R.M.O. Carlt & York Regt.

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Fd. Gen. Court-Martial held at W.M.S.R.Hq. on the 21st day of January, 1943 by order of

The Officer

Commanding 3rd Cdn. Inf. Bde.

dated the 20 day of January, 1944

President

Maj. Fernand Trudeau, R 22e R.

Members

Capt. C. W. Pettipiece C & Y. Regt.

Capt. H. S. Hopper Sask L. I.

"F.T."

Judge Advocate

Trial of F97503 Pte TOBIN N.H.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N.A. is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Lt. Corkett, W.M.A. C & Y. R.

Counsel or defending officer Lt. McRae, J.F. C & Y R.

At 1445 o'clock the Trial commences.

The order convening the Court is read, and is marked App "Z" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No.

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"Fernand Trudeau, Major"

B

"F.T."

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The Officers Medical Certificate is signed by the President, marked "B.3" and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Answer
Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read?

Answer
Guilty.

Are you ghilty or not guilty of the third charge against you, which you have heard read?

N. A. Answer

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer

N.A.

The accused having pleaded Guilty to both charges, the provisionsof Rulr of Procedure 35(B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty", the Court will not proceed upon the record of a plea of "Guilty", until after the finding on that other charge.

CC

PROCEEDINGS ON PLEA OF GUILTY

(The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.)

The accused F97503 Pte. Herbert Hudson Tobin.
Carlton & York Regt.
is found guilty of First Charge Sec. 9(1) A.A.
Second Charge Sec. 8(2) A.A.

The summary (or abstract) of evidence is read, marked "4C" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:- None.

(or hands in a written statement, which is read, marked signed by the President, and attached to the proceedings.)

No written nor oral statement produced.

"F.T.".

"Fernand Trudeau, Maj"

- -

Instruction. If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty".

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty", the Court shall alter the record, and enter a plea of "Not Guilty", and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the Accused

No.

Answer

Evidence as to character.

F

SENTENCE

Sentence

The Court sentence the accused

3 Years Penal Servitude.

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lt. Corkett, W.M.A. C.Y.R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. Yes.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "E.E." , signed by the President, and annexed to the proceedings.

Question by the President — Is the accused the person named in the statement which you have read? Answer by the Witness. Yes.

Question — Have you compared the contents of the above statement with the regimental books? Answer. No, but the Adjutant has.

Question — Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer.

Cross-examined by the accused.

Do you wish to address the Court? Answer No.

"Fernand Trudeau, Major"

The Court is closed for the consideration of the sentence.

MFM 6
(AFB 122)
40/P&P/136 (3428)

No F97503 Name Tobin, N.H. Sqn, Battery, or Company Corps Inf Date of enlistment 26 Mar 42 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N.A. No and date of last drunk Nil Period not reckoning towards freedom from extra fine N.A. Sheet No 2 Signature OC Company, etc "R.H. Drummond" Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Jun 43	Pte		Sec 15(1) A.A. AWL 2300 hrs 24 Jun 43 to 2200 hrs 26 Jun 43	Sgt. McKay	7 days C.B.	27 Jun 43	W.S.Honey Capt	Forf 2 days pay for AWL
				"this is a true & correct copy of original MFM 6 belonging to F97503 Pte. Tobin, N.H.					
"ZE" "Fernand Trudeau, Major"				"J.D.Cugherton, Capt Officer i/c Records Carleton & York Regt."					

(PTO)

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-97503	Pte.	TOBIN, Norbert Hudson	Carlt & York.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted —

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 90 days in military / Air Force custody, making a total of 90 days in custody, of which 24 days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 23 yrs.

6. The date of his commission specified in his record of service is / attestation paper is attestation N/A

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon 1 yr 10 mo. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward ~~(or is in possession of or entitled to)~~. State any air force decoration or reward, / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of / Air Force N/A

"EE" "Fernand Trudeau, Major"

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of N/A dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of N/A years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number R97503 Rank Pte. Unit
Name Tobin, N.H. of Carlt & York R. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

"C.R.Sharpe Capt"

Signed this 21 day of January 1944 O i/c Records, Carlt & York

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Summary of Evidence in the case of F97503 Pte Tobin, N.H. a soldier of the Carleton & York Regiment, Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under Oath.

First Witness for Prosecution

Capt. D.R. Sharpe, Carlt & York R having been duly sworn states:

I am and was at all times material hereto Lt., A/Capt D.R.Sharpe, Adjutant Carlt & York R.

On the morning of 15 Nov 43 I issued an order to all companies to collect any of their personnel who were in the unit Guard Room because the unit was ordered to move forward and we had no facilities for handling prisoners who were under close arrest. At about 1430 hrs that day I was told that some of the prisoners had refused to leave the guard room. I sent the RSM to the guard room to investigate. As soon as possible I went to the Guard Room myself and when I arrived at the Guard room the accused were being brought into the presence of RSM Jessome, CSM Lawson and CSM Barr and these men were ordered one at a time to leave the guard room and return to their companies immediately. The accused was one of these men. Each one refused and was taken back to the cell. In order that there might be no misunderstanding I had the men among whom was the accused brought in again and explained to them that a man under arrest could be required in the field and on active service to bear arms, attend parades and perform other duties and I also explained the seriousness of the charge to which they were laying themselves open. Each man was then again ordered by RSM Jessome to leave the guard room at once and return to his company. The Accused was one of these so ordered and a full opportunity was given the accused to obey the order. They did not do so but each said, "No, I will not go" or words to that effect. The accused was one of these men. The accused then went out under escort. These men to whom I have referred above, were in the guard room awaiting the outcome of legal proceeding, which had been instituted against them, and the accused was one of them.

"D.R.Sharpe, Capt"

The accused declines to cross-examine the witness.

"Fernand Trudeau, Major"

Summary of Evidence in the case of F97503 Pte. Tobin, N.H., a soldier of the Carleton & York Regiment, Canadian Army Overseas, on active service,

By direction of the Commanding Officer, this summary of Evidence is taken under oath.

First Witness for Prosecution

Lieut. E.T.Tweedie, Carleton & York Reg't, C.A.O., having been duly sworn states:-

I am Lieut. E.T.Tweedie officer commanding No. 17 Platoon "D" Coy, Carleton & York Reg't. On 25 Oct 43 at approximately 1730 hrs I called my platoon "O" group to-gether and passed on to them my company ~~commanders~~ orders and the orders were to go on patrol that night and I gave the details of that patrol. The section leaders returned to their sections and passed on these orders to their men. Soon after the section leaders returned to me and reported that there were men in their sections who refused to go on their patrol. I called together the whole platoon and explained to them why we had been ordered to go on patrol again and warned them that anyone who refused to go on this patrol would be placed under close arrest at once and would have a serious charge placed against them. The accused refused to go on patrol.

"4C"

"Fernand Trudeau, Major"

"E.T.Tweedie, Lieut"
E.T.TWEEDIE, Lieut.

The accused declines to cross-examine the witness.

-2-

Second Witness for Prosecution

G17049 Lance Corporal Ruff, N.G. Carleton & York Reg't, C.A.O. having been duly sworn sates:

I am G17049 L/Cpl Ruff, N.G. I commanded No. 4 Section ~~of~~ No 17 Platoon, "D" Coy, Carleton & York Reg't. At approximately 1800 hrs. I returned from a platoon "O" group and gave my men orders to get ready for patrol, which they refused to do--the accused was one of them and said he would not go on patrol. The platoon commander gave me orders to bring my section to platoon headquarters and afterwards ~~told~~ told me to place them under arrest and take them to company headquarters.

"N.G.Ruff"
G17049 L/Cpl Ruff, N.G.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you will give will be taken down in writing and may be given in evidence"? (R.P.4(G))

The accused declines to make any statement and reserves his defence.

"Fernand Trudeau, Major"

Second Witness for Prosecution.

G221055 RSM Jessome, E.A. having been duly sworn states:

I am and was at all times material hereto RSM Jessome E.A. Carlt & York R.

At about 1000 hrs 15 Nov 43 the CSMs were sent a message by the Adjutant stating that men in Unit Guard Room were to be picked up at 1300 hrs. This was being done so that the men would be gotten ready to move into the line with the unit early on 16 Nov 43. The accused was one of these men in the Guard Room to whom the order referred. At approximately 1430 hrs I was ordered by the Adjutant to proceed to the Guard Room to investigate trouble which was taking place there. On arrival there I found that the accused refused to leave the Guard Room with his CSM. I ordered the accused paraded before me in the Guard Commanders Office and gave him the following order, Pte Plourde you will immediately leave theGuard Room and proceed to your company with your CSM. I asked the accused if he understood my order. He replied, "Yes". I waited for a few moments and asked him for his answer. He replied, "No". After waiting a few more moments, I ordered him back to his cell. The adjutant came in and ordered the men paraded before him of which the accused was one. He explained the seriousness of the case to the men and also explained to them the laws governing a soldier under arrest. After he had done this and having asked the prisoner if they wanted any points clarified. The accused stated that he understood what the adjutant told him. Upon being asked by the Adjutant I again ordered the accused to leave the Guard Room immediatley and return to his company to which he answered, "no." After waiting for close to five minutes to give the accused a chance to carry out the order, the adjutant had me order them back to their cells.

"E.A.Jessome"

The accused declines to cross examine the witness.

Third Witness for Prosecution

G10087 CSM Lawson, V. having been duly sworn states:

I am, and was at all times material hereto CSM Lawson 'B' Coy, Carlt & York R.

At approximately 1000 hrs I received a chit from the adjutant that I was to get the prisoners of 'B' Coy out of the Guard room at 1300 hrs that date. I went to the guard room to sign for my two prisoners one of my prisoners refused to come out so I phoned the RSM I went to the Guard Room with the RSM at approximately 1430 hrs., the RSM then called each of the accused individually among them was the accused and gave them the order, "You will leave the guard room immediately and report back to your company." He then waited a few minutes and asked the accused for his answer - the answer was "No". The adjutant was present in the guard room at this time.

"V.I.Lawson".

"FERNAND TRUDEAU, Major"

I certify that the foregoing summary of evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

"G.E.G.Stokoe Capt"
Officer taking Summary.

In the Field
3 Nov 43.

List of witnesses for the prosecution and defence in the case of F97503 Pte. Tobin, N.H.

Prosecution:- Lieut. F.T.Tweedie
C17049 L/Cpl Ruff, N.G.

Defence:- Nil.

I certify that I have been served with a true copy of the Summary of Evidence taken prior to my being tried by Field General Court-Martial. I also acknowledge that I have received a true copy of the Charge Sheet upon which I am being brought unto Court-Martial.

I desire the services of an officer to represent me at my trial.

"N.H.Tobin"
F97503 Pte. Tobin, N.H.

In the Field
3 Nov 43.

"Fernand Trudeau, Major"

The accused declines to cross examine the witness.

Fourth Witness For Prosecution

I am and was at all times material hereto CSM Barr, E.W., 'D' Coy, Carlt & York R.

Yesterday 15 Nov 43 I was ordered to be at Unit Guard room at 1300 hrs to remove any prisoners who belonged to my company - I went to the guard commander, Sgt. Crawford and told him I had come for 'D' Coy prisoners. He made out a receipt for eight men of 'D' Company and I signed the receipt and went in after the men. - All eight at this time refused. The RSM was contacted and reported to the guard room. He took CSM Lawson and Sjt Crawford and myself to the guard Commanders Office - The RSM had the Guard commander parade each of the eight men individually and ordered them to leave the guard room immediately and return to the company - the accused answered a definite "No" to the RSMs order. After that the Adjutant had all the men in amoung whom was the accused, explained to them the seriousness of their actions. The men were given lots of chance to return to their companies and still they refused. The men were returned to their cells.

"E.W.Barr"

The accused declines to cross examine the witness.

Fifth Witness for Prosecution

G17430 Sjt Crawford, H. having been duly sworn states:

I am Sjt Crawford, 'B' Coy, Carlt & York R and was on 15 Nov 43 Guard Commander at the Unit Guard Room.

I was in the guard room 15 Nov 43 and the RSM came in about 1330 hrs and ordered me to parade each man separately to him - he gave each of them an order to leave the guard room and go back to their companies with their CSMs. The accused was one of these men. They said they wouldn't leave and the RSM told me to put them back in the guard room.

UNSIGNED)

The accused declines to cross examine the witness.

"Fernand Trudeau, Major"

The accused was cautioned as follows:

Do you wish to make a statement or give evidence under oath? You are not obliged to say anything unless you wish to but whatever evidence you do give will be taken down in writing and may be used as evidence at your Court-Martial (R.P. 4(G)).

The accused declined to make a statement or give evidence under oath.

I certify that the above summary of evidence was taken down by me in the presence of the accused and that the clauses of R.P. 4 (c) (d) (e) and (f) have been complied with.

"W.C.Johnson Capt"
Officer taking summary.

List of Witness:

Prosecution - Capt D.R.Sharpe
RSM Jessome, E.A.
CSM Lawson, V.I.
CSM Barr, E.W.
Sjt Crawford, H.

Defence - N I L

I wish the services of an officer to represent me at my trial by Court Martial.

Certified that I have received free of charge a copy of summary of evidence and of all documents relative to my trial by Court Martial.

"N.H.Tobin"

"Fernand Trudeau, Major"

DD-22

SGT TOBIN R.T.

Correspondence to be PINNED here.

A-21223 Sjt.TOBIN,Roy Thomas
Essex Scottish Regiment
No.3 Canadian Infantry Reinforcement Unit

Army Form A.8. 10-22

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twentieth day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[~~I am unable to appoint~~:—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~[for the following reasons, namely:—~~]

Proceedings Revised 11 May 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S.Pettapiece	C.H.of O.(M.G)

Members.

Rank.	Name.	Regiment.
A Captain	from	4 C.I.R.U.
A Captain	from	4 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Commander "D" Group
Commanding (Can. Reinforcement Units) C.A.
Convening Officer.

Arthur S. Pettapiece, Maj.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A-21223 Sjt. TOBIN Roy Thomas Essex Scot. 3 C.I.R.U.	First Charge --- A.A.Sec.40 -:- Second Charge --- A.A.Sec.11 -:- Third Charge --- A.A.Sec.10(3) See Charge Sheet attached	Not Guilty Not Guilty Not Guilty	Not Guilty Guilty (except the word "Canadian") Guilty Sentence To be severely reprimanded HdP 22 Apr 43	Confirmed CWH

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :— No.

(Signed) C.W. Hardenbergh Major (Signed) Arthur J. Pettapiece Maj.
Commanding 1st Can. Reinforcement Units (Cdn. Reinforcement Units) C.A. Commander *Confirming Officer (*e*) President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column, Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 22nd day of April 1943.

Arthur J. Pettapiece Maj.a
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 24 day of April 1943.

C.W. Hardenbergh Brig
Confirming Officer.

Promulgated and extracts taken in the case of No. A21223 Sgt. Roy Thomas Tobin.

(*a*) (Dated) 26 Apr. 1943 (Signed) J.A. McIntosh Col.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.S. 47787/1937 35 M. 5/41 KJL/3585(2) Gp. 698/3

CHARGE SHEET.

The accused No. A 21223 Sgt. Roy Thomas Tobin, Essex Scottish Regiment, a soldier in the Canadian Army (Overseas), is charged with:-

Whilst ON ACTIVE SERVICE IN THE FIELD;

1st Charge Section 40 Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE:

in that he

in the field at Aldershot Hants., on the 14th day of April 1943, accosted L/Cpl. Hill and L/Cpl. Latimer who were on patrol as A.T.S. Women's police, in such a manner as to interfere and embarrass them in the performance of their duties.

WHILE ON ACTIVE SERVICE

2nd Charge Section 11 Army Act

NEGLECT TO OBEY CAMP STANDING ORDERS,

in that he

in the field at Aldershot Hants., on the 14th day of April 1943, did appear on a public street outside camp bounds with his battle dress blouse undone, contrary to 3 CIRU Camp Standing Orders dated the 24 March 43, Para.3 (3), and when instructed by a Canadian Provost Patrol to do up his battle dress persisted in remaining as he was, improperly dressed.

WHILE ON ACTIVE SERVICE

3rd Charge Section 10(a) Army Act

RESISTING AN ESCORT WHOSE DUTY IT WAS TO HAVE HIM IN CHARGE

In that he

in the field at Aldershot Hants., on the 14th day of April 1943, while under escort of Sgt R.Young and L/Cpl. A.Ingram resisted this escort by kicking and struggling.

D. Fletcher A/C

(D. Fletcher V.D.) Lieut.-Col,
A/O.C. 3 Canadian Infantry
Reinforcement Unit.

To be tried by Field General Court Martial

E.W. Haldenby Brig

(E.W.Haldenby) Brigadier
Commander
"D" Group, Cdn.Rft.Units

In the Field
20 Apr.43

Arthur J. Pettapiece, Major
President

B2

H Squadron / Battery / Company / Detachment — 3 C 9 RU — Unit or Battalion

2 Sept 1943

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner of defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
A21223	Lgt Tobin R.J.					Fit to undergo trial by court martial	

C M Johnson Capt Medical Officer

Orderly N.C.O. Arthur S. Bettapoir, Major

(OVER)

M. F. B. 292
WDM-B-41 (9358-9-90)
Q 1772-39-248

Proceedings of a Field General Court Martial Held at Aldershot, Hants, on 28 Apr 43, in the trial of A21223, Sgt. Roy Thomas Tobin, Essex Scottish Regiment, 3 C. I. R. U.

PRESIDENT: Major A. S. Pettapiece, C.H.of O. (MG) H.Q.C.R.U.

MEMBERS: Capt. L. G. Smith, 4 C.I.R.U.
Capt. R. J. Picard 4 C.I.R.U.

PROSECUTOR: Capt. W. S. MacPherson, 3 C.I.R.U.

DEFENDING OFFICER: Lieut. D. G. Bagg, R. C. R.

OFFICERS UNDER INSTRUCTION: Lieut. E.E. Dennison, R.C.R.
Capt. J.C. King, H.L.I. of C.
Lieut. P.B. Dickson, R.C.R.
Lieut. C. E. Stewart, Perth R.

1. The Order convening the Court, charge sheet and summary of Evidence are laid before the Court.

2. The Court satisfy themselves as provided by R.P. 22 & 23.

3. The accused, A21223, Sgt. Roy Thomas Tobin, is brought before the Court.

4. The Order Convening the Court is read, marked "A", signed by the President, and attached to the Proceedings.

5. The names of the President and Members of the Court are read over in the presence and hearing of the accused.

Q. 1 (To the accused) Do you object to be tried by me as President, or by any of the Members whose names you have heard read over?

A. 1 No, sir.

6. The President and Members are duly sworn.

7. The Officers under Instruction are duly sworn.

8. The charge sheet is signed by the President, marked B2 and annexed to the proceedings.

9. The accused is arraigned on the above mentioned charge-sheet and pleads "not guilty" to each charge therein.

Q. 2 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A. 2 No.

10. The Prosecutor hands in a written address which is read, signed by the President and attached to the Proceedings.

The First Witness for the Prosecution, 6192606, Sgt. Young, R. C.M.P., having been duly sworn, states:

I am stationed at Aldershot. On 14th April I was out on patrol and I saw the accused on that afternoon and I recognize him. It was about 1530 hrs. He was in Victoria Road, north of the C.P.O. I saw an A.T.S. patrol approaching him and I noticed him stepping back a pace and preventing them from continuing this patrol. He crossed the street to accost the patrol. He had the two buttons from the top of his blouse unbuttoned and his hands were in his trousers pocket.. I called his attention to this and told him to

APP

carry on. He slowly started to fasten one of the buttons and then said "what will you do if I don't button this up." He said this to me in a very insolent manner. I told him to carry on again and he said the second time "And what will you do if I don't?" I then went to take him along to the station, he swung with his left arm in an attempt to strike me. L/Cpl Ingram, who was there, prevented him from hitting me. P.C. Kidd, I think it was, also assisted me with P.C. Peters. The accused was struggling violently. He kicked Ingram on the hand, and it required the assistance of four police officers and others to put him in the truck. We then asked the driver to take him to the barracks. I reported the matter to the Cdn Provost. The street was very busy at that time. The A.T.S. police were dressed properly and complete with red caps and arm bands. L/Cpl Ingram of the C.M. Police and Sgt. Dugan of the A.T.S. police were with me at the time. The accused was normal as far as his condition was concerned. He was not drunk.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q 1 How far away were the A.T.S. patrol whenyou first saw them?
A 1 About 20 yards.
Q 2 Did you hear the accused speak to them?
A 2 No, I didnot.
Q 3 Why did you approach the accused?
A 3 I thought there was going to be trouble.
Q 4 Did you think he was annoying them?
A 4 Yes.
Q 5 What did you first do?
A 5 I told him to get a move on, button up his blouse and take his hands out of his pockets.
Q 6 Did you tell him again?
A 6 Yes, then he ripped his whole blouse open and struck a defiant attitude.
Q 7 Did you find the Sgt a strong man?
A 7 Yes, very strong.
Q 8 How did you hold him?
A 8 By what is called the "policeman's grip" (Demonstrates on Defending Officer)
Q 9 You say it required four additional men to put him in the truck?
A 9 Yes.
Q 10 Were his legs twisted?
A 10 I don't think so, the P.C. had hold of his legs.
Q 11 Was he violent?
A 11 Yes, he was.

RE-EXAMINED BY THE PROSECUTOR

Q 12 Was the accused wearing a cap?
A 12 Yes, he was wearing a regulation tam-o-shanter.

The Second Witness for the Prosecution, 7o89202, L/Cpl Ingram, A., C.M.P., having been duly sworn, states:

I am stationed at Aldershot. On the afternoon of the 14th April I was with Sgt. Young and Sgt. Duggan of the A.T.S. I recognize the accused. I saw the accused near the G.P.O. standing in front of two L/Cpls of the A.T.S. police. They were properly dressed as such. Sgt. Young went over to the accused and the A.T.S. Provost. I was driving the truck and Sgt. Young got out of the truck. I followed him and I heard Sgt. Young talking to the accused to correct his dress. Before we arrived the accused was talking to the A.T.S. Police but I did not hear what he said. His blouse was open at the neck and as fer down as two buttons. He had his hands in his pockets. The A.T.S. patrol looked as if they were going about their duties. It appeared to me as if he was hindering the girls in their duties. I heard

Sgt. Young tell the accused to button up his blouse, take his hands out of his pockets and carry on. The accused said to Sgt. Young "What if I don't" and then opened his blouse again. He spoke in a sarcastic manner. He was asked to do his buttons up again and the accused waved his left fist and I thought he was going to strike some one. Sgt Young took hold of the accused and asked me to help him with the truck. Sgt Young said "you come along with me" to the accused. He resisted arrest and we had to have the help of the civil police in getting him into the truck. Just before we got to the truck the accused kicked me on the right hand (shows cut). The accused was sober at this time, but he may have had a drink from the smell of his breath.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 12 Do you agree if I tell you that Sgt. Young said he was sober?
A 12 I agree with Sgt Young.
Q 13 But you now say that you smelt liquor on his breath?
A 13 Yes, but he was not drunk.
Q 14 How far away were you from the accused when Sgt. Young approached him?
A 14 About 18 or 20 yards.
Q 15 How far away were you from the accused when Sgt. Young spoke to him?
A 15 About three paces away. I did not notice the accused's breath until I was quite close to him, not when I first got out of the truck.
Q 16 What was the weather like?
A 16 It was a nice day.
Q 17 What did Sgt. Young do when the accused raised his fist?
A 17 Sgt. Young took hold of the other arm of the accused. Then I came to the assistance of Sgt. Young and helped him to put him on the truck.
Q 18 How did you assist?
A 18 I took hold of the accused's arm like this (demonstrates). I didn't use the policeman's grip.
Q 19 When were you kicked?
A 19 On the way to the truck. It was a struggle to get him into the truck and the civil police had to come and help us. He was struggling violently and we literally carried him. He locked his arm on the side of the truck and we had to lift him bodily into the truck. I do not think that the accused was hurt at all in our struggle with him. He certainly needed holding and was resisting violently.

RE-EXAMINED BY THE PROSECUTOR

Q 20 If the accused had not struggled when first taken hold of by Sgt Young and yourself, would it have hurt him?
A 20 If a man struggles he may get hurt, but if he does not he shouldn't get hurt.

BY THE COURT

Q 21 Do you know if the accused was injured in the struggle?
A 21 I don't think he was.

Third Witness for the Prosecution, P.C. N.15, Peters, W.F., Aldershot, Hants Constabulary, having been duly sworn, states:

I saw the accused on the 14th April near the G.P.O. He was crossing the road toward two A.T.S. Provost. He looked as if he was going to annoy them. Both Sgt. Young and L/Cpl Ingram were properly dressed with red caps and arm bands. I saw the accused open up his blouse to the very bottom. Then there was a struggle and I saw Cpl Ingram getting kicked. Then we went to help. The attitude of the accused was aggressive.

AKP

I don't know the names of the two A.T.S. Provost. He had been drinking but he wasn't drunk. Sgt. Young was also wearing his stripes.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q 22 When did you first see the struggle?
A 22 When the accused first resisted Sgt. Young and Cpl Ingram,
Q 23 How far away was he from the G.P.O.?
A 23 Right outside of it.
Q 24 You are sure the accused was sober?
A 24 I do not think he would have done what he did if he had not had a drink, but he was not drunk. The two girls were across the street from the G.P.O. when first accosted.

The Prosecutor then produces and files a certified true copy of extract from Standing Orders 3 C.I.R.U. (Exhibit 1).

The Court close at 1205 hours.

The Court re-opened at 1330 hours.

Fourth Witness for the Prosecution, W.O./64074, Sgt. Dugan, P., ATS P/W, being duly sworn, states:

I am one of the A.T.S. Provost. I was on duty on 14th April and in the afternoon I was going round to contact the A.T.S. patrol. I was with Sgt. Young and L/Cpl Ingram. Near the G.P.O. offices on Victoria Road I saw L/Cpl Hill and L/Cpl Latimer of the A.T.S. Provost. Sgt Young at this time was not wearing his red cover on his cap and was not wearing his arm band. I saw the accused talking to my patrol. I noticed the accused had his battle dress blouse open at the neck and he was talking to my patrol. Then the accused and Sgt. Young had a struggle and he tried to strike Sgt. Young. Before this started I noticed that he appeared to be just gossiping with the patrol. They were standing on the corner there I did not pay much attention after the struggle started, because I was busy with my signing of my book.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q 25 Do you know what the accused said to the A.T.S. Provost?
A 25 No.
Q 26 Did the Provost L/Cpls look troubled or afraid?
A 26 No.
Q 27 If an A.T.S. Provost is stopped and a question is asked of them is it not usual for them to stop and reply?
A 27 Yes, it is usual. Sgt. Young had on his military police service cap and badges but no red top on it.
Q 28 Would you say the accused was interfering with the girls on their duty?
A 28 If he was not asking them directions or something like that, he would be interfering with their duty,
Q 29 Was Sgt. Young on duty at the time?
A 29 Yes, but I do not know why he was not wearing his red cap and arm band.

BY THE COURT

Q 30 Is it customary for military police to be on duty without their red caps and arm bands?
A 30 It is not customary but not unusual. Sgt. Young was wearing his proper cap badge and shoulder badges of the Corps of Military Police.

Fifth Witness for the Prosecution, 665818, L/Cpl Hill, P.M., A.T.S. F/W, having been duly sworn, states:

I was on duty on the 14th April with L/Cpl Latimer. When we were near the G.P.O. on Victoria Road I saw the accused cross over the road and he said that the A.T.S. patrol was very smart. He did not ask any other questions. I told him we were on duty and to please go and he turned to go away. Then Sgt. Dugan came along and all I heard was Sgt. Young asking him to do up his blouse twice and the accused refusing the first time. Then Sgt. Young caught hold of the accused and the civil police came. L/Cpl Ingram came over to help Sgt. Young. The accused had been drinking but he was not drunk. Sgt. Young had no red top on and no arm band. He was wearing his Sgt's stripes. He had C.M.P. cap and shoulder badges on.

CROSS-EXAMINED BY THE DEFENDING OFFICER

The accused commented on our smartness. He was neither rude nor vulgar. We did not resent anything he said to us. He was not standing near us until he crossed the road. He crossed the road to speak to us.

BY THE COURT:

Q 31 Did the accused do anything to embarrass you or interfere with you or your duty?

A 31 The accused did nothing on that day to embarrass me or interfere with my duty.

THE PROSECUTION IS CLOSED

The Defence submits under R.P. 40 that the prosecution has not made out a prima facie case on the first charge.

The Prosecutor replied to the submission.

The Court is closed to consider this submission.

The Court re-opens and declares that the submission of the defence is to be allowed. The accused is therefore acquitted on the First Charge.

The Prosecution is Closed

Question to the accused: Do you apply to give evidence yourself as a witness?

Answer: No.

Question: Do you intend to call any other witness in your defence?

Answer: Yes.

Question: Is he a witness as to character only? Answer No.

Rules of Procedure 40 and 41 are complied with.

Question to the accused: Have you anything to say in your defence?

Answer: No.

- - - - - - - -

The First Witness for the Defence, C4945, Sgt. Bidale, R.W., Essex Scottish Regiment, 3 C.I.R.U., having been duly sworn, states

I was with the accused on a certain day about one week ago from today in the quarters of the accused. I remember seeing the accused on the day in question and I would say that he was in a drunken condition. I did not know whether he had been in a fight or not. It is possible that his condition may have been due to other causes but I didn't mean to indicate that.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

There were no marks on him, only the back of his uniform. If the accused had been injured I would have taken him to a doctor, but I did not do so during the 24 hours I held him.

BY THE COURT:

By drunken condition I mean he was not his normal self. I do not think I would have entrusted him with a duty while he was in that condition. The accused was placed in my custody at about 1620 hours on that Wednesday. I am not sure of the date.

Second witness for the defence, A22281, Sgt. Manning, E.P., Essex Scottish, 3 C.I.R.U., having been duly sworn, states:

I saw the accused on the afternoon of April 14th. We went out at 1200 hours and I was with him in the Queen Hotel, where he had two drinks. We spent about 1/2 hour there and then I left; he had told me before that that he intended going to the Post Office, as that day was his wedding anniversary. The accused was properly dressed whenI last saw him.

CROSS-EXAMINED BY THE PROSECUTOR:

I left the accused at 1245 hours that day. I do not think that two drinks would affect the accused. He had his blouse done up at that time.

Third Witness for the Defende: (Character only) Lieut. F.A. Tilston, Essex Scottish, No. 3 C.I.R.U., having been duly sworn, states:

I have known the accused since he was a corporal in the Essex Scottish. I have known him since 20 Aug 42. During the time

CAP

he was under my command he was a first class soldier with good instructional ability. He was always a willing and capable N.C.O. I would be more than pleased to have him again in my platoon. Sgt. Tobin has been considered by the unit as an O.C.T.U. candidate. The only reason he is here is because he is awaiting embarkation to Canada.

CROSS-EXAMINED BY THE PROSECUTOR:

I do not know anything about the conduct of the Accused since he has been at 3 C.I.R.U.

THE DEFENCE IS CLOSED

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS (Attached hereto)

THE PROSECUTOR REPLIES (Attached hereto)

THE COURT CLOSES TO CONSIDER FINDING

THE COURT RE-OPENS AND TAKES EVIDENCE AS TO SERVICE AND CHARACTER OF THE ACCUSED.

~~THE COURT RE-OPENS AND TAKES EVIDENCE AS TO SERVICE AND CHARACTER~~
THE ACCUSED MAKES NO PLEA IN MITIGATION ~~(OF THE ACCUSED~~ APP

THE COURT CLOSES TO CONSIDER SENTENCE.

Arthur S. Pettypiece, Major

Encl 1.

3CANADIAN INFANTRY REINFORCEMENT UNIT "H" Wing
19 Apr 43.

SUPPLEMENT
3 (c)

Walking Out Order

1. Battle dress, caps, field service, or caps colored, field service, Glengarry or Balmoral.

2. Black or tan boots or shoes may be worn.

3. Battle dress will be worn buttoned up. In the hot weather the neck may be unhooked at the discretion of the C.O.

Certified true copy of Extract from Camp Standing Orders 3 CIRU, 19 Apr 43.

(K. D. Wilson) Capt.,
Admn. Officer, "H" Wing,
3 Cdn Inf Reinf Unit.

Address of Prosecutor

In reply to certain statements made by the defending officer and in closing I should like to bring the attention of the Court to a few briefly stated facts concerning the record and their charges.

The accused has not brought forth any evidence to refute the evidence of the prosecution. However the conduct of Sgt Young has been attacked. I would like to point out that his story is fully backed up by L/Cpl Ingram and will bear the closest scrutiny for propriety and good sense. His words were not "push off" but "Do up your battle dress blouse, take your hands out of your pockets and carry on." Had that good advice been taken on the first or second occasion the accused would have been quite free. He chose to be aggressive in a public place in the presence of many people. Only one course was left open to the Provost - which he followed.

From the point of view of

CHH

Constable Peters, a civilian and an independent witness, here is what happened.

The accused crossed the street improperly & veered to intercept an ATS Patrol in distinctive uniform. Such should not be the actions of a man on his wedding anniversary. The theory that his blouse was open to give access to a wallet in the inside pocket breaks down on the fact that the collar hooks were undone. The accused then appeared to the constable to intend fire with the ATS Patrol.

Then had the accused asked Sgt Young who he was or why he should "carry-on" a proper identification, if any was lacking, would have been made. Instead the accused, who was not intoxicated became defiant and aggressive.

The accused was taken by the arm. He attacked the escort

CAH

and so violent were his actions that 3 civil cum policemen were needed to help subdue him. Such is not the conduct required of a Senior N C O.

The accused must have known he was improperly dressed because he left camp with the collar of his blouse turned up and in the words of his friend "properly dressed".

Had the accused used reasonable common-sense he would have gone quietly then straightened out the trouble with the provost off the street. His whole conduct was improper and not soldierly.

It is submitted that the Court has charges are fully proven in every detail and that the accused has not refuted by his defence any material point in the case for the prosecution. All of which is respectfully submitted

W.J. Macpherson Capt

22 April 1943.

Regt'l No. "2I223 Sgt Tobin, R.T. (Essex Scot Regt.) 3 C. I. R.U

Lieut - Defence

Gentlemen:

You have heard the evidence for and against the accused and on that evidence your decision concerning the innocence or guilt of the accused will rest. With your permission I wish to submit the following:-

Sgt Tobin joined the Essex Scottish in 1935 as a private. As soon as war was declared he went active, on the 14th of April 1940 at the age of nineteen he was married and two months later came to England. While in England he worked hard with his Unit and eventually arrived at his present position as a Sgt. He was on the first trial for the Dieppe raid which was later postponed until the following month. During these manoeuvers his knee was injured and two days before the actual raid came off he was sent to hospital. In view of the fact that a short time later he was recommended by his O.C. to go to Officers O.C.T.U. in Canada there is every reason to believe that he was considered most capable and would most certainly have been sent on the Dieppe show with his unit, and whether or not he would have been amongst the fortunate fifty or so who returned out of the whole battalion cannot be stated.

Sgt Tobin returned to 3 C.I.R.U. to await his embarcation to Canada and on the 14th of April the ~~REMARK~~ circumstances resulting in the present charges occurred. Again with your permission I would like to review the events of that day with you.

On the day in question Sgt Tobin who is only twenty-two realizing that not only was he going back to Canada to see his wife after three long years of hard workand that he was also going to have

an opportunity to receive a Commission as an Officer, but also it was his wifes anniversary. Excited and happyhe proceeded/down in the company of Sgt Manning who was also going to C.C.T.U. with him in order to send his wife a telegram. On the way down they stopped in at a pub for a few drinks to celebrate the occassion, and I would at this time draw to your attention the testimony of Sgt Young and L/Cpl Ingram the C.M.P who have charged Sgt Tobin, that he was sober, when the events involving this trial occurred.

Sgt Manning left the pub to visit his fiancee and Sgt Tobin proceeded to the post office at which place he sent his telegram. Feeling gay and light hearted he came out of the post office and almost immediately ran into two A.T.S. Provosts. Possibly with the thought of his wife still in his mind and the excitement of seeing her, he in broad daylight at one of the buisiest corners in Aldershot goes over and comments on their smart appearance. Here I would draw to your attention the testimony of L/Cpl Hill A.T.S. Provost who corroborates this and states that after saying he turned to go awaybut was approached by Sgt Young of the C.M.P and Sgt Dugan A.T.S. Provost. Sgt Young, who did not have red cap or M.P. badge on reproached Sgt Tobin for having his tunic unbottoned words were passed a fight ensued involving Sgt Young, L/Cpl Ingram and constable Peters.

The fact that Sgt Tobin appeared on the street with his coat undone I suggest can be explained by the fact that he carried his wallet inside his tunic and when he went to pay for his telegram he necessarily had to undo his tunic to get his money, in his excitement he omitted to do it up when he came onto the street and I suggest that if after he had spoken to the A.T.S. Provosts he had been allowed to turn awayand had not been prevented from so doing he would have in all probability noticed the condition of the coat and done it up, but was prevented from so doing by the

cell

interference of Sgt Young.

I also submit that the argument and subsequent fight which ensued was due to the following reasons.

Here was a young man who was happy and excited, he had done no harm nor meant any harm by complimenting the A.T.S. prov-ost on their smart appearance. He had after all gone up to two military woman, soldiers, wearing M.P. badges, in broad daylight on a very busy street and spoken to them. He did not pick two young civilian girls, nor pick a side street, which I suggest would have in all probability have done if his intentions were inclined in that direction. Suddenly out of the blue he is approached by Young who in front of the woman, whether because he wanted to exercise his authority or because he wanted to show off in front of the women, gruffly tells Sgt Tobin to do up his tunic and move along. Immediately all his gayety and excitement turns to anger, he commences to do as told and then possibly feeling angry at being spoken to in such a manner in front of the A.T.S. who he felt were his friends asked XXX Young what he would do if he did not do so: whereupon according to L/Cpl Hill's testimony young made an attempt to catch ahold of Sgt Tobin, Sgt Tobin being a man who has been trained to fight for three years and taught to act quicklydefended himself from this assault on his person and immediately L/Cpl Ingram jumped in and finally Constable Peters, with the result that L/Cpl Ingram got clipped on the hand. Sgt Tobin says that he had his legs twisted and his head bumped.

I submit gentlemen that viewing the evidence and the surrounding circumstances that the accused is innocent on all charges. If Sgt Tobin had been allowed to continue on his way as was his intention after speaking to L/Cpls Hill and Latimer there would have in all likelyhood been no trouble and instead of sitting here before the court an accused man he would be free and ready to move on to take new successes and to return to England as an Officer and a leader of men as his C.C. and other superiors in his unit had recommended and desired.

D.G.Bagg Lieut.

18 Apr. 43

I certify having received free of charge a copy of the Summary of Evidence, List of Witnesses and Charge Sheet.

I wish Lieut Bagg D.S.C. to defend me.

R. Tobin

(A21223 Sgt. Tobin R.T.)
Essex Scot. Regt.
3 CIRU.

LIST OF WITNESSES

PROSECUTION

1. Sgt. Young R. CM Police.
2. L/Cpl. Ingram A. C.M.Police.
3. N.15 Peters, W.F. Aldershot Division, Hants Constabulary.
4. L/Cpl. Hill P.N. A.T.S. P/W.
5. W/64074 Sgt. Dugan P. A.T.S., P/W.

DEFENCE

1. C-4945 Sgt. Biddle R.W. Essex Scot. Regt., 3 CIRU.

SUMMARY OF EVIDENCE IN THE CASE OF

Regt'l No. " 21223 Sgt. Tobin, R.T. (Essex Scot Regt.) 3 C.I.R.U.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution: Sgt. Young, R. C.M.Police
I certify that in my opinion the attendance of this witness is owing to this Sgt. being employed on special duty not readily procurable and a typewritten statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "A".

G.A.W. Howard

(G.A.W. Howard) Capt.

I do not require the attendance of this witness for the purpose of cross-examination.

R T Tobin

(Tobin, R.T.) Sgt

Second Witness for Prosecution: L/Cpl Ingram, A. C.M.Police
I certify that in my opinion the attendance of this witness is owing to this L/Cpl being employed on special duty not readily procurable and a typewritten corroboration of the Sgt's statement, signed by L/Cpl Ingram has been read to the accused and is attached hereto a s Exhibit "A",

G.A.W. Howard

(G.A.W. Howard) Capt

I do not require the attendance of this witness for the purpose of cross-examination.

R. T. Tobin

(Tobin, R.T.) Sgt.

Third Witness for Prosection: N.15 Peters, W.F. of the Aldershot Division, Hants Constabulary.
I certify that in my opinion the attendance of this witness is owing to the time that would be lost due to his employment can be dispensed with and I produce a statement purported to be signed by him, which has been read to the accused and is attached hereto as Exhibit "B".

G.A.W. Howard

(G.A.W. Howard) Capt

I do not require the attendance of this witness for the purpose of cross-examination.

R T Tobin

(Tobin, R.T.) Sgt.

Fourth Witness for Prosecution: L/Cpl P.M. Hill, of the A. T.S. P/W
I certify that in my opinion the attenda nce of this witness is owing to this L/Cpl being employed on special duty not readily procurable and written statement purported to be signed by her is hereto attached. The statement has been read to the accused. Exhibit C

G.A.W. Howard

(G.A.W. Howard) Capt

The evidence is read to the accused.
The accused declines to cross-examine the witness.

SUMMARY OF EVIDENCE IN THE CASE OF
Regt'l No. " 21223 Sgt. Tobin, R.T. (Essex Scot Regt.) 3 C.I.R.U.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution: Sgt. Young, R. C.M.Police
I certify that in my opinion the attendance of this witness is owing to this Sgt. being employed on special duty not readily procurable and a typewritten statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "A".

Gaw Howard
(G.A.W. Howard) Capt.

I do not require the attendance of this witness for the purpose of cross-examination.

R T Tobin
(Tobin, R.T.) Sgt

Second Witness for Prosecution: L/Cpl Ingram, A. C.M.Police
I certify that in my opinion the attendance of this witness is owing to this L/Cpl being employed on special duty not readily procurable and a typewritten corroboration of the Sgt(s statement, signed by L/Cpl Ingram has been read to the accused and is attached hereto a s Exhibit "A".

Gaw Howard
(G.A.W. Howard) Capt

I do not require the attendance of this witness for the purpose of cross-examination.

R T Tobin
(Tobin, R.T.) Sgt.

Third Witness for Prosecution: N.15 Peters, W.P. of the Aldershot Division, Hants Constabulary.
I certify that in my opinion the attendance of this witness is owing to the time that would be lost due to his employment can be dispensed with and I produce a statement purported to be signed by him, which has been read to the accused and is attached hereto as Exhibit "B".

Gaw Howard
(G.A.W. Howard) Capt

I do not require the attendance of this witness for the purpose of cross-examination.

R T Tobin
(Tobin, R.T.) Sgt.

Fourth Witness for Prosecution: L/Cpl P.M. Hill, of the A. T.S. P/W
I certify that in my opinion the attendance of this witness is owing to this L/Cpl being employed on special duty not readily procurable and written statement purported to be signed by her is hereto attached. The statement has been read to the accused. Exhibit C"

Gaw Howard
(G.A.W. Howard) Capt

The evidence is read to the accused.
The accused declines to cross-examine the witness.

Fifth Witness for Prosecution: W/64074 Sgt. F. Dugan of the A.T.S. P/W
I certify that in my opinion the attendance of this witness is owing to this Sgt. being employed on s pecial duty not readily procurable and a written satement of the Sgt's evidence, signed by her, has been read to the accused and is attached hereto. Exhibit 'D'

G.A.W. Howard
(G.A.W. Howard) Capt

The evidence is read to the accused.
The accused declines to cross-examine the witness.

R.T. Tobin
(Tobin, R.T.) Sgt.

The accused was cautioned as follows:

Do you wish to make any satement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to call a witness for his defence.

First Witness for Defence: C4945 Sgt. Biddle, R.W. (Essex Scot Regt.) 3 C.I.R.U.
having been duly sworn states:

"At Salamanca Barracks, Aldershot, Hants. at about 1630 hrs Sgt Tobin was handed over to me by a Sgt of the Canadian Provost Corps. He was in a drunken condition, his legs were wobbly and his tongue thick. I walked him up and down the back roads near the Sgt's quarters for approximately an hour to try and sober him up. I succeeded in sobering him to the extent that he could eat his supper. I then brought him to his room. He lay on his bed and fell into a deep sleep. At approximately 2130 hrs I attempted to awake him but failed, so I took off his boots and covered him up with some extra blankets. He awoke at about 0240 hrs and we had a short chat. He appeared sober and asked me what he had been doing and if he was under close or open arrest. I told him close arrest as he was in my custody. He then went back to sleep.

R.W. Biddle
(Biddle, R.W.) Sgt.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

G.A.W. Howard
(G.A.W. Howard) Capt
H.L.I. of C. 3 C.I.R.U.
Officer detailed to take Summary of Evidence.

In the Field this
16 th day of April 1943.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
112123	Sgt.	Tobin, Roy, Thomas	Essex Scottish Regt.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provisions being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 24(4)	one times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~ Gauth

or

~~There are no entries in the conduct sheets of the accused.~~ Gauth

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~ Gauth

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ Gauth

~~beginning on the day of~~

4. The accused has been in ~~Enlistment~~ open arrest awaiting trial on the present charges, for 5 WPM days ~~in civil custody, and days in military custody, making a total of days, of which days were spent in hospital~~ Gauth.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 11 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 3rd Sept 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs. 7 months

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 7 months service.

9. The accused is entitled to reckon 3 years 7 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to claim any military decoration or reward).~~ Gauth

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Gauth.

12. ~~(In the case of an officer.) The accused holds in the army the rank of , dated and in his regiment (or corps or department) the rank of , dated~~ Gauth

(*10548) W1.20240/912 75,000 12/40 A.& E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A21223 Rank Lt Name Tobin K. F. of East Scottish Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of April 1943.

Arthur J. Pettapiece, Major

3rd Cdn Inf. Regt. Units
Canadian Army (Overseas)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of Lt/Capt 24 [illegible] 1942

In the rank of Lt/Capt #2 Aug 1942

In the rank of Lt/Capt 2 Oct 1942

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph concerned amended accordingly.)

No. A21223 Name TOBIN, R.T. Sqn., Batty., or Company C Corps 1ST AN. ESSEX SCOTTISH REGT. CANADIAN ARMY OVERSEAS Date of enlistment 5, SEP 39 Sheet No. 1

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. | Approtheunner Major.

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old sheet destroyed on 14 Jan 43 on obtaining the rank of Confirmed Sergeant.									
Certified True Copy.									
Approtheunner Major S.C.J.R.U.									
Arthur S. Rattenbury, Major									

P.T.O.

4L32.

Plé. Tobin. R T.

See D.D. 22 for 1st case.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A2223 Pte Toby Thomas Roy

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	1st Charge	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ Nil beginning on ~~(date)~~ Nil (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in ~~hospital~~ Barracks. (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for 3 (three) months.

(Sgd) N/A Judge-Advocate, if any. 28th Nov 44 Date awarded. (Sgd) A. Mac Miller Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the court but vary the sentence so that it shall read as follows: To undergo detention for 90 days' and confirm the sentence as so varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 16 Dec 44 (Sgd) (Brig F N Cabeldu) Brig Commanding 4 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A-21223 Pte Toby R.T. 1st Bn Essex Scottish Regt	18 Dec 44	G.A. Tolson Capt adjt 1st Bn Essex Scottish Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 17 JAN 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 1742-32

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of BRIG F N CABELDU Comd 4 Can Inf Bde dated 26 Nov 44

PROCEEDINGS REVIEWED R. Beaulieu Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	Pte	ROY THOMAS	TOBIN	Essex Scot

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 28th Nov 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 17/5

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~no interpreter~~? Ans ~~-~~

The Interpreter is sworn.(1) Do you object to ~~as shorthand writer~~? Ans ~~-~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A. Mac Miller	R. Regt C
Member	Capt	A.A. Fraser	R.H.L.I.
Member	Capt	J.C. Stewart	Essex Scottish
Judge-Advocate		N/A	
Prosecutor	Lieut	D.S. La Montagne	Essex Scottish
Defending Offr	Lieut	R.C. Bond	Essex Scottish

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused A 21223 Pte Roy Thomas Tobin before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Nil.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *B*, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 146. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. Nil

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *C* and Ex *D* respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Nil(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

A21223 Pte Tobin, Roy Thomas of the 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A.A. Sec 15(1)

Whilst on active service
ABSENT WITHOUT LEAVE

in that he

in the field, was absent without leave from 1900 hrs 23 OCT 44 to 0800 hrs 8 NOV 44. (Total absence 15 days 13 hrs)

(J.E.C. PANGMAN) Lt Col
Officer Commanding
ESSEX SCOTTISH REGIMENT.

In the field
22 NOV 44

To be tried by Field General Court Martial.

Brig
Comd,
4 Cdn Inf Bde.

In the field
26 NOV 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	PTE		ROY THOMAS	TOBIN	Essex Scot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 NOV 44 endorsed by me, [or by an offr of my staff for me], " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not practicable to delay the trial for reference to a superior qualified offr.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	A MacMillan	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	W. V. Nowlick To be detailed by RWLI	R.H.L.I.
Capt.	J. C. Stewart To be detailed by Essex Scot	Essex Scottish

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	A. C. Galasso To be detailed by R Regt C	R Regt. C.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.)

(F N Cabeldu)

Brig (Rank.)

Dat 26 Nov 44

Commanding 4 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

A21223 Pte Tobin, Roy Thomas of the 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A.A. Sec 15(1)

Whilst on active service
ABSENT WITHOUT LEAVE

in that he

in the field, was absent without leave from 1900 hrs 23 OCT 44 to 0800 hrs 8 NOV 44. (Total absence 15 days 13 hrs)

In the field
22 NOV 44

(J.E.C. PANGMAN) Lt Col
Officer Commanding
ESSEX SCOTTISH REGIMENT.

To be tried by Field General Court Martial.

In the field
26 NOV 44

Brig
Comd,
4 Cdn Inf Bde.

I desire to have Lt. L.C. Bond.
represent me at my proposed trial by Field General Court Martial. If this offr is not available, I then desire to be represented by _____

R. Tobin
A21223 Pte Tobin, R.T.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	PTE		ROY THOMAS	TOBIN	Essex Scot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 NOV 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	A MacMillan	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W. L. Howarth To be detailed by RHLI	R.H.L.I.
Capt.	J. C. Stewart To be detailed by Essex Scot	Essex Scottish

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	A. C. Gillespie To be detailed by R Regt C	R Regt. C.

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in	(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
HOLLAND		(F N Gebeldu)	Brig

Dat 26 Nov 44 Commanding 4 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MESSAGE FORM

ARMY FORM C2136 (Small)

Register No.

Call	Ref. No.	Priority	Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

Office Date Stamp

FROM (A) Originator: M.O

Date/Time of Orig'n: 28 D800A

For Action

TO Adjt.

(W) For Information (INFO)

Message Instructions — OR —

Originator's No.

I have this morning examined A21777 Pte Tobin R.T. and certify he is fit to undergo trial by F.G.C.M.

Cd Richardson Capt.

This Message may be sent	If liable to be intercepted or to fall into enemy hands, this message must be sent	Originator's Instructions
AS WRITTEN / EXCEPT / WIRELESS	IN CIPHER	Degree of Priority: Ops

Signed

Signed

Time	Received	Op.
THI or TOR		
Time cleared		

PLEA OF MITIGATION

The accused soldier, Pte R.T. Tobin has been a soldier in the Canadian Army since the fall of 1939, practically all of which has been spent with the Essex Scottish Regiment, which, plus time spent with the Reserve Army gives him a total of 12 years service. He landed in France with this unit early in July, and with the exception of the 15 days 13 hrs A.W.L. as charged has seen continous service since that time. His work with the Pioneer platoon and later with the R.A.P. was highly commendable and never at anytime has he been accused of shirking his duties. In both units he was under enemy fire on numerous occassions and I would like to point out that his period of being A.W.L took place after he had been told that he would not be required for the operation that was about to start. Also that when the unit moved out from the rest area on Nov 8, he had reported back for duty before then. In view of his long army service and the fact that he obviously did not wish to miss any operations in which the unit was engaged I would like to ask that the court be lenient in their decision. Attached is a statement from Capt S.B. MacDonald, C Coy. Commander who had volunteered to act as a character witness.

A'Bond Lieut

I, Capt. S.B. MC DONALD, of the Essex Scottish Regiment have known Pte. TOBIN since Sep, 1942. He was at that time an acting lance corporal in 'C' Coy. He was one of the best junior N.C.Os. in the coy and in a short time was promoted to the rank of A/Sgt. He was admired and respected by all of 'C' Coy and at all times did an excellent job. He was recommended for OCTU, passed his pre-OCTU and during the period of waiting to go to OCTU, got into some trouble with the provost, who placed him under close arrest. He eventually came back to the unit and from then on did not seem to have much sense of responsibility and did not exercise much control over himself. When the unit came overseas, I think Pte. TOBIN was in the pioneer platoon. Shortly afterwards while we were in the CAEN AREA he again ran into trouble, with the pioneers, possibly due to the fact that he knew more about explosives etc., than all the rest of the pioneer platoon together. He then went to the R.A.P. where he did a very good job attending wounded, bringing in casualties and evacuating them though all kinds of shell fire. Since then his behavior when on duty under fire has been most excellent All the way from ANTWERP to WALCHEREN he remained on duty and did an excellent job, even refusing to go on 48 hr leave while we were in action. However when we returned to a rest area he almost immediately went A.W.L., which of course there is no excuse or reason. One th ng I will say is that as soon as he heard that the unit would be moving soon to the front he immediately returned of his own free will. I do not know what caused Pte. TOBIN to get into trouble back in 1943 but I am certain that there must have been some reason for it. In conclusion I might say that when in action and under fire there is nobody I would rather have in my company that the accused Pte. TOBIN.

S.B. McDonald

(S.B. MC DONALD) Captain.

Dr. J. Am

Character Witness for A 21223 Pte Roy Thomas TOBIN.

Capt. Cardy J. (Padre) having been duly sworn states:

I am padre of the Essex Scot. and have known Tobin ever since he has been with the Regt. His first connection with the R.A.P came when he volunteered to drive a jeep into the German lines to evacuate casualties. The med. off. subsequently asked him to remain on the R.A.P. staff, because of his good work. At all times in action, and around the R.A.P. he has conducted himself as a good soldier.

Ex. B

SUMMARY OF EVIDENCE

In the case of A 21223 Pte TOBIN, Roy, Thomas, 1st Bn The Essex Scottish Regiment, a soldier of the Canadian Army Overseas.

The accused is informed of his rights

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS For the Prosecution

Capt C.A. Richardson, Medical Officer, 1st Bn The Essex Scottish Regiment, (sworn) states:

On 23 Oct 44 I was Medical Officer IC Medical Section, 1st Bn The Essex Scottish Regt and Pte Tobin, the accused, whom I recognize was a member of that section. In the afternoon of that day at about 1300 hrs I authorized a 48 hr stay L.O.B. for Pte Tobin because he was not required for duty in the impending armoured drive. I instructed him to report to 'B' Ech for his L.O.B. stay giving him a note to take to 'B' Ech. He had to do some work at 'A' Ech before reporting to 'B' Ech, but should not have taken more than 6 hrs to accomplish all this. I did not see Pte Tobin again until we were in Bonheiden on 7 NOV 44 at about 1700 hrs. He reported for duty the morning of 8 NOV 44.

The accused declines to cross-examine

C.A. Richardson Capt

Capt C.A. Richardson, RCAMC
1st Bn. THE ESSEX SCOTTISH REGIMENT

SECOND WITNESS For the Prosecution

A 21151 L/Cpl Martin, T.A.

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is included in this summary (Att as Exhibit 'A'). Having regard to the loss of time involved and the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross examination.

R.W. Meanwell

R.W. Meanwell, Lt
Offr detailed to take the Summary

THIRD WITNESS For the Prosecution

A S2231 A/Cpl Boucher, W.J. 1st Bn Essex Scottish Regt, (sworn) states:

I was on duty at the RAP 1st Bn Essex Scottish Regt, on 8 Nov 44. At about 0800 hrs, the accused Pte Tobin, R.T. whom I recognize reported in to me sober and properly dressed.

W.J. Boucher

A S2231 A/Cpl Boucher WJ
1st Bn The Essex Scottish Regiment

The accused declines to cross-examine the witness.

The accused having been duly cautioned in accordance with RP 4(2) says:

"I do not wish to make a statement now"

The accused does not wish to call witnesses in his defence at this point,

Certified that RP 4 complied with

R.W. Meanwell, Lt
Offr detailed to take the Summary

In the Field

22 NOV 1944

EXHIBIT "A"

EVIDENCE IN THE CASE OF

A 21223 Pte Tobin R.T. 1st Bn., Essex Scottish Regt.

I am A 21151 L/Cpl Martin G.A., 1st Bn., Essex Scottish Regiment Employed as a clerk in the Q.M. Stores at 'B Echelon'. On 25 Oct 44, I was on duty at B Echelon when L.O.B. personnel in charge of Capt F.B. Walton arrived. ~~Pte was reported sick~~ Pte Tobin R.T. was not present among those who came in with Capt Walton, nor did he report to B Echelon during that day or subsequently. If he had reported, I should have been aware of the fact as it is my duty to maintain records of personal at 'B Echelon'.

A 21151 L/Cpl Martin G.A.

I have read and corrobate the above statement.

(E.L. COHEN) CAPT. & Q.M.

Cdn.

Substitute for A.F.B.296

STATEMENT OF CHARACTER AND PARTICULARS
OF THE SERVICE OF ACCUSED

No. A21223 RANK Pte NAME TOBIN, Roy, Thomas

OF THE NOVA SCOTIAN REGIMENT, CANADIAN ARMY OVERSEAS

AGE 24 MARRIED OR SINGLE M NO OF DEPENDENTS one (wife)

DATE OF ATTESTATION 5 SEP 39

NO. OF DAYS GIVEN IN CLOSE ARREST (TO DAY OF TRIAL):

CIVIL _____ MILITARY 7 days Forfeiture HOSPITAL _____ TOTAL _____

DATE OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY:

1 Jan 40 Pte on L/Cpl.
6 Jun 40 Pte.
2 Jun 42 a/L/Cpl.
21 Aug 42 a/Cpl.
1 Oct 42 a/Sgt.
1 Jan 43 Cnf Sgt.
14 Jun 43 Pte (own request)
15 Sep 43 a/Cpl.
11 Jun 44 Cpl.
1 Jan 44 Pte (own request)

CERTIFIED TRUE COPY OF N.P.N. 6 MUST ACCOMPANY THIS FORM.

F.A. Tolston Capt.
Adjutant,
1st Bn, ESSEX SCOTTISH REGIMENT.

DATED: In the Field

This _____ day of _____ 19___

No. A21223 Name TOBIN, R.T. Sqn., Battery, or Company — Corps — Date of enlistment 5 SEP 39 — G.C. Badges — Service or Proficiency Pay

MFM 6 (AFB 122) 10074—8-19 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. Sgd. D.A. Macke, Lt Capt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old Sheet destroyed on Field 22APR43 Sgt				14 Jan 43 on obtaining the rank of Confirmed Sergeant. A.A. 40-AA 11- AA 10(3)		Severe Reprimand	27 APR 43	FGCM	Guilty on 2nd and 3rd charges
Field	10-6-43	Pte		Was drunk(and disorderly) when arrested by the Cdn Provost Corps in Covent Garden Dance Hall, London, at about 2000 hrs, on the 10-6-43	Sgt Winn L/C Cadorette	Admonished & permitted to reduce at his own request	14-6-43	Lt Col BJS Macdonald	
Field	11 JUL 43	Cpl		AWL from 2359 hrs 11 JUL 43 to 2230 hrs 26 JUL 43 (14 days 22 hrs 31 min) A.A. 15(1)	Sgt Burdett Pte Benest	28 days forf pay	28 JUL 43	Lt Col BJS Macdonald	Total forf 43 days pay

(Over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under suspending with date	By whom awarded	Remarks
Field	2 APR 44	Cpl		Drunkenness in that he on 2 APR 44 was drunk AA 19	Lt Hodges	Severely Reprimanded	3 APR 44	Lt Col BJ S MacDonald	
Field	27-5-44	Cpl		AWL from 0800 hrs 27-5 to 2030 hrs 6-6-44(10 days 12 hrs 30 min) AA SEC 15(1)	Sgt Anderson Crockett	Severely Reprimanded	7-6-44	Lt Col BJS MacDonald	Forf 11 days pay
Field	26-6-44	Pte		Conduct etc AA Sec 40 When told to report for trg said "I won't drive anymore" and tore up his driving permit	Lt JS Watt	10 days forf pay	29-6-44	LtCol BJS MacDonald	Forf 10 days pay

CERTIFIED TRUE COPY

F.A. Ashbury .....A/Capt

(F.H. Ashbury)

Adjutant

The Essex Scottish Regiment.

56-59.

Pte. Tobin, R.T.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 19	GUILTY	GUILTY	
2nd AA 15(1)	NOT GUILTY	NOT GUILTY AD	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To forfeit all ordinary pay for a period of sixty days.

(Sgd) [illegible] Capt. 21 Mar 45 (Sgd) T.R. Wilcox Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~I direct that the accused be ordered committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 25 March 45 (Sgd) [illegible] Brig

Commanding 1 Can Inf Bde.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A-21223 Pte Roy Thomas Tobin	26 Mar 45	R.W. Meanwell Capt A/Adjt Essex Scot Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 9 APR 1945 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 "5C-59"

FIELD GENERAL COURT-MARTIAL

CPA86 (To take place of APA81) 40-1-25/1008 (40101) 4/38B

Convened by Order of BRIG F N CABELDU Comd 1 CDN INF BDE dated 20th Mar 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	PTE	ROY THOMAS	TOBIN	ESSEX SCOT

PROCEEDINGS REVIEWED 4 Apr 45 [illegible] Capt.

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) GERMANY on (*date(s)*) 21 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ ~~as interpreter ? Ans~~

~~The Interpreter is sworn.(1)~~ Do you object to Capt C.V. Parker as shorthand writer ? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. ~~The Convening Order~~ and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	T.R. Wilcox	R Regt C
Member	Captain	N.V. Howarth	R H L I
Member	Captain	G.T. Galbraith	R H L I
Judge-Advocate	Captain	A.P.L. Desbarats	2 Can Inf Div
Prosecutor	Captain	P.H. Grandjean	Essex Scot
Defending Offr	Lieut	S. Fuller	Essex Scot.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court; etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90. 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the~~ ..... charge(s), and allowed on the 2nd charge(s), and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (~~are~~) found Not Guilty on the 1st charge(s).(4)(5)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Nothing further.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 68. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A-21223 Pte. TOBIN Roy Thomas, 1st Bn Essex Scottish Regiment, A soldier of the Canadian Army Overseas on active service, is charged with,

When on Active service,

FIRST CHARGE
Army Act
Sec 19

DRUNKENNESS

in that he,

in the field, at approximately 0230 hrs, on 26 Feb 45, was drunk.

SECOND CHARGE
Army Act
Sec 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE

IN that he,

in the field, on 26 Feb 45, absented himself without leave from 0230 hrs 26 Feb 45 to 0745 hrs 26 Feb 45 at which time he surrendered himself. Total time absent (5 hrs 15 mins).

(JEC PANGMAN) Lt Col
Officer Commanding
Essex Scottish Regiment

In the Field

5 Mar 45

To be tried by Feild-General Court Martial.

Brig
Comd
4 Cdn Inf Bde

In the Field,

17 Mar 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	PTE		ROY THOMAS	TOBIN	ESSEX SCOT

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Mar 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not practicable to delay the trial for reference to a superior convening offr.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I am unable to appoint (a) three offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	T R Wilcox	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	To be detailed by CO RHLI	
	To be detailed by CO RHLI	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	To be detailed by CO R Regt C	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A P L Des Rosiers	2 Cdn Inf Div

On Active Service in the Fd

in GERMANY (Country.)

Date 20 Mar 45

(E M GABELDU) (Signed personally. RP 105 fn 2.)

BRIG (Rank.)

Commanding 4 CDN INF BDE Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFAOS (In lieu of AFAS) 40/P & S/1667 (4031)

CHARGE SHEET

The accused, A-21223 Pte. TOBIN Roy Thomas, 1st Bn Essex Scottish Regiment, A soldier of the Canadian Army Overseas on active service, is charged with,

When on Active service,

FIRST CHARGE
Army Act
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in the field, on 26 Feb 45, absented himself without leave from 0230 hrs 26 Feb 45 to 0745 hrs 26 Feb 45 at which time he surrendered himself. Total time absent (5 hrs 15 mins).

(JEC PANGMAN) Lt Col
Officer Commanding
Essex Scottish Regiment

In the Field

5 Mar 45

To be tried by Feild-General Court Martial.

Brig
Comd
4 Cdn Inf Bde

In the Field,

17 Mar 45

REQUEST FOR DEFENDING OFFICER

I wish to have the services of Lieut. S. Fidler if he is available to represent me at my trial. If he is not available then I desire the services of an officer detailed by the Adjt.

In the Field
15 Mar 45.

Sgd. R. Tobin.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-21223	PTE		ROY THOMAS	TOBIN	ESSEX SCOT

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 20 Mar 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [(and that it is not practicable to delay the trial for reference to a superior qualified offr)]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Bd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	T R Wilcox	R Regt C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	To be detailed by CO RHLI	
	To be detailed by CO RHLI	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	To be detailed by CO R Regt C	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A P L Des Rosiers	A 2 Cdn Inf Div

On Active Service in the Fd

in GERMANY (E N CABELDU) BRIG

(*Country.*) (*Signed personally. RP 105 fn 2.*) (*Rank.*)

Date 20 Mar 45 Commanding 4 CDN INF BDE

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

AD

I certify that I have this morning examined A21223 Pte TOBIN R.J. and that he is fit to undergo trial by Field General Court-Martial.

In the Field
21 MAR 45

C A Richardson Capt
(CA Richardson) Capt
RCAMC

TRANSCRIPT OF EVIDENCE IN THE TRIAL BY FGCM OF
A-21223 Pte TOBIN, R T, ESSEX SCOT, HELD ON 21 Mar 45.

First Witness for the Prosecution, A-50489 L/Cpl Myers, R, Essex Scot, being duly sworn, is examined by the Prosecutor.

Q.1 - Will you give the Court your correct number, rank and name?
A.1 - I am A-50489 L/Cpl Myers, R, Pro Sec, Essex Scot.
Q.2 - Are you on the Regimental Police Section?
A.2 - Yes, sir.
Q.3 - Will you tell the Court in your own words exactly what you know of this case?
A.3 - Yes, sir, on 26 Feb 45 at about 0230 hrs I was on duty in the door of TAC BHQ. I heard a slight disturbance in the RAP. I went in and found Pte Tobin, whom I now recognize. He was intoxicated so I took him outside, then went back in and straightened up the furniture. When I came out, Pte Tobin was gone, sir. That is all I have to say, sir.

Cross-examined by the Defending Officer.

Q.4 - Have you any idea where Pte Tobin went?
A.4 - No, I have not, sir.
Q.5 - Could he have been in the unit lines?
A.5 - Yes, he could have been, sir. It was dark, and I went up and down the road looking for him but he must have been there somewheres.

The Prosecutor declines to ~~cross-~~re-examine the witness.

By the Court -
Q.6 - Where did this take place?
A.6 - Outside TAC Bn HQ, sir.
Q.7 - When you looked for him, did you look in the unit compound?
A.7 - Well, I had an idea he was down the road and looked about a mile in either direction, but he was not there.
Q.8 - Did you look in the unit lines?
A.8 - In the position we was at we used houses and all around the area was full of troops, the Arty was around the building, and you couldn't identify anybody.
Q.9 - The Coys were disposed tactically, not coupled together in nice little houses on one street, weren't they?
A.9 - Yes, the coys were more or less in billets, I think. I am not positive.
Q.10 - Well the weren't all grouped around one spot were they?
A.10 - I couldn'd say, sir.
Q.11 - Where did you leave Pte Tobin when you went back into the RAP?
A.11 - I left him by the door of TAC Bn HQ sitting in a big chair.
Q.12 - And when you came back you didn't see him and don't know where he went?
A.12 - That's right, sir.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

Second Witness for the Prosecution, B-44317 Pte LePage, J W, Essex Scot, being duly sworn, is examined by the Prosecutor.

Q.13 - Will you give the Court your number, rank and name?
A.13 - Sir, I am B-44317 Pte LePage, J W, RP Sec, Essex Scot.
Q.14 - In your own words will you tell the Court what you know about this case?

A.14 - Yes, sir, I was on guard in the door of BHQ on the morning of 26 Feb 45. I had been on during the night and was called upon by L/Cpl Myers to assist him when Pte Tobin was under the influence of liqour. The last time I saw him this night was with Cpl Myers. I went to bed before he left the place. He reported to me at a quarter to 8 in the morning. He was sober then.

Court

Q.15 - Do you know where this action took place?
A.15 - In our billets, at BHQ.

Cross-examined by the Defending Officer.

Q.16 - Have you any idea where Pte Tobin had been after he reported to you?
A.16 - No, sir, he could have been in the area, sir.

The Prosecutor declines to re-examine the witness.
Questioned by the Court.

Q.17 - Did you see Pte Tobin that night?
A.17 - I saw him with L/Cpl Myers who called me.
Q.18 - What was his condition then? Was he sober?
A.18 - I would not say he was drunk, but he was in high spirits.
Q.19 - Was he walking steadily or staggering a bit?
A.19 - I never seen him staggering.
Q.20 - You think he was under the influence of liquor, though?
A.20 - Yes, he had been drinking some, sir.
Q.21 - He reported to you at 0745 hrs next morning?
A.21 - Yes, sir, I was on guard at the door when he came in.
Q.22 - Where did he come from?
A.22 - Well, when I first saw him he was about 5 feet away.
Q.23 - Did he say anything?
A.23 - The MO was in and Pte Tobin said, Good morning doc. And the Adj had told me when I seen Tobin to tell him the Adj wanted to see him, so when I seen Pte Tobin I told him, the Adj wanted to see him.

In the opinion of the Court and JA it is not necessary to comply with RP 83(B).

The witness withdraws.

E-3 PAGE 1

The Defending Officer makes the following plea in mitigation.

Pte Tobin has been in the Essex Scot since 5 Sep 39. He came over with the unit into France when we landed and he has done a good job of work with the regiment. Personnally, I cannot understand why a man is brought up before a court-martial for drunkenness, as in this case. Since he has already been 24 days in close arrest, I would as the Court to take that into consideration when awarding sentence.

Ex "A"
A2

Summary of Evidence in the case of A 2/223 Pte Tobin, R. T. 1st Bn. Essex Scottish Regiment, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for the prosecution: B38505 Sgmn Soule. W. C., Sig. Sec, 19th Hd. Regt, Army Tps:

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and ~~a copy~~ is included in this summary (attached as exhibit "A"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

~~Witness~~ Lieut.
Officer detailed to take the Summary.

Second Witness for the prosecution: ~~Capt~~ D. V. Crippenfield, medical officer at C.C.P.:

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused, and ~~a copy~~ is included in this summary (attached as exhibit "B"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

~~Witness~~ Lieut.
Officer detailed to take the Summary.

Third Witness for the prosecution: A50489 L/Cpl Myers R., Provost Section, Essex Scottish Regiment:

. . . A written statement of this witness' evidence

purporting to be signed by him, has been read to the accused and ~~a copy~~ is included in this summary (attached as exhibit "C"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross examination.

2nd Lieut
Officer detailed to take the Summary.

Fourth Witness for the prosecution: B44317 Pte Lepage J.W., Provost Section, Essex Scottish Regiment:

A written statement of this witness' evidence, purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "D"), having regard to the exigencies of the service the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross examination.

2nd Lieut
Officer detailed to take the Summary.

The accused, having been duly cautioned in accordance with R.P. 4(E), says:

"I do not wish to make a statement at this time"

"The accused does not wish to call witnesses in his defence at this point."

Certified that R.P. 4 complied with.
In the field. 8 Mar. 45. 2nd Lieut.
Officer detailed to take the Summary.

Irvin the services of Lieut D. Fidler if he is available to represent me at my trial. If he is not available then I desire the services of an officer detailed by the Adjutant.

In the field
15 Mar 45

R Irvin

I am B 38505 Dgmn. Soule W.C. of Sig Sec 19th Jd Regt Army Tps. On 26 Feb 45 at about 0145 hrs an Ross Scottish soldier took our jeep while we were working on him and drove it up the road. I could see that he was wearing a black sweater and our M/Sgt Krusky jumped on the side the jeep to stop him but this soldier did not stop until the jeep hit a ditch and side swiped a boat about 100 yds down the road. When I reached the scene the accident M/Sgt Krusky was lying on the side of the road badly injured and the soldier had left the vehicle. I phoned back our MO and later took M/Sgt Krusky to 76 CCP.

Dgmn. Soule W.C.

Exhibit "A"

10 Can Field Amb.
Feb 26th 45

A-61128 Sgn Krusky. La/cpl
19 Fld Regt. - was brought into
Recn. C.C.P on Feb 26th at
approximately 0300 hrs. - He was
dazed - and badly shaken up
- suffering from a compound fracture
of his right ankle. This injury
is a serious one and may
interfere with his efficiency as a
soldier.

D.U. Rippenfield Capt

Exhibit "B"

Jam A-50489 L/Cpl Meyers R. of the Provost Section the Essex Scottish Regt.
On 26 Feb at about 0230 hrs there was a disturbance in the R.S.P. and on investigating took Pte Tobin the cause of the disturbance outside the front door. While I returned to the R.S.P to straighten things out there, Pte Tobin went off down the road somewhere because when I returned to the doorway I could no longer see him. I went up and down the road but could not find him.

Pte Tobin was drunk and not behaving normally. He staggered when he walked and his speech was not natural. He was not capable of performing his duties as a driver.

L/Cpl. R. Myers.

Exhibit "C"

Srim B-44317 Pte Lepage JW. On the morning of 26 Jul 45 Srim was one of the Provosts on guard at B/HQ the Essex Scottish Regt. At about 0745 hrs that day, Pte Srim whom I recognized came up to the door of the Hdq. I reported his return to the Adjutant who ordered him to be placed under close arrest and returned to B Echelon. When he returned he was muddy from head to foot and was wearing a sweater but no cap or tunic. At this time he was in a sober condition.

J W. LeBrigg.

Exhibit "D"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

A-21223, Pte. Roy Thomas Ibin ..... of THE 1st BN.,

THE ESSEX SCOTTISH REGIMENT.

1. The following is a fair and true summary of the entries in the Regimental and Company conduct sheets of the accused, exclusive of convictions by a Court Martial or a Civil Court, of summary of awards under Section 47 of the Army Act and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
For Drunkenness	~~one~~ times	~~two~~ times
For Absence Without Leave	one times	two times
For Conduct to the prej.	one times	one times
For	~~times~~	~~times~~
For	~~times~~	~~times~~

Un Number of instances of gallantry or distinguished conduct.

nil

~~or~~

~~There are no entries in the Conduct Sheets of the accused.~~

2. ~~The accused has not been previously convicted.~~

~~or~~

Previous convictions of the accused by a Court Martial or a Civil Court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. The accused in not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for .....~~

~~.....beginning with on the .....day of .....~~

Ex 15
RD.

26 Jly 45

4. The accused has been in confinement awaiting trial on the present charges for Nil day in civil custody and 24 days in Military Custody. Total 24 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service attestation paper is 20 May 20 24 years.

6. The date of hsi Commission specified in his record of service attestation paper is 5 Sept. 39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs. 5 mos.

8. The accused is entitled to reckon 5 yrs. 5 mos. years' service for the purpose of determining his pension, etc.

9. The accused is entitled to deferred pay or gratuity in respect of 5 yrs. 5 mos. years service.

10. The accused in in possession of, or entitled to, no military decoration or military award/ or is in possession of or entitled to .....

11. (If the accused is a warrant officer.) The accused before he was a warrant officer last held the regimental rank of

12. (In the case of an officer.) The accused holds in the army the rank of , dated , and in his regiment (or corps or department) the rank of , dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

	Date of Promotion
In the rank of ,	years,
In the rank of ,	years,
In the rank of ,	years,

(Instruction.--- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.)

The above statment (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the President, and annexed to the proceedings.

49.

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 of the ARMY ACT WHICH TRIAL HAS BEEN DISPENSED WITH

Army Number, Rank and Name A-21223 Pte Stirn Roy Thomas .....of the 1st Bn., THE ESSEX SCOTTISH REGIMENT

Note: A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Offr disposing of the charge or dispensing with trial	Date and Place of Trial, or summary award, or of order dispensing with Trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court, or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
FGCM.	22 Apr 43. Field	~~AA 40~~. AA 11 ... A.A. 10(3)	Severe Reprimand	
FGCM	27 Nov 44 Field	Absence Without Leave	90 days detn.	

I HEREBY CERTIFY that the foregoing Schedule of Convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of March 1945 R W Mearnsell Capt Adjt.

(A.F.B. 296)

A-21223 No. | Name TOBIN Roy Thomas | Sqn., Battery or Company | Corps C.I.C. | Date of enlistment 5 Sep39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. D.A. Mackenzie Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old Sheet destroyed on 14 Jan 43 on obtaining the rank of Confirmed Sergeant.									
Field	22Apr43	Sgt		AA 40 AA 11 AA 10 (3)		Severe Repr. /68	27Apr	F.G.C.M.	Guilty on 2nd &3rd Charges
Field	10-6-43	Pte		Was drunk and disorderly when arrested by the C.P.S. in Covent Gardens Dance Hall, London, at about 2000 hrs on 10-6-43.	Sgt.Winn L/Cpl. Cadorette	Admonished. Permitted to reduce at his own request.	14-6-43	Lt Col.BJS McDonald	
Field	11Jul43	Cpl.		AWL from 2359 hrs 11Jul43 to 2230 hrs 26Jul43(14dys22hrs31mins)AA15(1)	Sgt.Burdett Pte.Benest	28 dys Forf pay	28Jul43	Lt Col.BJS MacDonald	Total For 43dys pay
Field	2Apr44	Cpl.	(1)	DRUNKENNESS, in that he on 2Apr44 was drunk. A.A. Sec.19.	Lt.Hodges	Severely Repr	3Apr44	Lt Col BJS MacDonald	
Field	27-5-44	Cpl.		AWL from 0800 hrs 27-5-44 to 2030 hrs 6-6-44(10 dys 12 hrs 30 mins) A.A. Sec. 15 (1)	Sgt.Anderson	Severeley Rep.	7-6-44	Lt Col BJS MacDonald	FOP 11dy

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 26-6-44		Pte		Conduct etc to AA Sec 40. When told to report for trg said "I won't drive any more" and tore up his driving permit.	Lt. J.S.Watt	10 dys F.C.P.	29-6-44	Lt.Col. B.J.S. MacDonald	Forf 10 dys pay
Field 27 Nov 44		Pte		AWL from 1900 hrs 23 Oct 44 to 0800 hrs 8 Nov 44 (15 dys 13 hrs) R.A. Sec. 15 (1)		To undergo 90 days Det'n.	28 Nov 44	F.G.C.M.	Forfeits 106 days pay.

Certified true copy
15 Engrs [illegible] Capt & Adjt
Officer having custody of original documents

SUMMARY OF EVIDENCE

In the case of A-21223 Pte Roy Thomas TOBIN, 1st Bn Essex Scottish Regiment, a soldier of the Canadian Army, Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: For the Prosecution — B-38505 Sgmn SOULE W.G., Sig. Sec. 19th Fd Reg't, Army Tps.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "A"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Sgd. H. A. Secord, Lieut.

SECOND WITNESS: For the Prosecution — Capt. D.V. Cripperfield, Medical Officer at C.C.P.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "B"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Sgd. H. A. Secord, Lieut.

THIRD WITNESS: For the Prosecution — A-50489 L/Cpl MYERS R, Provost Sec, Essex Scottish Reg't.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "C"), having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Sgd. H. A. Secord, Lieut.

FOURTH WITNESS: For the Prosecution — B-44317 Pte LePAGE, J.W., Provost Sec, Essex Scottish Reg't.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this summary (attached as exhibit "D"), having regard to the exigencies of the service the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

Sgd. H. A. Secord, Lieut.

The accused having been duly cautioned in accordance with R.P. 4 (E), says:

"I do not wish to make a statement at this time"

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.

Sgd. H. A. Secord, Lieut.
Officer detailed to take the Summary.

In the Field.
8 Mar 45.

STATEMENT OF EVIDENCE.

"I am B-38505 Sgmn. Soule W.C. of Sig Sec 19th Fd Reg't Army Tps. On 26 Feb 45 at about 0245 hrs an Essex Scottish soldier took our jeep while we were working on line and drove it off up the road. I could see that he was wearing a black sweater. Our L/Cpl Krusky jumped on the side of the jeep to stop him but this soldier did not stop until the jeep hit a ditch and side-swiped a tree about 100 yds down the road. When I reached the scene of the accident, L/Cpl Krusky was lying on the side of the road badly injured and the soldier had left the behicle. I phoned to get our M.O. and later took L/Cpl Krusky to 76 C.C.P."

Sgd. Sgmn. Soule W.C.

STATEMENT OF EVIDENCE.

"A-61128 Sgmn Krusky, L/Cpl 19 Fld Reg't, was brought into our CCP on 26 Feb 45 at approximately 0300 hrs. He was dazed and badly shaken up suffering from a compound fracture of his right ankle. This injury is a serious one and may interfere with his efficiency as a soldier."

Sgd. D. V. Cripperfield, Capt.

STATEMENT OF EVIDENCE.

"I am A-50489 L/Cpl Myers R of the Provost Section, The Essex Scottish Regiment. On 26 Feb 45 at about 0230 hrs there was a disturbance in the R.A.P. and on investigating I took Pte Tobin, the cause of the disturbance, outside the front door. While I returned to the R.A.P. to straighten things out there, Pte. Tobin went off down the road somewhere because when I returned to the doorway I could no longer see him. I went up and down the road but could not find him.

Pte. Tobin was drunk and not behaving normally. He staggered when he walked and his speech was not natural. He was not capable of performing his duties as a soldier."

Sgd. L/Cpl. Myers, R.

STATEMENT OF EVIDENCE.

"I am B-44317 Pte. LePage J.W. On the morning of 26 Feb 45 I was one of the Provosts on guard at BHQ, The Essex Scottish Reg't. At about 0745 hrs that day, Pte Tobin whom I recognized came up to the door of the building. I reported his return to the Adjutant who ordered him to be placed under close arrest and returned to "A" Echelon. When he returned he was mud from head to foot and was wearing a sweater but no cap or tunic. At this time he was in a sober condition.

Sgd. Pte. LePage J.W.

YYY-34

Pte Lobin S

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CPA86 (To Issue of AFA31) 40/P & B/1608 (49/10)

4/38B

RECEIVED 4 OCT 1944 JAG BR. (CONVENED)

Convened by Order of BRIG. E.W. HALDENBY M.C. Comdt 1 CDN. BASE REP. CORPS dated 18 Aug. 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F55649	PTE.		SIDNEY	TOBIN	1BN. 1CBRD

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 22 Aug. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1545 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Capt.~~ Lieut. as interpreter? Ans .....

as shorthand writer? Ans .....

The Interpreter is sworn.(1) Do you object to .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	W. de C. HEPBURN	CAC	5BN. 2CBRD
Member	CAPT.	T.H. WELLS	RCA	8BN. 2CBRD
Member	LIEUT.	A.R. BELANGER	R.C.E.	1BN. 2CBRD
Judge-Advocate				
Prosecutor	LIEUT.	A.H. POIRIER	CIC.	1BN. 1CBRD
Defending Offr	LIEUT.	A. DESROSIERS	SIC	1BN. 1CBRD

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~no~~) plea(s).(1)

.....

(1. If a special plea is made for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) to call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court [illegible] to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Duplicate

CHARGE SHEET

The accused, F 35649 Pte Sidney TOBIN, 1 Cdn. Base Rft. Bn., 1 Cdn. Base Rft. Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC. 15(1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF
WITHOUT LEAVE,

In that he,

In the Field, in Italy, absented himself without leave from 1800 hrs. 1 Jun 44 until surrendering himself at approximately 1500 hrs. 21 Jul 44.
(Total Absence: 50 days, 21 hours.)

Vincent L'Estrange Lt-Col
(VINCENT L'ESTRANGE)
Commanding Officer
1 Cdn Base Rft Bn., 1 C.B.R.D.

In the Field
6 August 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
18 Aug 44

E.W. Haldenby
(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army-CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F55649	Pte		Sidney	TOBIN	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 18 Aug 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	W.C. HEPBURN	(CAC)	5 Bn 2 CBRD

MEMBERS.

Capt or Lieut to be detailed by OC 1 Bn 1 CBRD

Capt or Lieut to be detailed by OC 6 Bn 2 CBRD

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 7 Bn 2 CBRD

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) (E. W. HALDENBY) Brigadier (Rank.)

Date 18 Aug 44

Commanding 1 Cdn Base Rft Gp - CRF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/4607 (4931)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE
(KR (Can) 557)

I certify that I have this morning examined No. F.69649 Rank Pte.

Name Tobin S. of C.B.H.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

In the Field

Date 22 aug 44

(Medical Officer)

E1 Character witness for Defence. [illegible]

F 88639 Cpl Snow H having been duly sworn states. I have known Pte Tobin since Oct 1942 and my opinion is that he is a good soldier. I was with him in action and he caused no trouble. My opinion of a good soldier is that he carries out his duties without any complaints and does what he is told.

RP/83/B complied with.

Statement in mitigation of punishment.

E3 I would like the court to take into consideration the following facts:- The accused enlisted voluntarily in 1940 at the age of 18. Of these 4 yrs of service 3 were spent overseas. The accused has seen action and has had no complaints from the service. He was wounded due to enemy action was sent back to Canada requested more than once to go back to his regt. but refused. The accused has had no leave since his arrival in Italy. Here is another circumstance of friendship in the life of the accused pointed out to the court in the fact that he is supporting his Mother. In view of what I have stated I make a plea that the accused be dealt with lightly as possible.

RP/83/B complied with.

Exhibit B
Witness for Pros.

SUMMARY of EVIDENCE

In the case of,
F 55649 Pte Tobin D. #4 coy #1 Bn
#1 C.B.R.D. a soldier of ~~the~~ Canadian
army overseas;—
The commanding offier directs that the
evidence be taken under oath:—

First Witness Lieut Rinn W. J. asst. adjt. of 1 Bn. 1.C.B.R.D having been duly sworn states:
2 am Lieut. Rinn, asst. adjt. of 1 Bn 1 C.B.R.D.
2 present record of declaration of a court
of inquiry assembled at the Field on
the third day of July 1944 for the purpose
of investigating and recording the absence
without leave and deficiencies of clothing
and equipment of F 55649 Pte Tobin D.
The court declares that F 65649 Pte
Tobin D. (C.B.H) 1 Bn. 1 C.B.R.D. illegally
absented himself without leave from the
Field at 1800 hrs. on 1st day of June and
that on the 29th day of June was still
absent and he was deficient of kit to
100 percent value $46.66 and 75% value
$34.94. The above document came
into my possession through normal channels.

The accused declines to cross-examine
the witness.

W. J. Rinn Lieut

The record of the Declaration of a court of
Inquiry appeared to by the witness, produced, read
over, shown to the accused and marked Exhibit
"A", and attached to the Summary.

signed A.C. Thakston Lieut
Offier taking the Summary

SUMMARY of EVIDENCE

Page 2.

In the case of,

F 55649 Pte. Tobin A. No. 4 Coy No. 1 Bn No. 1 CBRD

a soldier of the Canadian Army overseas,

The commanding officer directs that the evidence be taken under oath.

Witness: F 88639 Cpl. Snow H. having been duly sworn, states:

I am F88639 Cpl. Snow H. No. 4 Coy No. 1 Bn No. 1 CBRD, on 21st July 1944 I was standing on the stairway in Debert Barracks at approximately 1500 hrs, when the accused reported to me that he had been A.W.L. and was reporting back. I took him to coy office and from there I was ordered to take him to the guard room. I carried out the orders.

Cpl Snow H.

The accused declines to cross-examine the witness.

Question to the Accused.

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but any statement you make or any evidence you give will be taken down in writing, and may be given in evidence.

Answer by the accused

No, Sir.

I certify that the foregoing Summary of Evidence was taken by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

(Signed) A.C. Thurston Lieut
Officer taking Summary of Evidence.

SUMMARY of EVIDENCE

Exhibit B
Rudolph Kay
Pres.

In the case of,
F 55649 Pte Tobin D. #4 coy # 1 Bn
1 C.B.R.D. a soldier of the Canadian
army overseas; —
The commanding offier directs that the
evidence be taken under oath: —

First Witness — Lieut Rimm W. J. asst. adjt. of 1 Bn. 1.C.B.R.D
having been duly sworn states:
2 am Lieut Rimm, asst. adjt. of 1 Bn 1 C.B.R.D.
2 present record of declaration of a court
of inquiry assembled at the Field on
the third day of July 1944 for the purpose
of investigating and recording the absence
without leave and deficiencies of clothing
and equipment of F 55649 Pte Tobin D.
The court declares that F 65649 Pte
Tobin D. (C.B.H.) 1 Bn. 1 C.B.R.D. illegally
absented himself without leave from the
Field at 1800 hrs on 1st day of June and
that on the 29th day of June was still
absent and he was deficient of kit to
100 percent value $46.66 and 75% value
NAR $34.94. The above document came
into my possession through normal channels.

The accused declines to cross-examine
the witness.

W Rimm Lieut

The record of the Declaration of a court of
Inquiry appeared to by the witness, produced, read
over, shown to the accused and marked Exhibit
"A", and attached to the Summary.

signed R.C. Thibodeau Lieut
Offier taking the Summary.

Page 2.

SUMMARY of EVIDENCE

In the case of,

F 55649 Pte. Tobin S. No. 4 Coy No. 1 Bn No. 1 C.A.R.D.

a soldier of the Canadian Army overseas,

The commanding officer directs that the evidence be taken under oath.

Report of Evid. Witness: F 88639 Cpl. Snow H. having been duly sworn states:-

I am F 88639 Cpl. Snow H. No. 4 Coy No. 1 Bn [redacted] C.A.R.D. On 31st July 1944 I was standing on the Stairway in Debert Barracks at approximately 1500 hrs., when the accused reported to me that he had been A.W.L. and was reporting back. I took him to Coy Office and from there I was ordered to take him to the guard room. I carried out the orders.

Cpl Snow H.

The accused declines to cross-examine the witness.

Question to the Accused.

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so, but any statement you make or any evidence you give will be taken down in writing, and may be given in evidence.

Answer by the accused

No, Sir.

I certify that the foregoing Summary of Evidence was taken by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

(Signed) A.E. Thurston Lieut
Officer taking Summary of Evidence.

Army Form B 115

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at the Field, on the 29 day of June 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of

No. F. 55649, Pte. Tobin, S.

DECLARATION.

The Court declare that No. F. 55649, Pte. Tobin, S., (C.B.H) 1Cdn Base Rft Bn, 1 C.B.R.D. illegally absented himself without leave from the Field, at 1800 hrs. on the 1st. day of June, 44, and that he was still absent on the 29 June 44 and that on the 29 June 44 he was deficient, and that he is still deficient of the following articles:

(see attached list)

This is Exhibit "A" referred to in the Summary of Evidence in the case of F35649 Pte. Tobin, S., taken down by me this 6th day of August 1944.

D. C. Thickbroom Lieut.
Officer taking Summary of Evidence.

Names of President and Members

President - Lieut. R.F. Steinhoff,

Member - Lieut. J.A. Mcmurrhy.

Signed at the field,
this 3rd day of Jul 1944.

Signature of Commanding Officer (Vincent McKenna,) Lt.-Col.
Officer Commanding, 1 Bn, 1 CBRD

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

PSS/57461-44/10,000

Articles of kit deficient of P 55649 pte Tobin, S.

ARTICLE	QUANT.	100%	75%
Bonnet, Camo' Shorter	1	.60	.45
Boots, ankle prs	2	10.92	8.19
Great-Coat	1	11.55	8.66
Jersey pullover	1	1.79	1.34
Shoes Canvas	1	.65	.48
Brushes Boot polishing	1	.28	.21
Brushes shaving	1	.37	.27
Brushes tooth	1	.11	.08
Discs Identity sets	1	.02	.02
Dressing, first field	1	.24	.18
Holdall	1.	.19	.14
Razor	1	.06	.04
Towel	1	.32	.24
Helmet, steel	1	2.39	1.79
Nets Helmet	1	.15	.11
Respirator, A/G Comp	1	6.08	4.56
Blankets, G.S.	2	6.14	4.60
Mugs Drinking	1	.13	.09
Shirts Bush	1	1.75	1.31
Shorts K.D.	1	1.34	1.00
Trousers K.D.	1	1.58	1.18

TOTAL 100% Value - - - - - - - -$46.66
TOTAL 75% Value - - - - - - - - - - - - - - - - -$34.94

Exhibit 4
b.o.d. 4pl 8 Dec.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.55649	Pte	TOBIN S	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	A. A. Sec. 40	times	2	times.
For	A. A. Sec. 15(1)	3 times	7	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, ~~n/a~~

or

There are no entries in the conduct sheets of the accused. ~~n/a~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial n/a or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~n/a~~

~~beginning on n/a day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 22 days in military custody, making a total of 22 days, of which 8 days were spent in hospital.

5. The present age of the accused according to his ~~n/a~~ record of service / attestation paper is 21 years.

6. The date of his ~~attestation~~ / ~~n/a~~ attestation specified in his ~~n/a~~ / attestation paper is 22 August 40

~~7. The service which the accused is allowed to reckon to n/a discharge or transfer to the reserve is n/a~~

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)) n/a

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated , and in his regiment (*or* corps *or* department) the rank of n/a dated

(P15290) W1.15882/141 125,000 8/41 A.&E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F 55649 Rank Pte. Name Isaac S. of 1 C.A.A.Pn. C.A.R.D. Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		W/P		
		W/P		
		W/P		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of August 1944

Warrant Lieut a/Adj.

4. The accused has served ~~and has commenced to serve~~ continuously, without reduction, to the present date,

In the rank of ... years, Date of Promotion.

In the rank of ... years,

In the rank of ... years,

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph completed accordingly.*)

Exhibit H

MFM 6

No P 55642 Name TOBIN E Sqn, Battery, or Company Corps C.I.C. Date of enlistment 12/8/40 GC Badges Service or Proficiency Pay 1/aj.

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character Good.

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barrack green 7/4/41		Pte		Neglect of duty as fire-picket	T/C Greenaby	7 da C.B.	7/4/41		
Camp Borden 12/7/41		Pte		A.W.L. from P.T. parade	Sgt Frye	3 da F.P.	12/7/41		
Camp Debert 3/10/41		Pte		A.W.O.L. (a da 22 hrs 51 mins).	Cpl McLeod	28 da F.P. 1A da C.B.	12/8/42		
Field 4/8/42		Pte		A. Sec 15(1) AWL from 0800 hrs. 4/8/42 until 1400 hrs. 5/8/42	L/C Cederburg, Cpl Morrison				
				Absent 6 da 6 hrs.					
				A. Sec. 40 Conduct to prejudice etc., in that he after being ordered by CSMS O'Grady, R.I. to leave Coy Stores did say, "Go fuck yourself."	CSMS O'Grady, Sgt Kennedy, Sgt Jessome	21 da F.P. 21 da pay	12/8/42		5 da pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Aug 43	Pte		AA Sec.15(1) WOAS deserting himself without leave in that he/Pl DiPersio absented himself from 2200 hrs. 14 Aug 43 until 1200 hrs 18 Aug 43. absent. 3 ds 13 hrs.	Sgt Macqueen	21ds F.P.	21 Aug 43		4 ds Pay
Field	3 Dec 43	Pte		AA Sec.15(1) WOAS being in a prohibited area without proper authority.	Doc. Evid	5 Ds C.B.	6 Dec 43		
Field	21-4-44	Pte		AA Sec.15(1) WOAS AWL from 0900 hrs. 21-4-44 until 2100 hrs. 1-5-44. absent 10 ds, 13 hrs.	Documentary	28 ds F.P. 28 ds PY	2-5-44		11 ds pay
REMARKS FROM 7 CIR F.P.C. ON 25 MAY 44 SENTENCE HAVING EXPIRED. REMISSION FORFEITED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS 4 DAYS.									

MFM 6
(AFB 122)
40(PAM)156 (9438)

No. F 55649 Name TOBIN S Sqn, Battery, or Company Corps C.A.C. Date of enlistment 12/8/40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 21/4/44 No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	30/5/44	Pte		AWL s.15(1)WO.5 AWL from 0900 hrs. 20-5-44 until 1200 hrs 30-5-44. Absent: 1 day 3 hrs.	Sgt Murphy	14 ds C.B. 7 ds Pay	31-5-44		2 ds pay

CERTIFIED TRUE COPY
11 August 44.
from the Regt'l Books in my Custody.
W Jackson Lieut A/ADJT.

(PTO)

LIST OF WITNESSES

In the case of r 55649 Rte Tobin, S., No.4 Coy, 1 Bn., 1 C.B.R.D.

WITNESSES FOR THE PROSECUTION

Lieut. W.J. Rinn	1 CBRBn	1 CBRD
F88639 Cpl Snow, R.	"	"

WITNESSES FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of r 55649 Rte Tobin, S., No.4 Coy, 1 Bn., 1 C.B.R.D.

Exhibit "A" - - Declaration of a Court of Inquiry

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 11 Aug 44

S. Tobin

CHARGE SHEET

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans....., Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. YES
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 348, 330, 583-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F55649 PTE. SIDNEY TOBIN 1BN. ICBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 15(1)	QUILTY	QUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which 8 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR A PERIOD OF ONE YEAR

(Sgd) ..... Judge-Advocate, if any.

22 Aug 44 Date awarded.

(Sgd) W.A. Lloyd Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

E.W.H

I ~~direct that the accused be not committed to prison or detention barracks~~ until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) E.W. Harding Brig.

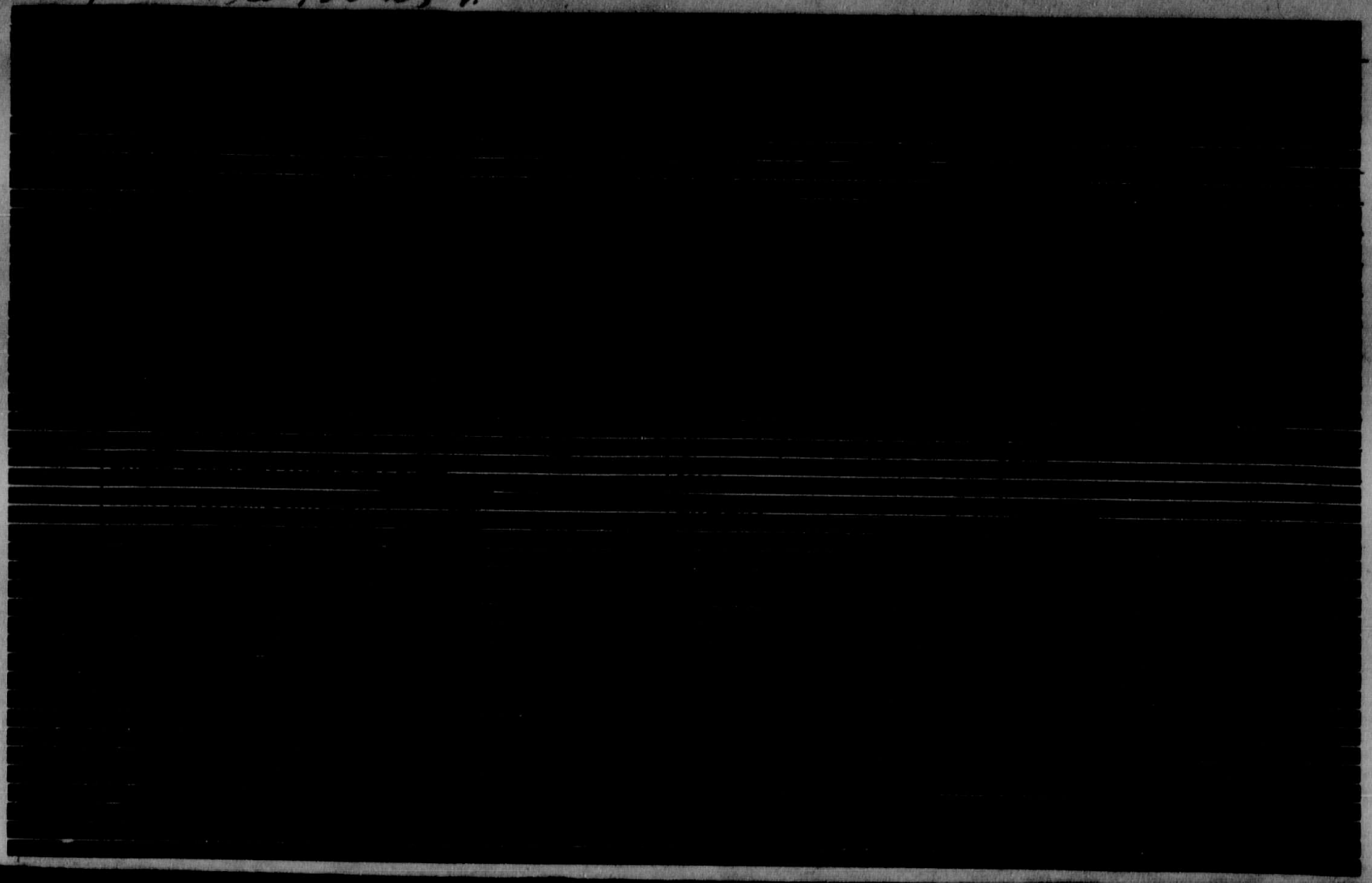
Date 23 Aug 44 Commanding COMMANDER 1 CDN BASE REINF GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F5 5649 Pte Tobin Sidney	30 Aug 44	J.T.B. Bowman Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5Y-3 Fitz Tobias, V.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : G 50285 Pte Vincent TOBIN

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15(1)AA	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 253, and in lays of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of ninety (90) days

(Sgd) ..... Judge-Advocate, if any. 9 JAN 46 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56. 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (Sgd) [signature]
(1. AA 57A. Delete if not used.)

Date JAN 10 1946 Commanding [signature] Brig Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G.50285 Pte Tobin V.	16 Jan 46	[signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5Y-3

CFA96 (In lieu of AFA91) 40/P & S/16098 (6144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E R Suttie, DSO, ED Comd A Gp CRU dated 7 Jan 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
G 50285	Pte	Vincent	TOBIN	8 Cdn Repat Dep

28 Jan 46 K Brodie Maj

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 9 JAN 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 104, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to~~ ..... ~~as interpreter ?~~ Ans .....
~~The Interpreter is sworn.~~(1) Do you object to M.6938 Sgt. KIRKLAND W.R. as shorthand writer ? Ans NO SIR
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO SIR (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	C.E. WOODROW OBE ED	HQ CRU
Member	CAPT	A.P. COTE	1 CGRU
Member	LIEUT	S. HEGION	1 CGRU
~~Judge-Advocate~~			
Prosecutor	LIEUT	G.H. ROBINSON	B.C.REP DEP
Defending Offr	CAPT	A. CORRY	B.C.REP DEP

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-86; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 7, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your [redacted] evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6). RP 45. 120(A). 2. AA 54(3). RP 45. 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Defending Officer's plea in mitigation attached (3)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 1313. MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5). MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1). KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

8 CANADIAN REPATRIATION DEPOT
CANADIAN ARMY ENGLAND

CHARGE SHEET

in the case of

G-50285 Pte Vincent TOBIN RCASC, on PE of 8 Canadian Repatriation Depot ("1" Wing), a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Blenheim Lines did absent himself without leave from 1000 hrs 20 Dec 45 until surrendering himself to "1" Wing Guard Room, 8 Canadian Repatriation Depot at 1500 hrs 29 Dec 45.

Total Time Absent: 9 days 5 hours.

(A D'A MARKS) LT/COLONEL
OFFICER COMMANDING
"1" WING
8 CDN REPAT DEPOT

Blenheim Barracks
Farnborough, Hants
3 Jan 46.

To be tried by Field General Court Martial.

7 Jan 46

(E R Suttie) Brig
Comd A Gp CRU

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G 50285	Pte		Vincent	TOBIN	8 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above, the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 7 Jan 46 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and whereas it is not practicable to delay the trial for reference to a superior authority;~~

(*Delete part in brackets when not required for compliance with RP 104(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

~~And whereas it appears to me that the Offr to form the Court, (b) a Fd Offr or President, for the reasons I have attached hereto~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	C.E.Woodrow,CBE,ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	to be detailed by CO 1 CGRU	
A Lt	to be detailed by CO 1 CGRU	

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

(*Signed personally. RP 105 fn 2.*) (E R Suttie) Brig (*Rank.*)

Date 7 Jan 46

Commanding Comd A Gp CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA41) 40 P & S/1497 (4631)

(*See overleaf for oaths and notes for use on trial.*)

8 CANADIAN REPATRIATION DEPOT

9 January 46

MEDICAL OFFICER'S CERTIFICATE

I certify that No. [redacted] Name ... Pte. TOBIN, V. ...

of. ~~A Canadian Repatriation~~ ... depot, is fit/~~unfit~~ to undergo trial by Court-Martial.

R. L. Stanford Capt.
Signature of Medical Officer

Exhibit #3
C.J.

PLEA OF MITIGATION IN THE CASE OF:

C.80805 Pte TOBIN V ----- 8 CDN REPAT DEPOT

Pte Tobin joined the Cdn Army of his own free will and initiative in Nov 42 and proceeded overseas in Apr of the following year.

Pte Tobin tried several times to be sent to an operational theatre but was refused on account of repeated admittances to Hospital on account of strictures, 60 times in all, so that he could join his comrades over there in the fighting for which he had joined the Army to participate in, unfortunately however, he was turned down on each occasion due to his medical category which prevented his leaving this country.

Pte Tobin had been quite depressed and worried for some time due to the fact that he had received no mail from either his wife or anyone else since the end of the war. When the Christmas season approached and he noticed everyone else feeling so carefree and gay, the loneliness cooped up inside of him overcame him, and he decided to go up to Derby and visit some of his friends there whom he had soldiered with, as these were about the only real friends he had here in England, [illegible] were either back home in Canada or over on the continent at this time.

After he had been up there a few days and felt in somewhat better spirits he returned to his unit voluntarily and gave himself up at the unit guard room. He has already spent 10 days under close arrest awaiting trial.

He would like to get home as soon as possible in order to see what has happened to his wife to cause her to suddenly stop writing to him and if it is at all possible straighten out any problems or difficulties and get his marriage back on a firm footing once more.

I think Pte Tobin deserves every possible consideration, for he tried on several occasions to get over on the continent and really fight for what he thought was right and now he became somewhat restless and discontent because he was not allowed this privilege due to his low medical category.

If he can get back now to see his wife and get his marital problems off his mind I think that he will be ready for his place as a Canadian Citizen.

8 CANADIAN REPATRIATION DEPOT

Exhibit "A"

SUMMARY OF EVIDENCE

In the case of G-50285 Pte Vincent TOBIN RCASC on PE strength of 8 Canadian Repatriation Depot ("1" Wing) a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to ORO 5352 which have been read over and shown to the accused and which are attached hereto as exhibits. "

(1) Certified True Copy of extract from 8 Cdn Repat Depot daily Part II Order No. 2 dated 3 Jan 46, showing G-50285 Pte Tobin V. as absent from 1000 hrs 20 Dec 45 to 1500 hrs 29 Dec 45 at which time he surrendered himself which I produce as exhibit "A".

The accused was cautioned as follows [redacted]

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused requests to give evidence on oath in his defence.

G-50285 Pte Tobin V having been duly sworn states:

"I haven't been getting any mail from my wife, Christmas and New Years came around and I did not even get a post card, in fact I have had two letters during the last nine months. Since the war ended I have not had any mail at all.
The reason I did not get the Army to investigate into it is because I thought I would be home shortly. Since I have been in the Army I have had very little mail from my wife, and that has caused me a great deal of worry.

T. Tobin V.

(G-50285 Pte Tobin V)

The accused does not call any witnesses.

"I certify that the above summary of evidence consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with."

Geo. H. Robinson

(G H Robinson) Lieut
Officer detailed to
take the Summary of Evidence

In the Field
3 Jan 46.

EXHIBIT "A"

EXTRACT OF 8 CDN REPAT DEPOT PART II ORDER AS SPECIFIED HEREUNDER.

NO 8 CANADIAN REPATRIATION DEPOT
(R C ARMD C)

PART II ORDERS

issued by

LT. COL J W POWELL DSO MC

COMMANDING OFFICER

LAST ORDER
No. 1 (Tues)
1 Jan 46

THIS ORDER
No. 2 (Thur)
3 Jan 46

XXXX

Appendix "B"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G-50285	Pte	Tobin V	8 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be inserted in the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15 (1) AWL 19 times.

For AA Sec 11 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 18 Jul 43

Date of last entry in Field Conduct Sheet 7 Nov 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for .....

days in civil custody; and for Nil days in military custody, *i.e.*, Nil days in open arrest, 10 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 30 yrs 4 mos 19 days

6. The date of his attestation is 29 Nov 42

7. [redacted]

†State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & CLASP DEFENCE MEDAL

9. [redacted]

[redacted]

In the [redacted]

[redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) WL30721/9701 32,000 9.44 A.& E.W. Ltd. Gp.4/98

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th 9TH day of January 1946

A A Grant Capt

SHEET REVISED 19 Apr 43

No. G50285 Name TOBIN V | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 2 Nov 42 | GC Badges | Service or Proficiency Pay Exhibit "C" Ltd | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7808)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. one | Signature OC Company, etc M Stewart Lt-Col | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Jul 43	Spr		AA Sec 15 (1) AWL from 0730 hrs 19 Jul 43 to 1630 hrs 20 Jul 43 TTA 1 day 9 hrs	L/C Drummond	7 dys C.B. 7 dys pay	20 Jul43	Major R F Bowman	2 days pay Total Forf 9 days pay
Field	2 Aug	Spr		AA Sec 15 (1) AWL from 0001 hrs 2 Aug 43 to 0930 hrs 2 Aug 43 TTA 9 hrs 29 mins	RSM Grant S/S Switzer	7 dys C B	3 Aug 43	Major RF Bowman	1 days pay
Field	19 Aug 43	Spr		AA Sec 15 (1) AWL from 0730 hrs 19 Aug 43 to 1950 hrs 23 Aug 43 TTA 4 days 12 hrs 20 min.	Cpl Drummond	14 days deth 14 days pay	24 Aug43	Major RF Bowman	5 days pay Total Forf 19 days pay
Field	9 Sep 43	Spr		AA Sec 15 (1) AWL from 2200 hrs 9 Sep 43 till 2300 hrs 13 Sep 43 TTA 4 days 1 hr	Cpl McDonald	7 days pay	21 Sep 43	Major RF Bowman	5 days pay Total Forf 12 days pay

(PTO)

Place	Date of offence	Rank	Cause of detention ceased	OFFENCE	Names of Witnesses	Punishment awarded	Date of [illegible] of order dispensing with trial	By whom [illegible]	Remarks
Field	18 Oct 43	Pte		AA Sec 15 (1) AWL from 2359 hrs 17 Oct 43 till 0755 hrs 18 Oct 43 TTA 7 hrs 56 mins.	Documentary	2 days pay	19 Oct	Lt-Col WC Fletcher	1 days pay Total Forf 3 days pay
Field	3 Mar 44	Pte		AA Sec 15 (1) AWL from 2200 hrs 3 Mar 44 till 0105 hrs 7 Mar 44 TTA 3 days 3 hrs 5 mins.	Cp Baxter Documentary	14 days CB	8 Mar 44	Major GD Ross-Smith	4 days pay Total Forf 4 days pay
Field	23 Mar 44	Pte		AA Sec 15 (1) AWL from 1330 hrs 23 Mar 44 till 1530 hrs 24 Mar 44 TTA 1 day 2 hrs	Documentary	7 days C.B. 7 days pay	27 Mar44	Major WH Copeland	2 days pay Total Forf 9 days pay
Field	20 May 44	Pte		AA Sec 15 (1) AWL from 2230 hrs 20 May 44 to 1600 hrs 21 May 44 TTA 17 hrs 30 min.	Documentary	3 days pay	22 May 44	Major AT Dixon	1 days pay Total forf 4 days pay
Field	4 Jun 44			AA Sec 15 (1) AWL from 1300 hrs 4 Jun 44 till 2220 hrs 7 Jun 44 TTA 3 days 9 hrs 20 mins	Documentary	14 days F.P 14 days pay	8 Jan 44	Major BS Alexander	4 days pay Total Forf 18 days pay

.7 No. G50285 Name TOBIN V | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 2 Nov 42 | RC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (TSOS)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. two | Signature OC Company, etc M Stewart Lt-Col | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Aug 44	Pte		AA Sec 15 (1) AWL from 2359 hrs 1 Aug 44 to 1730 hrs 5 Aug 44 TTA 3 days 17 hrs 31 min.	Sgt Walters Sgt Schultz	28 days detn 28 days pay	7 Aug 44	Lt-Col Spooner	4 days pay Total forf 32 days pay
Field	2 Sep 44	Pte		AA Sec 15 (1) AWL from 2359 hrs 2 Sep 44 till 1320 hrs 4 Sep 44 TTA 1 day 13 hrs 21 min AA Sec 11 failing to obey Unit Daily Orders in London at approx 1320 hrs 4 Sep 44.	Documentary	14 days pay	6 Sep 44	Lt-Col Dufresne	2 days pay Total Forf 16 days pay
Field	19 Sep 44	Pte		AA Sec 15 (1) AWL from 0745 hrs 19 Sep 44 till 1340 hrs 20 Sep 44 TTA 1 day 5 hrs 55 mins	Documentary	5 days pay	21 Sep44	Lt-Col Dufresne	2 days pay Total Forf 7 days pay

(P1701)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
. Field	4 Oct 44	Pte		AA Sec 15 (1) AWL from 1030 hrs 4 Oct 44 till 0130 hrs 5 Oct 44 TTA 14 hrs 30 mins	Documentary	21 days pay	7 Oct44	Lt-Col WH Copeland	1 days pay Total forf 22 days pay
Field	15 Oct 44	Pte		AA Sec 15 (1) AWL from 1200 hrs 15 Oct 44 till 1200 hrs 17 Oct 44 TTA 2 days	CSM Fowler Cpl Resch	17 days pay	18 Oct44	Lt-Col WH Copeland	2 days pay Total forf 19 days pay
Field	2 Nov 44	Pte		AA Sec 15 (1) AWL from 1200 hrs 2 Nov 44 till 2220 hrs 6 Nov 44 TTA 4 days 10 hrs 20 mins.	Documentary	7 days pay	9 Nov 44	Lt-Col WH Copeland	5 days pay Total for 12 days pay
Field	19 Jun 45	Pte		AA Sec 15 (1) AWL from 0730 hrs 19 Jun 45 to 1500 hrs 20 Jun 45 ToTAL T A 1 day 7 hrs 30 min.	Cpl Carvill J S	7 days pay	21 Jun 45	Lt-Col WJ Stewart	2 days pay Total 9 days pay
Field	3 Jul 45	Pte		AA Sec 15 (1) AWL from 0600 hrs 3 Jul 45 till 1530 hrs 5 Jul 45 TTA 2 days 9 hrs 30 min.	Documentary	14 days FF 14 days pay	6 Jul45	Lt-Col WJ Stewart	3 days pay Total 17 days pay
Field	16 Jul 45	Pte		AA Sec 15 (1) AWL from 1500 hrs 15 Jul 45 till 2045 hrs 20 Jul 45. TTA 5 days 4 hrs 45 min.	SSM Kidd AJ	28 days detn 4 days pay	23 Jul45	Major AD'A Marks	6 days pay Total forf 10 days pay

No. G50285 Name TOBIN V | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 2 Nov 45 | OC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/FAS/136 (7808)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. three | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	7 Nov 45	Pte		AA Sec 15 (1) AWF from 0700 hrs 8-20253 7 Nov 45 until 0845 hrs 13 Nov 45 Sgt Smith Total Absence 6 days 1 hr 45 min CW Close arrest		14 days Detn	19 Nov 45	Lt-Col AD'A Marks	14 days pay FR&I 149 (1) 7 days (b) forf FR&I 149 (1)(a)

CERTIFIED TRUE COPY:

K A Grant Capt

(K A Grant) Capt
Officer having custody
of original document

(PTO)

8 CANADIAN REPATRIATION DEPOT

THE CASE OF G-50285 Private Vincent TOBIN.

(I) List of witnesses for the prosecution.

NIL

(II) List of witnesses for the defence.

NIL

(III) List of exhibits for the prosecution.

(a) Extract of 8 Cdn Repat Depot Part II Order No. 2 sec 8 (h) dated 3 Jan 46.

(IV) List of exhibits for the defence.

NIL

(V) Receipt by the accused for copy of charge sheet and summary of Evidence.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken in the field, preliminary to my forthcoming Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Pte Tobin V

(G-50285 Pte Tobin V)

(VI) Application by the accused for defending officer.

I hereby request that the convening offr appoint an officer to represent me at my trial.

Pte. Tobin V.

(G-50285 Pte Tobin V)

Signed in the Field

this 3rd day of January 1946.

PLEA OF MITIGATION IN THE CASE OF:

C.50285 Pte TOBIN V ----- 8 CDN REPAT DEPOT

Pte Tobin joined the Cdn Army of his own free will and initiative in Nov 42 and proceeded overseas in Apr of the following year.

Pte Tobin tried several times to be sent to an operational theatre but was refused on account of repeated admittances to Hospital on account of strictures, 60 times in all, so that he could join his comrades over there in the fighting for which he had joined the Army to participate in, unfortunately however, he was turned down on each occasion due to his medical category which prevented his leaving this country.

Pte Tobin had been quite depressed and worried for some time due to the fact that he had received no mail form either his wife or anyone else since the end of the war. When the Christmas season approached and he noticed everyone else feeling so care-free and gay, the loneliness cooped up inside of him overcame him, and he decided to go up to Darby and visit some of his friends there whom he had soldiered with, as these were about the only real friends he had here in England, for theothers were either back home in Canada or over on the continent at this time.

After he had been up there a few days and felt in somewhat better spirits he returned to his unit voluntarily and gave himself up at the unit guard room. He has already spent 10 days under close arrest awaiting trial.

He would like to get home as soon as possible in order to see what has happened to his wife to cause her to suddenly stop writing to him and if it is at all possible straighten out any problems or difficulties and get his marriage back on a firm footing once more

I think Pte Tobin deserves every possible consideration, for he tried on several occasions to get over on the continent and really fight for what he thought was right and now he became somewhat restless and discontent because he was not allowed this privilege due to his low medical category.

If he can get back now to see his wife and get his marital problems off his mind I think that he will be ready for his place as a Canadian Citizen.

4C-118
PTE TODD A

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H11177 Pte Alexander TODD, No.2 Incr, 1 CNETD.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1)AA	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of One Hundred and Twenty days and to be put under stoppages of pay and allowances as from 20 Oct 44

21-11-44 Expiration of sentence

Date awarded: 20 Oct 44 (Sgd) [signature] President. (RP 45, 50.)

(Sgd) ~~Judge Advocate~~, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 24 Oct 44 Commanding (J.H. Roberts) Maj-General HQ CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. 27-10-44 Signature of Offr.

Q. Todd H-11177

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 42-118

CFA96 (In lieu of AF A5) 40 D & S 1606 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by order of Maj-Gen JH Roberts, DSO, MC. Comd Cdn Rft Units dated 18 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H11177	Pte	Alexander	TODD.	No.2 Incr, 1 Cdn NETD.

PROCEEDINGS REVIEWED

JAG Tiders Ainsley Lieut 8 Nov 44

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 20 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Maj~~ Lt Col Mc. 2 8691 as interpreter? Ans ~~No~~ Sir

~~The Interpreter is sworn.~~(1) Do you object to SGT BARNES RCS as shorthand writer? Ans No Sir

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.K. REDMAN V.D. MC	H.Q. CRU
Member	CAPT	C.W. RAMSAY	1 CA SCRU
Member	LT	E.D. HONAN	1 CE RU
~~Judge Advocate~~			
Prosecutor	LT	F.B. LAIRD	1 CNETD
Defending Offr	LT	A.A. PATTERSON	1 CNETD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed, and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 5 7

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No SIR .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change ~~his (their) plea(s) of Guilty to Not Guilty on~~ ..... charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on~~ ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RF 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been given in evidence will not be given the same weight by the Court as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A); see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses. statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans call char witness NOTE - ATT
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans BY DEF OFFR NOTE - ATT(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

17.

3

CHARGE SHEET

The Accused H 11177 Pte Alexander TODD, Royal Canadian Army Medical Corps, on the transit strength of No.1.Canadian Non-Effective Transit Depot, a soldier of the Canadian Army Overseas is charged with;

First Charge
Sec 15 (1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Carburton Camp, Notts, absented himself without leave from 1200 hrs on the 6th day of August 1944 until surrendering himself to the Military Police at Nottingham at 1730 hrs on the 22nd day of September 1944, thereby incurring costs of apprehension to the amount of £1. 11. 8d. (One Pound Eleven Shillings and Eightpence). Total time absent:- 47 days, 5 hrs and 30 mins.

(R.W. Marsh) Major
Officer Commanding
No.2. Increment
1 Cdn H.E.T.D. (Lorne Scots)

17 Oct 44
Superior Camp
Hants. England.

To be tried by Field General Court-Martial.

(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

In the Field,
18 Oct 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H11177	Pte		Alexander	TODD,	No.2 Incr, 1 Cdn NETD.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Oct 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion ~~that it is not practicable that~~ such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. REDMAN VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	from	1 CASCRU
A Lieut	from	1 CERU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 18 Oct 44

(Signed personally. RP 105 fn 2.)

(J.H.Roberts) Maj-Gen
Commanding Cdn Rft Units
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA95 (To item of AFA2) 40/F & S/1867 (4851)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that on the 20 Oct 1944 I have examined H.11177, Pte TODD, A. of No. 1 Cdn NETD (2Incr) and that he is fit to undergo trial by Court-Martial.

J.C. Davis Capt.
(Medical Officer
1 Cdn NETD (2 Incr)

F.G.C.M. IN THE CASE OF

H-11177 PTE. TODD, A. No.2 Instr. 1 Cdn NETD.

PLEA IN MITIGATION NOTE E-3

Sir:-

I have a statement made by the accused to the Canadian Provost Corps, which I will hand in to the Court for the record. In view of this statement and as can be seen from this statement, the accused must be in a very confused state of mind. His wife knows nothing of the situation in England. He has a good record of service in his 5 years in the army. He will not bear any malice towards the army in regards to his punishment. This man, at the time of his absence was DOWN and not going to Canada for discharge. He is Category "A" and would the Court consider that he is very willing to go to either France or Italy in any capacity. His record showed him to be a competent Medical Sergeant until this domestic worry became to much for him. As he pointed out to me, he would rather go to France or Italy than to a detention barracks, because he feels that he can still do a job. As proof to this man's realibility and willingness to work, I would like to bring in Sgt. Windeyer.

EVIDENCE AS TO CHARACTER E-1

FIRST WITNESS AS TO CHARACTER.
B.52360 Sgt. WINDEYER, R.C. on strength of No.1 Cdn NETD having been duly sworn states:-

I am B-52360 Sgt. WINDEYER, R.C., Provost Sgt at No.1 Cdn NETD, On September 25th, Pte. TODD was brought into the Guard Room at Superior Camp, and while awaiting trial by Court Martial, he asked to be sent out on work parties. I found him a very willing and conscientious worker, and on two occasions Pte. TODD was sent out on jobs without an escort and on both of these occasions he returned to the Guard Room.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH R.P. 85(2)

DEFENDING CONTINUES HIS PLEA OF MITIGATION: E-3

Then, sir, in view of his record of service, his complicated domestic troubles, his open mind in regard to any punishment he might receive and his willingness to again prove his worth as a soldier, would the court give his case their careful attention.

THE COURT IS CLOSED TO CONSIDER THE SENTENCE.

OFFICERS UNDER INSTRUCTION

FOCH - 21 Oct 44

Lt G.W. Keast	1 CASCRU	
Capt W.H. Cruickshank	1 CGRU	Med Coy
Capt S.S. Brand	1 CGRU	"
Capt J.B. Cravey	1 CGRU	"
Capt J.D. Armstrong	1 CGRU	"

117

Sir:

On making a plea of mitigation for the accused I would like to point out one or two facts dealing with this man's army career.

With the courts' permission I would like to read a statement made by the accused and then very briefly sum up his case.

Reading of statement

As can be seen by this statement this man must be in a confused state of mind. As read in the statement, this man's wife knows nothing of his situation here. Frankly, he should have informed his wife of his intentions long ago but being human he kept putting it off from time to time and the longer he put it off the easier it became to put off and the more confused he became.

I have talked to the accused and pointed out to him that the only fair thing to do was to write and tell his wife of his situation now thereby getting it off his chest, and preventing a re-occurrence of this, or any other crimes.

This man has a good record of service in his five years in the army. In his plea of guilty he admits his wrong-doing and will not bear any malice towards the army in regards to his punishment.

This man at the time of his absence was POWE and not going to Canada for discharge. He is Cat. A and would the court consider that he is very willing to go to either France or Italy in any capacity. His record showed him to be a competent medical sgt. until this domestic worry became too much for him. As he pointed out to me he would rather go to France or Italy thanto a detention barracks because he feels that he again can do a job.

As proof of this man's realiability and willingness to work I would like to bring in Sgt. Windeyer, the Provost Sgt. at 1 Cdn N.E.T.D. who will make a very brief statement in this regard.

Sgt. Windeyer, R.C.

Then, sir, in view of his record of service, his complicated domestic troubles, his open mind in regard to any punishment he might receive and his willingness to again prove his worth as a soldier, would the court give his case their careful attention.

Continued.

In this time I put up a Morrison shelter for her. I attribute all my troubles to family trouble at home and the difficulties in which I have became with the girl at Croydon and have been going from pillar to post trying to figure out the best thing to do to right the whole affair. I have not written my wife for over a year and have had only about 3 letters from her during that time. I have been worried about the children in Canada. My wife resides at 604 Gore street, Fort William, Ont. and works at the Canadian Car and Foundry Co. Fort William. The ages of my Canadian children are, Shirley 9 years, Margaret 7 years, Carole 5 years. The ages of the English children, Hamilton and Alexander twins 22 months, David about 9 months. I worried so much about the whole thing when I was in Italy that I did a great deal of drinking when we were in Rest with the result that I lost my Sergeants stripes. There is nothing further I wish to add. I have read over the above statement and to the best of my knowledge it is true.

(Signed) Alex. TODD.

Witnessed:- H. MACFARLANE.
29th Sept. 194 .

4. TODD appears to have been a good soldier until this episode and went up through the ranks gradually, L/Cpl. Corporal and Sergeant until 17th February 1[illegible] when he was reverted to Private. However it cannot be held that his morals were good during the last two or three years and no doubt the cause of his going A.W.L. Apparently he was living off this girl and her mother while he was away and as far as I could ascertain he was not involved in any criminal activities and had only own personal equipment in his possession. As no further useful information could be secured from him he is being returned to his unit.

H. MacFarlane.
Pte.
R.I.C. C.M.H.Q.

Concluded.

818/D-7-337

Headquarters,
C.M.H.Q.

1. Forwarded in triplicate for your information, that of the A.P.M. and Unit concerned, please.

London
26 Sep 44
JD/rm

Major,
For (A.D.Cameron) Colonel,
D.P.M. - C.M.H.Q.

A.G. 5a.,
C.M.H.Q.

1. Copy for your information, please.

London
26 Sep 44
JD/rm

Major,
For (A.D.Cameron) Colonel,
D.P.M. - C.M.H.Q.

S.I.S. C.M.H.S. Provost

London. 25th September 1944.

Regt'l No. H-11177. Pte. TODD Alexander.

Unit. 4th Cdn. Fld. Amb. R.C.A.M.C. Formation No. M.E.T.O.

ABSENTEE.

1.

SIS/D-7-337 The above mentioned soldier went absent without leave from his unit on 11th August 1944 and remained absent until 1730 hrs. 22nd September 1944 when he surrendered to the C.M.P at Nottingham, England. He was escorted to London where he was detained by No 6 Provost Company.

2.

Pursuant to instructions I interrogated TODD at 30 Henriette Street on this date and obtained the following statement from him.

Begins:-

" I have been cautioned by Pte. MACFARLANE M. S.I.S. Canadian Provost Corps, that I need not say anything unless I wish to do so but whatever I do say will be taken down in writing and may be used as evidence. To show that I understand this caution I sign my name here.

(Signed) A. TODD.

First I was born in Canada 23rd September 1911 at Fort William, Ontario. I enlisted on the 13th November 1939 at Fort William in the 4th Canadian Field Ambulance and landed in the U.K. on 30th December 1939. After a spell in England I saw service in France for a short period in June 1940 and returned to England a few days later and remained there until I went to Italy in 1943. I remained there until July 1944 when I returned to England as a prisoner of war escort. I went A.W.L. from No 1 R.C.T.U. near Worksop, on 3rd of August 1944. I had a 24 hour pass from the 2nd to the 3rd of August 1944 to Croydon and did not return when it expired. From then on I stayed with my girl friend at 1 West Way, Shirley, Croydon. Her name is Miss Nancy SANDS and I gave her to understand that I was on leave during the time I was there. On the 22nd of September 1944 I left Croydon to return to my unit at Worksop. When I got there I discovered the unit had moved and British troops were there. Their number was 89. I went into their orderly room and enquired the whereabouts of my unit and they could give me no information regarding its location. Then I surrendered to the C.M.P. at Nottingham on the 22nd September 1944. I was escorted to London by the C.Pro. C. on the 23rd September 1944. I am a married man, married in 1933 and have 3 of a family in Canada. The girl in Croydon has 3 children which are mine. My wife and I have not got along for some time and I intend getting a divorce if possible. I get along very well with the girl in Croydon and intend to marry her if I get my divorce. This girl lives with her mother. The reason I went absent was at the time the buzz bombs were very bad in the East Croydon area and I did not like to leave her alone with the children. I only intended to stay until the next day but kept putting it off from day to day.

Continued Overleaf.

SUMMARY OF EVIDENCE

in the case of H.11177 Pte Alexander TODD, Royal Canadian Army Medical Corps, on the transit strength of No.1 Canadian Non/Effective Transit Depot a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness for the Prosecution

B.52360 Sgt. Windeyer, R.C. Lorne Scots, on the strength of No. 2 Increment to No.1 Canadian Non-Effective Transit Depot a soldier of the Canadian Army Overseas, having been duly sworn states:
I am B.52360 Sgt. Windeyer, R.C. Lorne Scots, on the Strength of No. 1 Cdn N.E.T.D. (2 Incr). I was Company Orderly Sergeant of 1 Cdn NETD (2 Incr) at Carburton Camp, Notts, on 6 Aug 44 **The Accused** was given a leave pass which expired at 1200 hrs 6 Aug 44. I called the roll at 1330 hrs 6 Aug 44 and H.11177 Pte Todd, A. was not present and did not answer his name. I did not see the Accused until 25 Sep 44 at the Guard Room at Superior Camp, Hants.

B.52360 Sgt. Windeyer, R.C.

The accused declines to cross-examine the witness.

Second Witness for the Prosecution

Lieut. F.R. Holmes, Royal Canadian Artillery, attached to No. 2 Increment, No.1 Cdn NETD.
" I submit a statement purporting to be signed by the accused (statement marked as Appendix "A").
I submit a certificate of Apprehension purporting to be signed by the A.P.M. 152 HQ Provost Company, Northern Command relating to the accused (marked as Exhibit "A").
I submit certificate of cost of apprehension amounting to £1/11/8 (One Pound Eleven Shillings and eight Pence) relating to the accused (marked as Exhibit "B").
I submit certified true copy of Part II Order # 170"A" d/14 Aug 44 issued by 1 Cdn NETD (Lorne Scots) relating to the accused (marked as Exhibit "C").
I submit certified true copy of Part II Order #178"A" d/18 Aug 44 issued by 1 Cdn NETD (Lorne Scots) relating to the accused (marked as Exhibit "D").
I Submit certified true copy of Part II Order # 181"A" d/29 Aug 44 issued by 1 Cdn N.E.T.D. (Lorne Scots relating to the accused and marked as Exhibit "E".
I submit certified true copy of Part II Order #185 "A" d/4 Sep 44 issued by 1 Cdn NETD (Lorne Scots) relating to the accused (marked as Exhibit "F").

Lieut. F.R. Holmes (RCA)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence".

The accused states: - "I gave a statement in writing (Not on Oath) to the Canadian Provost S.I.S. at Henrietta Street, London and wish this statement to go in with the Summary of Evidence.

A. Todd.
H.11177 Pte. Todd, A.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Ruled of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

(A.M. Purvis) Officer detailed to take the Summary of Evidence.

EXA

Superior Camp
Hants, England
4 October 1944.

EXHIBIT "A"

Certificate under Army Act. Section 153(1)(i).

I, RAYMOND BUTTERWORTH Lt. certify that H/111772 PTE. TODD. A. of the 4th CANADIAN FIELD AMBULANCE. Regiment surrendered himself to 7689213 Sgt. J. KNIGHT. 152 H.Q. Provost Company, Corps of Military Police, at NOTTINGHAM on the 22nd day of SEPT., 1944. as a ~~deserter~~/absentee without leave.

Date. 22 Sept. 1944.

R Butterworth Lt
ASSISTANT PROVOST MARSHAL
152 H.Q. PROVOST COMPANY
NORTHERN COMMAND

EXHIBIT "B"

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No. C-11177 Rank Pte Name Todd A. Unit 1 M.E.T.D.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Nottingham

Date	Particulars	Amount		
24 Sept. 44	Escorts return fare from LONDON To Nottingham		19	
24 Sept. 44	Prisoners single fare to LONDON From Nottingham		9	6
	Prisoners fare from To			
24 Sept 44	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	2
	Total £	1	11	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

LIEUT.
R. E. BIRCH, Capt
ADMIN OFFICER D.P.M's BR.
G.M.H.Q.

Officer Issuing Railway Warrant and Expense Money
No. 6 Area Provost Company, Canadian Provost Corps, London

CMHQ 1000/55
40/PA8/483/3629

Last Order
No. 169 "A"
8/11 Aug 44

PART II ORDERS
No. 1 Canadian Non-Effective Transit Depot
(Lorne Scots)
issued by
Colonel L. Keene, ED

This Order
No. 170 "A"
d/ 14 Aug 44

SECTION "A"

1. STRENGTH INCREASE
(a) TOS from 1 CGRU wef 12 Aug 44(Auth:Med List)
Lieut David Malton Alexander SMITH

(b) TOS from 1 CERU wef 13 Aug 44(Auth:MS.2932 d/11 Aug 44)
Capt. George Mac Millan ROSS

(c) TOS from 1 CARU wef 14 Aug 44(Auth:MS.2920 d/11 Aug 44)
Lieut Geoffrey Hayward MILSON

(d) TOS from Y-3 List whilst in Hosp ...nwef 14 Aug 44(Auth: Med List)

Capt	William Hall	ARMSTRONG	6 CIRU
Capt	William Edward	DILLANE	1 CGRU
LIEUT	William Frederick	GRAINGER	2 CACMU
Lieut(N/S)	Barbara	JENNINGS	1 CGRU

2. HOSPITAL
(a) Adm to 22 CGH wef 10 Aug 44
Major J.K. McCULLAGH

3. LEAVE OF ABSENCE
(a) Granted 7 days PL with MA from 11 to 18 Aug 44
Capt R.E. CROSS
Lieut R.V. WILBY

4. MARRIAGE
(a) Married with permission to Miss Amy Joyce BIRKETT, Cumberland wef 10 Aug 44 (Cert # 388025)
A/Capt Peter Armand CIANCI

5. NEXT OF KIN
(a) Change of N of K from Mr. Joseph CIANCI(Father) 311 Pall Mall St., London Ont. Canada to, Mrs Amy Joyce CIANCI (Wife) 19 The Headlands, Keswick Cumberland England.
A/Capt Peter Armand CIANCI

6. HONOURS & AWARDS
(a) Awarded 1939-43 Star in accordance with CAORO 4630
Lieut G. TRIGANNE
Capt Martin Campbell UPPER

SECTION "B"

7. STRENGTH INCREASE
(a) TOS from Y-3 1 COMEAU whilst in 22 CGH wef 3 Aug 44(Auth:Med List)

F.89199	CFN	BRYDEN	AJ
B.67613	PTE	ELLIS	CA

(b) TOS from 1 CRSC wef 14 Aug 44(Auth:Med List)

E.21862	GNR	BARQUAIL	TJ
M.66276	PTE	KRAMER	JB

7. STRENGTH INCREASE contd

(a) TOS from Y-3 shown whilst in Hosp wef dates shown (Auth:Med List)

W.1161	PTE	HOFFMAN	HJ	1 CGRU	wef 11 Aug 44
W.13085	CPL	MORTON	AL	1 CGRU	wef 15 Aug 44

(d) TOS from 1 SHL RCOC whilst in Alderbrook Pk Conv Hosp wef 12 Aug 44(Auth:Med List)

W.7082	PTE	CURRIE	AE
W.13179	PTE	FINKBINER	EJ
W.6007	PTE	MacNEIL	MC

(e) TOS from Y-3 shown whilst in Hosp wef 14 Aug 44(Auth:Med List)

G.7544	PTE	BARNETT	MF	4 CIRU		
B.46144	PTE	BULL	TW	3 CIRU		
B.46378	PTE	COOPER	BC	3 CIRU		
B.136893	RFMN	COOPER	HJ	3 CIRU		
G.32453	TPR	FIELDS	E	1 CHD		
B.41916	PTE	GIGNAC	JAH	6 CIRU		
H.204510	SPR	HADASYNIW	N	1 CERU		
M.31432	RFMN	INGRAM	D	1 CIRU		
F.56470	PTE	ISENOK	RSV	4 CIRU		
K-37821	TPR	LISOWAY	F	1 CHD		
G.60745	PTE	LYNCH	L	4 CIRU		
C.33180	PTE	MORRIS	P	1 CGRU		
F.49915	SGT	McCALLUM	RL	4 CIRU		
H.51874	CPL	MacIVAR	AD	1 CASCRU		
S.4590	PTE	MADWAY	MA	4 CIRU		
M.19219	PTE	MELKE	J	1 CGRU		
A.23210	PTE	SANDUL	MT	2 CIRU		
G.23256	PTE	SAVOY	PJ	4 CIRU		
L.1639	PTE	SMART	G	2 CIRU		
A.86704	RQMS	TAYLOR	CJ	1 CSRU		
F.75789	PTE	WHITE	RF	4 CIRU		
M.5124	SPR	FIELD	A	1 CERU	Pioneer	"C"
M.29181	PTE	RAKOWSKI	LE	1 CASCRU	Cook	"C"
D.127225	PTE	ROUSSEAU	JAG	1 CHD	M/Mech	"B"

(f) TOS from Y-2 shown whilst in Cdn Detn Bcks wef 12 May 44(Auth:Med List)

B.61758	TPR	BLEYAERT	LH	3 CASCRU

(g) TOS from Y-2 shown whilst in Cdn Detn Bcks wef 11 Aug 44(Auth:Med List)

M.11961	PTE	GLOVER	FL	1 CIRU

(h) TOS from 2 CIRU wef 11 Aug 44 (Auth:Med List)

P.17115	CQMS	MEADOWS	WC
B.119410	PTE	TURCOTTE	E

(i) TOS from Rocky Mountain Rangers wef 12 Aug 44(Auth:Med List)

K.4113	PTE	DRINKWATER	SJ

(j) TOS from Y-2 shown on release from detn wef 12 Aug 44(Auth:Med List)

H.2434	GNR	COURNEYEA	CEC	1 CARU
B.37638	PTE	DORE	S	3 CIRU
U.1604	GNR	HOPKINS	WG	1 CARU
B.46184	GNR	HOWICK	JC	1 CARU
H.6403	SPR	McMULLAN	JW	1 CERU

(k) TOS from CMHQ wef 13 Aug 44(Auth:Med List)

B.86057	PTE	BAINBRIDGE	WG

8. ATTACHED

(a) Attached to 1 COMERU for disciplinary action wef 14 Aug 44(Auth:A.6851 d/13 Aug 44)

A.29041	PTE	OLIVER	CF

Exhibit C

9. HOSPITAL

(a)	B.148332	PTE	ALEXANDER	RG	Adm to Military Wing Calderstone Emerg. Hosp., WHALLEY Lancs.wef 9 Aug 44
	V.47459	STO I	DENNY	G	Adm to 22 CGH wef 13 Aug 44
	F.88033	PTE	McLEAN	DN	Adm to Botley Pk. W.H. wef 29 Jul 44
(b)	K.52977	PTE	THOMPSON	A	Disch from 2 CMC wef 10 Aug 44

10. LEAVE OF ABSENCE

(a) Granted 7 days FL with MA from 10 - 17 Aug 44

D.81426	SPR	FORSHAW	WH

11. ABSENT WITHOUT LEAVE

(a)	B.19627	TPR	BOHLAN, JW	AWL from 0830 hrs 7 Aug 44
	C.4694	PTE	BROWNE, EG	AWL from 0830 hrs 6 Aug 44
	D.122829	TPR	CASAGRANDE, W	AWL from 0800 hrs 1 Aug 44
	B.28463	SPR	CURRAN, J	AWL from 0900 hrs 29 Jul 44
	F.77901	GNR	DECOSTE, RL	AWL from 0830 hrs 8 Aug 44.
	D.109639	PTE	DWYER, FL	AWL from 1400 hrs 4 Aug 44
	D.1979	PTE	EDDLESTONE, JJ	AWL from 0830 hrs 7 Aug 44
	H.17405	PTE	GRAHAM, JC	AWL from 0830 hrs 7 Aug 44
	M.16882	PTE	FENNER, RD	AWL from 0830 hrs 7 Aug 44
	M.1125	TPR	HOWARD, W	AWL from 1200 hrs 4 Aug 44
	E.47412	SPR	MOORE, JE	AWL from 0830 hrs 7 Aug 44
	B.88160	CPL	RYAN, VJ	AWL from 1200 hrs 7 Aug 44
	H.11177	PTE	TODD, A	AWL from 1200 hrs 6 Aug 44
	B.29387	SPR	VANCLIEF, KA	AWL from 0830 hrs 7 Aug 44
	L.6080	PTE	ANDERSON, FJ	AWL 8 days at 1330 hrs 30 Jul 44
	D.122829	TPR	CASGRANDE, W	AWL 8 days at 0800 hrs 9 Aug 44
	H.63814	TPR	ZUROWSKI, RS	AWL 8 days at 0800 hrs 9 Aug 44
	P.74043	PTE	WALTON, G (PE)	AWL 8 days at 1300 hrsll Aug 44
	P.84287	TPR	RUSSELL, T	AWL 8 days at 1200 hrs 11 Aug 44
	L.6080	PTE	ANDERSON, FJ	AWL 21 days at 1330 hrs 12 Aug 44
	B.38186	PTE	DESJARDINS, FA	AWL 21 days at 1700 hrs 12 Aug 44
	C.5729	PTE	MONTAGUE, R	AWL 21 days at 1200 hrs 10 Aug 44
	M.10983	PTE	TAYLOR, C	AWL 21 days at 1200 hrs 11 Aug 44
(b)	G.19737	GNR	CROSBY, JE	Ret from AWL at 1800 hrs 9 Aug 44
	S.136913	PTE	FREEDMAN, A	Ret from AWL at 0730 hrs 4 Aug 44
	B.148332	PTE	ALEXANDER, RG	Ret from AWL (time unknown) 9 Aug 44
	K.78015	GNR	GOSS, RA	Ret from AWL at 0730 hrs 11 Aug 44
	A.37366	PTE	EVERETT, WG	Ret from AWL at 1815 hrs 27 Jul 44
	D.77279	TPR	JENNINGS, PJ	Ret from AWL at 2200 hrs 6 Aug 44
	B.63948	PTE	MORRIS, F	Ret from AWL at 1240 hrs 3 Aug 44

11B. ABSENT WITHOUT LEAVE (Cancellations)

(a) DO 164A, 7(b) d/4 Aug 44 insofar as it refers to D.91623 Pte ANDERSON, WS is hereby cancelled.

(b) DO 140A, 8(a) d/3 Jul 44, DO 150A, 7(b) d/4 Aug 44, & DO 155A, 10(b) d/24 Jul 44 insofar as it refers to K.78867 PTE GLOVER, C is hereby cancelled.

(c) DO 161A, 5(a) d/1 Aug 44 & DO 157A, 6(a) d/26 Jul 44 insofar as it refers to M.10983 PTE TAYLOR, C is hereby cancelled.

12. PROMOTIONS & REVERSIONS

(a) Reverts to the rank of Cpl wef 10 Jun 44. (Auth: AT.1690 d/22 Jul 44)
C.4216 L/SGT HARWOOD, EB

CERTIFIED TRUE COPY

[signature] Records Officer
1 Cdo N.E.Y.D.
(Lorne Scots) C.A.(W.)

Officer having custody of Original

12. REDUCTIONS & REVERSIONS (Cont'd)
(b) Reversion to the rank of Pte at his own request having been refused, is reinstated in the confirmed rank of CSM (WO.II) wef 8 May 44(Auth:10/Power, JR/1 AMG (Dis) d/12 Aug 44).
B.147085 PTE POWER, JR

13. PAY & ALLOWANCES
(a) Granted increased Regt'l rates of pay of $1.75 per diem wef 4 Oct 43.
L.32457 PTE SIMPSON, DW Dvr Mech "C"

14. TRADESMEN'S RATES OF PAY
(a) Grades T.P. Welder "B" wef 3 Apr 44(FRI 147(4))
B.20566 PTE BAKER, FJ

15. PUNISHMENTS
(a) On 10 Aug 44 awarded a severe reprimand for an offence under Sec 15 (I) AA (AWL from 0830 hrs 14 Jul 44 to 1650 hrs 8 Aug 44 - 25 days 8 hrs 20 min) Forf 26 days pay FRI 149(I)(A)
TOTAL FORF 26 days pay.
B.88310 CPL BIGLEY, G

(b) On 12 Aug 44 severely reprimanded for an offence under Sec 15(I) AA (AWL from 1900 hrs 6 Aug 44 to 1120 hrs 11 Aug 44 - 4 days 38 hrs 20 min) Forf 5 days pay FRI 149(I)(A).
TOTAL FORF 5 days pay.
B.78319 CPL CASTLE, FJ

(c) On 9 Aug 44 awarded 7 days detention for an offence under Sec 15 (I) AA(AWL from 1700 hrs 27 Sep 43 to 1700 hrs 26 Oct 43 - 29 days) Forf 29 days pay FRI 149(I)(A). Forf 7 days pay FRI 149(I)(B).
TOTAL FORF 36 days pay.
B.80701 GNR CHURCH, EL

(d) On 10 Aug 44 awarded a forf of 5 days pay FRI 149(2) for an offence under Sec 15 (I) AA(AWL from 1345 hrs 8 Aug 44 to 1635 hrs 9 Aug 44 - 1 day 2 hrs 50 min) Forf 2 days pay FRI 149(I)(A).
TOTAL FORF 7 days pay.
A.17173 GNR CONNERS, JA

(e) On 11 Aug 44 awarded a forf of 14 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 1200 hrs 1 Aug 44 to 1800 hrs 9 Aug 44 -8 days 6 hrs) Forf 9 days pay FRI 149(I)(A).
TOTAL FORF 23 days pay.
G.19737 GNR CROSBY, AE

(f) On 10 Aug 44 awarded 28 days det for an offence under Sec 15 (I) AA (AWL from 0800 hrs 26 Jun 44 to 1445 hrs 2 Aug 44 - 37 days 6 hrs 45 min) Forf 36 days pay FRI 149(I)(A). Forf 28 days pay FRI 149(I)(B)
TOTAL FORF 66 days pay.
B.51825 PTE FENDLEY, WR

(g) On 12 Aug 44 awarded 28 days det for an offence under Sec 15(I) AA (AWL from 1700 hrs 28 Jul 44 to 0730 hrs 11 Aug 44 - 13 days 14 hrs 30 min) Forf 20 days pay FRI 149(I)(A). Forf 28 days pay FRI 149(I)(B).
TOTAL FORF 48 days pay.
B.175213 PTE FREEDMAN, A

(h) On 10 Aug 44 awarded a severe reprimand for an offence under Sec 15(I) AA (AWL from 1200 hrs 4 Aug 44 to 1200hrs 9 Aug 44 - 5 days) Forf 5 days pay FRI 149 (I)(A).
TOTAL FORF 5 days pay.
M.5071 CPL FRIESEN, FJ

16. PUNISHMENTS (Cont'd)

(i) On 14 Aug 44 awarded 28 det for an offence under Sec 15(I) AA (AWL from 1700 hrs 7 Aug 44 to 0730 hrs 11 Aug 44 - 19 days 14 hrs 30 min) Forf 20 days pay FRI 149(I)(A). Forf 28 days pay FRI 149(I)(B).
TOTAL FORF 48 days pay.
B.79016 PTE GOSS, RA

(j) On 2 Aug 44 awarded a forf of 10 days pay FRI 149(2) for an offence under Sec 15(I) AA(AWL from 0800 hrs 7 Aug 44 to 2130 hrs 8 Aug 44 - 1 day 13 hrs) Forf 2 days pay FRI 149(I)(A)
TOTAL FORF 12 days pay.
B.79268 SPR GOREY, V

(k) On 9 Aug 44 awarded 16 days det for an offence under Sec 15(I) AA(AWL from 0830 hrs 1 Aug 44 to 1330 hrs 8 Aug 44 -7 days 10 hrs) Forf 8 days pay FRI 149(I)(A) Forf 14 days pay FRI 149(I)(B).
TOTAL FORF 24 days pay.
M.5208 PTE GRAY, WJ

(l) On 12 Aug 44 awarded a forf of 7 days pay FRI 149(2) for an offence under Sec 40 AA.
TOTAL FORF 7 days pay.
L.110068 PTE HALL, SJA

(m) On 11 Aug 44 awarded 10 days det for an offence under Sec 15 (I) AA (AWL from 0830 hrs 7 Aug 44 to 2000 hrs 8 Aug 44 - 1 day 11 hrs 30 min) Forf 2 days pay FRI 149 (I)(A). Forf 10 days pay FRI 149(I)(B).
TOTAL FORF 12 days pay & to pay cost of apprehension of £1:2:6.
D.7604 SPR JEAN-LEWIS, V

(n) On 10 Aug 44 awarded a forf of 10 days pay FRI 149(2) for an offence under Sec 15 (I) AA (AWL from 0945 hrs 2 Aug 44 to 2200 hrs 6 Aug 44 - 4 days 2 hrs 15 min) Forf 5 days pay FRI 149(I)(A).
TOTAL FORF 15 days pay & to pay cost of apprehension of £1:2:6.
D.77279 TPR JENNINGS, PJ

(o) On 12 Aug 44 awarded a forf of 7 days pay FRI 149(2) for an offence under Sec 11 AA.
TOTAL FORF 7 days pay.
A.104473 PTE JOHNSON, GL

(p) On 12 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 0830 hrs 10 Aug 44 to 1330 hrs 11 Aug 44 - 1 day 5 hrs) Forf 2 days pay FRI 149(I)(A).
TOTAL FORF 8 days pay.
C.83608 PTE LAFRENIERE, AJ

(q) On 10 Aug 44 awarded a forf of 3 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 1200 hrs 7 Aug 44 to 1245 hrs 8 Aug 44 - 1 day 45 min) Forf 2 days pay FRI 149(I)(A).
TOTAL FORF 5 days pay.
A.2261 SGT [illegible] PT

(r) On 9 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 1200 hrs 8 Aug 44 to 0755 hrs 9 Aug 44 - 19 hrs 55min) Forf 1 days pay FRI 149(I)(A).
TOTAL FORF 7 days pay.
M.11518 PTE LEVOY, T

(s) On 9 Aug 44 Awarded a forf of 10 days pay FRI(2) for an offence under Sec 15(1)AA (AWL from 0830 hrs 7 Aug 44 to 2130 hrs 8 Aug 44 - 1 day 13 hrs)Forf 2 days pay FRI 149(I)(A)
TOTAL FORF 12 days pay
M-104890 PTE MACDONALD, AA

15. PUNISHMENTS (Cont'd)

(t) On 11 Aug 44 awarded a forf of 2 days pay FRI(2)for an offence under Sec 11 AA
D.1468963 PTE MANNINGHAM, A

(u) On 10 Aug 44 awarded a forf of 28 days pay FRI(2)for an offance under Sec 15(I) AA (AWL from 1800 hrs 31 Jul 44 to 0755 hrs 10 Aug 44 - 9 days 19 hrs 55 min)Forf 10 days pay under FRI 149(I)(A)
TOTAL FORF 38 days pay
K.82867 PTE MILLER, GB

(v) On 11 Aug 44 awarded 28 days detn for and offance under Sec 15(I)AA (AWL from 1945 hrs 3 Aug 44 to 1030 hrs 9 Aug 44 - 6 days 15 hrs 5 min)Forf 7 days pay FRI.149(I)(A) Forf 21 days pay FRI 149 (I)(B)
TOTAL FORF 28 days pay - Date of apprehension -20-11-11.
D.68139 PTE MCNEIL, GA

(w) On 12 Aug 44 awarded 28 days detn for an offence under Sec 40 AA. Forf 28 days pay FRI(I)(B)
TOTAL FORF 28 days pay
F.39940 PTE NICKERSON, DF

(x) On 11 Aug 44 awarded a forf of 3 days pay FRI(2) for an offence under Sec 15 (I) AA(AWL from 0800.hrs 7 Aug 44 to 1545 hrs 10 Aug 44 - 3 days 7 hrs 45 min) Forf 4 days pay FRI(I)(A)
TOTAL FORF 7 days pay
M.36091 GDSM OWENS, WH

(y) On 11 Aug 44 awarded 28 days detn for an offence under Sec 15(I)AA (AWL from 0830 hrs 25 Jun 44 to 0820 hrs 9 Jul 44 - 13 days 23 hrs 50 min)Forf 14 days pay FRI 149(I)(A) Forf 28 days pay FRI 149(I)(B)
TOTAL FORF 42 days pay
H.29034 GNR PERRY, JW

(z) On 10 Aug 44 awarded a forf of 28 days pay FRI 149(2) for an offence under Sec 15(I)AA(AWL from 1800 hrs 31 Jul 44 to 0755 hrs 10 Aug 44 - 9 days 19 hrs 55 min) Forf 10 days pay FRI 149(I)(A)
TOTAL FORF 38 days pay
K.82867 PTE MILLER, GB

(aa) On 9 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 1200 hrs 8 Aug 44 to 2350 hrs 8 Aug 44 - 11 hrs 50 min)
Forf 1 days pay FRI 149(I)(A)
TOTAL FORF 7 days pay
D.138857 PTE PARISER, C

(bb) On 9 Aug 44 awarded a forf of 7 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 1900 hrs 7 Aug 44 to 0900 hrs 9 Aug 44 - 1 day 51 hrs)
Forf 4 days pay FRI 149(I)(A)
TOTAL FORF 8 days pay
F.32790 PTE HOOD, GD

(cc) On 11 Aug 44 admonished for an offence under Sec 15(I)AA(AWL from 0830 hrs 8 Aug 44 to 0830 hrs 9 Aug 44 - 24 hrs) Forf 1 days pay FRI 149(I)(A)
TOTAL FORF 1 days pay
D.77125 TPR MORRIS, A

(dd) On 11 Aug 44 awarded a forf of 2 days pay FRI 149(2) for an offence under Sec 11 AA
TOTAL forf 2 days pay
A.96129 PTE SMITH, P

15. PUNISHMENTS(Cont'd)

(e) On 12 Aug 44 awarded 14 days C.B. for an offence under Sec 15(I)AA(AWL from 0800 hrs 10 Aug 44 to 0830 hrs 10 Aug 44 - 30 min)
E.9145 PTE SIMARD, PE

(f) On 9 Aug 44 awarded 7 days pay FRI 149(2) for an offence under Sec 15 (I)AA (AWL from 1615 hrs 8 Aug 44 to 1700 hrs 8 Aug 44 - 45 min)
TOTAL FORF 7 days pay
B.46505 PTE SIMPSON, CW

(g) On 10 Aug 44 awarded a forf of 3 days pay FRI 149(2) for an offence under Sec 15(1)AA (AWL from 1600 hrs 8 Aug 44 to 1130 hrs 9 Aug 44 - 23 hrs 30 min)
Forf 1 days pay FRI 149(I)(A)
TOTAL FORF 4 days pay
L.12457 PTE SIMPSON, DW

(h) On 9 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 0830 hrs 7 Aug 44 to 0830 hrs 9 Aug 44 - 2 days) Forf 2 days pay FRI 149(I)(A)
TOTAL FORF 8 days pay
G.18153 PTE STILWELL, HS

(i) On 14 Jun 44 awarded by FGCM 1 yrs detn commuted to read "TO BE REDUCED TO THE RANKS AND TO FORFEIT 60DAYS PAY"(Auth: 10/McKeever PW/1 (AG5b) d/10 Aug 44
B.6048 PTE McKEEVER, PC

16. REMISSION OF SENTENCE

(a) Granted remittance of sentence as shown on release from Det wef dates as shown under Rules for Mil Prisons and Der Bks.

H.2434	GNR	COURNEYEA,CEC	49 days	released wef 12 Aug 44
B.37638	PTE	DORN, S	60 days	released wef 12 Aug 44
U.1604	GNR	HOPKINS, WG	30 days	released wef 12 Aug 44
B.46184	GNR	HOWICK, JC	1 day	released wef 12 Aug 44
D.7604	SPR	JEAN-LEWIS, V.	4 days	released wef 17 Aug 44
H.6403	SPR	McMULLEN, JW	NIL	released wef 12 Aug 44

(b) Granted remittance of sentence as shown on release from Detn wef 13 May 44 (Auth:Direction of Superior Mil Auth d/10 Aug 44)
H.113 TPR MORISON, SC 535 days

(c) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth: Direction of Superior Mil Auth d/ 22 Jun 44)
D.81380 PTE ARTHUR, CB 76 days
G.813 PTE MAC DONALD, HW 56 days

(d) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth:Direction of Superior Mil Auth d/11 May 44
D.105608 PTE CAMPBELL, RG 59 days

(e) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth:Direction of Superior Mil Auth d/22 May 44)
C.4694 PTE BROWN, EG 93 days

(f) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth: Direction of Superior Mil Auth d/ 9 Jun 44)
B.29377 SPR JARVIS, EA 127 days

(g) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth: Direction of Superior Mil Auth d/26 Jul 44)
B.8409 GNR GUND, ERG 245 days

16. REMISSION OF SENTENCE (Cont'd)
(b) Granted remittance of sentence as shown on release from Detn wef 17 Aug 44 (Auth:Diretion of Superior Mil Auth d/ 27 Jul 44)
A.50292 PTE LUMLEY, CJH 162 days

17. MARRIAGE
(a) Granted permission to marry on or after 4 Aug 44 (Auth: 406/MARRY "L"/1 (Pers 2) d/3 Aug 44).
D.76861 SGT LIVINGSTONE, RM

18. STRENGTH DECREASE
(a) SOS to I CORPS wef 14 Aug 44 (Auth: MFB 287).
M.11518 PTE LAVOY, T

(b) SOS to I CARU wef 12 Aug 44(Auth: MFB 287).
L.50 GNR SAVAGE, E

(c) SOS Cdn. Army O/S and No. 1 Cdn. N.E.T.D. wef 8 Aug 44 for the purpose of enlistment in another force
A.55284 PTE OWENS, AM 10/OWENS, AM/1 d/6 Jul 44

(d) SOS Cdn Army O/S and No. 1 Cdn. N.E.T.D. wef 8 Aug 44 for the purpose of enlistmwnt in another force
G.53657 TPR STOCKFORD, CH 10/STOCKFORD, CH/1 d/ 4 Jul 44

(e) SOS Cdn Army O/S and No. 1 Cdn. N.E.T.D. wef 14 Aug 44 unable to meet the required Mil Physical standards 10/IRVEN, HR/1 d/3 Aug 44
H.36212 SPR IRVEN, HT

19. PAY & ALLOWANCES
(a) The u/m having completed 6 months continuous service and being otherwise eligible is entitled to receive $65.00 clothing allce and having served on Active Service for a period of not less than 183 days and being otherwise eligible is entitled to receive Rehabilitation Grant on discharge from Cdn Army wef 14 Aug 44
H.36212 SPR IRVEN, HT

ADDENDUM

20A. STRENGTH INCREASE (Amds)
(a) DO 196A, 2(a) d/ 7 Dec 43 insofar as it refers to E.4295 PTE GOSSELIN, PE is amd to read "TOS from 6 CIRU".

(b) DO 9A, 5(g) d/11 Jan 44 insofar as it refers to B.41165 Pte RENZETTI, A is amd by unit of TOS to read "TOS from Y-3, 4 CIRU".

(c) DO 12A, 4(b) d/14 Jan 44 insofar as it refers to B.38005 Pte KELLIHER, DB is amd by unit to read "4 CIRU".

(d) DO 14A, 4(b) d/18 Jan 44 insofar as it refers to B.78616 Cpl RYAN, J is amd by unit to read "4 CIRU" & wef "19 Jan 44".

(e) DO 17A, 3(m) d/21 Jan 44 insofar as it refers to A.99376 Pte MARION, RA is amd by unit to read "1 Neuro Hosp".

(f) DO 17A, 3(l) d/21 Jan 44 insofaras it refers to B.18099 Pte BAKER, W is amd by unit & eff date to read as follows:"TOS from Y-3, 4 CIRU wef 18 Jan 44".

(g) DO 21A, paras shown d/25 Jan 44 insofar as it refers to the u/n is amd to read as follows:
D.41023 CNR PLEAU, A Para 4(c) - Unit TOS to read "2 CARU" eff date "26 Jan 44".
K.72688 PTE GRAY, JC 4(d) - Unit to read "R.S. CFC"

20A. STRENGTH INCREASE (Amds Cont'd)

(h) DO 22A, paras shown d/26 Jan 44 insofar as it refers to the u/n is amd to read as follows:

F.39628	PTE	JARRETT, RG	Para 2(b)	- Unit TOS to read "7 CIRU".
C.34369	CPL	BROWN, ES	2(d)	- Unit of TOS to read "HQ R.S. CFC"
				- Eff date to read "27 Jan 44".

(i) DO 24A, 5(d) d/28 Jan 44 insofar as it refers to A.63369 Cpl PATTERSON, C is amd by unit to read "I CASCHU".

(j) DO 25A, paras shown d/29 Jan 44 insofar as it refers to the u/n is amd to read as follows:

H.19181	PTE	PIUZE, GC	Para 1(c)	- "TOS from I CORU wef 28 Jan 44".
L.7503	PTE	ROBERTS, FA		- Unit of TOS "16 CGH".
D.108111	PTE	CLAVEN, J		- "TOS from I CORU wef 28 Jan 44".
[redacted]			1(d)	- Unit to read "B.C. W/S".

(k) DO 28A, paras shown d/2 Feb 44 insofar as it refers to the u/n is amd to read as follows:

D.21599	L/CPL	PEARSON, DW	Para 3(h)	-"TOS from I CSHU wef 1 Feb 44".
B.52044	PTE	CHILDERHOSE, JJ		- "TOS from 5 CIRU wef 1 Feb 44".
K.63387	PTE	CUTHBERTSON, SS		- "TOS from 3 Cdn Inf Div Camp Coy RCASC wef 28 Jan 44".
M.101263	SGMN	BESSETTE, HF		- "TOS from I CSHU wef 1 Feb 44"
E.5933	PTE	LEMAIRE, R		-"TOS from 6 CIRU wef 1 Feb 44"
C.88783	L/CPL	BRAZEAU, W.U.		-"TOS from 1 CSHU wef 1 Feb 44"
B.66084	PTE	BEAMISH, RJ	Para 3(i)	-"TOS from 4 CIRU wef 2 Feb 44"
F.66003	PTE	BENNETT, EA		-"TOS from 7 CIRU wef 2 Feb 44"
B.39849	CPL	ROBLIN, WE		-"TOS from 1 CSHU wef 3 Feb 44"
G.82534	PTE	DICKIE, AJ		-"TOS from 7 CIRU wef 2 Feb 44"
B.73865	PTE	OSBORNE, GW		-"TOS from 4 CIRU wef 2 Feb 44"
G.7402	PTE	PARCH, JJ	Para 3(j)	-"TOS from Y-3 1 CASCHU whilst in actn 1 MEDHO Hosp wef 8 Feb 44"
A.99788	SGMN	HARWICK, W	Para 3(n)	-"TOS from Y-3 1 CSHU on disch from 3 CIC wef 2 Feb 44"
M.[illegible]	SGMN	KOOOT, L		-"TOS from Y-3 1 CSHU on disch from 3 CIC wef 2 Feb 44"

(l) DO 30A, paras shown d/4 Feb 44 insofar as it refers to the u/n amd to read as follows:

L.64386	TPR	MULHALL, GA	Para 5(e)	-"TOS from Y-3 1 CASCHU on disch from 13 CGH wef 4 Feb 44"
C.37817	SGT	FLORENCE, FH		-"TOS from Y-3 1 CORU on disch from 10 CGH wef 5 Feb 44"
B.30343	SGMN	BENTLEY, LG		-"TOS from Y-3 1 CSHU on disch from 12 CGH wef 4 Feb 44"
G.8066	GNR	LLOYD, JM		-"TOS from Y-3 1 CAHU on disch from 13 CGH wef 4 Feb 44"

(m) DO 32A, paras shown d/8 Feb 44 insofar as it refers to the u/n amd to read as follows:

G.295.8	SGT	O'GRADY, MJ	Para 7(e)	-"TOS from Y-3 1 CORU on disch from 2 CGH wef 8 Feb 44"
C.36019	SGMN	BRAZEAU, JL	Para 7(f)	-"TOS from Y-3 1 CSHU whilst in 1 HN & PS Hosp wef 8 Feb 44"
A.59214	SGMN	BROWNSCOMBE, JR		-"TOS from Y-3 1 CSHU whilst in 16 CGH wef 8 Feb 44"
A.58909	PTE	BURSKEY, MP Jr.		-"TOS from Y-3 1 CORU whilst in 1 HN & PS Hosp wef 8 Feb 44"
M.105672	PTE	CANNEFIE, GCG		-"TOS from Y-3 1 CSHU whilst in 1 HN & PS Hosp wef 8 Feb 44"
B.61108	PTE	DALEY, ME		-"TOS from Y-3 1 CASCHU whilst in 9 CGH wef 8 Feb 44"
A.29307	PTE	D'ANJOU, H		-"TOS from Y-3 1 CGHU whilst in 13 CGH wef 8 Feb 44"

20A. STRENGTH INCREASE (Amds Cont'd)

(m) DO 32A paras shown d/8 Feb 44 insofar as it refers to the u/n amd to read as follows: (cont'd)

F.41694	A/CPL	ELLIS, WA	Para 7(f)	-"TOS from Y-3 7 CIRU whilst in 10 CGH wef 8 Feb 44"
D.93806	PTE	GONNERVILLE, JC		-"TOS from Y-3 6 CIRU whilst in 16 CGH wef 8 Feb 44"
A.44084	PTE	HAWK, WE		-"TOS from Y-3 1 CASCRU whilst in 16 CGH wef 8 Feb 44"
L.27106	SGMN	JACOBS, EE		-"TOS from Y-3 1 CASCRU whilst in 7 CGH wef 8 Feb 44"
C.12000	PTE	LAVIGNE, A		-"TOS from Y-3 1 CASCRU whilst in 9 CGH wef 8 Feb 44"
D.57453	PTE	LAVOI, A		-"TOS from 1 COHU wef 13 Jan 44"
A.11229	SGT	LIVOCK, RM		-"TOS from Y-3 5 CIRU whilst in 16 CGH wef 8 Feb 44"
B.135743	PTE	LONGHEED, L		-"TOS from Y-3 5 CIRU whilst in I BN & PS Hosp wef 8 Feb 44"
B.104900	PTE	LYNN, WJJ		-"TOS from Y-3 4 CIRU whilst in 10 CGH wef 8 Feb 44"
A.2265	CSM	PENFOUND, E		-TOS from Y-3 1 CSRU whilst in 8 CGH wef 8 Feb 44"
B.4656	PTE	PITRE, A		-"TOS from Y-3 6 CIRU whilst in 10 CGH wef 8 Feb 44"
B.151962	PTE	DI'MARIO, E.		-"TOS from Y-3 3 CIRU whilst in 16 CGH wef 21 Jan 44"
K.22414	PTE	FERGUSON, NE		-TOS from Y-3 1 CIRU whilst in I BN & PS Hosp wef 21 Jan 44"
K.18027	PTE	GORIUK, M		-"TOS from Y-3 1 CIRU whilst in 16 CGH wef 21 Jan 44"

(n) DO 32A, para 7(f) d- 8 Feb 44 insofar as it refers to K.78936 L/CPL BROWN, V is amd to read "TOS from Y-3 1 CASCRU".

(o) DO 50A, para 4(e) d/29 Feb 44 insofar asit refers to B.88671 L/CPL VOLPEL, J is amd to read "TOS from Y-3 1 CASCRU"

(p) DO 73A, para 2(d) d/31 Mar 44 insofar as it refers to D.91761 PTE DEVLIN, M is amd to read "TOS from Y-3 1 CASCRU"

(q) DO 76A, para 3(a) d/4 Apr 44 insofar as it refers to B.83802 PTE REID, BC is amd to read "TOS from Y-3 1 CASCRU"

(r) DO 81A, para 4(g) d/11 Apr 44 insofar as it refers to u/n amd to read as follows:

H.8065	PTE	DUFF, CC	-"TOS from Y-3 1 CASCRU"
C.31755	PTE	QUESNEL, R.	-"TOS from Y-3 1 CASCRU"

(s) DO 84A, para 3(d) d/14 Apr 44 in sofar as it refers to A.9194 CPL SERLE, RJ is amd to read "TOS from Y-3 1 CASCRU"

(t) DO 86A paras shown d/18 Apr 44 in sofar as it refers to the u/n amd to read as follows:

D.123144	L/SGT	TURNBULL, RE	para 3(e)	-"TOS from Y-3 1 CASCRU"
M.88235	PTE	TURNER, RE		"TOS from Y-3 1 CASCRU"
D.121941	PTE	PARENT, H	para 3(f)	-"TOS from Y-3 1 CASCRU"
B.9613	PTE	PEDERSEN, TJ		-"TOS from Y-3 1 CASCRU"

(u) DO 89A para 5(c) d/21 Apr 44 in sofar as it refers to D.116071 L/CPL OUELLETTE, P is amd to read: "TOS from Y-3 1 CASCRU"

(v) DO 95A, para 3(k) d/1 May 44 insofar as it refers to L.101468 SPR SCHILLE, EV is amd to read: "TOS from Y-3 1 CASCRU"

20A. STRENGTH INCREASE (Amds Cont(d)

(w) DO 134A para 5(c) d/23 Jun 44 insofar as it refers to C.35137 CPL KEARNEY; BM is amd to read "TOS from Y-3 1 CASCRU)

(x) DO 140A para 4(g) d/3 Jul 44 insofar as it refers to E.14136 DVR PINELLE, A is amd to read "TOS from Y-3 1 CASCRU)

(y) DO 79A para I(I) d/27 Jul 44 insofar as it refers to D.56199 PTE AUGER, JH is amd by delteting COOK "C"

(z) DO 180A, 7(f) d/ 5 Jun 44 insofar as it refers to C.9305 GNR MERRITT, J is amd by unit of TOS to read, " 2 CARU "

(ai) DO 127A, 6(d) d/14 Jun 44 insofar as it refers to C.16707 CFN LUCAS, A is amd by ADD. " DVR MECH C "

(bi) DO 127A, 6(b) d/14 Jun 44 insofar as it refers to F.86828 PTE NEILSON, MA is amd by ADD. " COOK C "

(ci) DO 139A, 4(I) d/ 30 Jun 44 insofar as it refers to M.37269 CPL HANKS, JH is amd by ADD. " SHOEMAKER B "

(di) DO 146A, 5(c) d/ 11 Jul 44 insofar as it refers to D.24163 SGMN STANSBURY, JE is amd by ADD " OPER. W&L B "

(ei) DO 157A, 3(a) d/ 26 Jul 44 insofar as it refers to A.50403 PTE SUTHERLAND, WA is amd by ADD " SHOEMAKER C "

(fi) DO 164A, 4(f) d/4 Aug 44 insofar as it refers to M.6[illegible]903 SGT ROLLO, JC is amd by ADD. " OPER CAC C "

(gi) DO 164A, 4(g) d/ 4 Aug 44 insofar as it refers to M.84269 PTE WARREN, AB is amd by ADD. " COOK C "

(hi) DO 164A, 4(j) d/ 4 Aug 44 insofar as it refers to D.80007 PTE BERNIER, P is amd by unit of TOS to read " Y-3.6 CIRU"

(ii) DO 164A, 4(g) d/ 4 Aug 44 insofar as it refers to D.10950 SGT BROADFOOT, EM is amd by ADD. "OPER FC C "

21A. REVERSIONS (ADD)

(a) DO 167 A, 8(b) d/ 9 Aug 44 insofar as it refers to A.37777 A/L/SGT NUTTALL, JS is amd to read " REVERTS to A/CPL"

22B. LEAVE OF ABSENCE (cancel)

(a) DO 167A 5(b) d/9 Aug 44 insofar as it refers to M.7777 PTE ANDERSON, PH is herebycancelled.

23B. TRADESMEN'S RATES OF PAY (CANCEL)

(a) DO 79A 10(a) d/ 7 Apr 44 insofar as it refers to D.56199 PTE AUGER, JH is "CANCELLED"

for (B.M. MACINTYRE) A/CAPT
Adjutant
No. 1 Cdn. N.E.T.D.(Lorne Scots)

Last Order
#175 "A"
d/17 Aug 44

PART II ORDERS
No. 1 Canadian Non-Effective Transit Depot
(Lorne Scots)
issued by
Colonel L. Keene, ED

This Order
#174 "A"
d/18 Aug 44

SECTION "A"

1. STRENGTH INCREASE

(a) TOS from I CRD wef 17 Aug 44(Auth:44/Despatch/3/2 (AG2a) d/3 Aug 44)

Capt John Stuart	ALEXANDER	Capt James Patrick	BRADLEY
Capt Frank Holton	BRITTON	Lieut Robert Holt	DURFY
Capt John Alexander	GOW	Capt Kenneth Samuel	GRAHAM
Major Francis Joseph	HAMMOND	Lieut Philip Sidney	HERRING
Major Earl Franklin	HERSEY	Lieut John	HOWISON
Lieut Quentin Earl	LAWSON	Capt Vincent Joseph	MC KENTY
Capt David Malcolm	PATERSON	Major Albert William	SEARLE
Major James White	WILKINSON		

(b) TOS from "Q" List whilst in Hosp wef 16 Aug 44(Auth:Med List)
Lieut Dorothy Marion SPLANE

(c) TOS from Y-3 shown whilst in Hosp wef 16 Aug 44(Auth:Med List).
Capt William Harold Smart STOCKTON I CGRU
Lieut Frederick George WHITCOMBE I CRD

2. LEAVE OF ABSENCE

(a) Granted 7 days PL with M.A. wef 15 Aug to 22 Aug 44.
Capt M.C. UPPER

SECTION "B"

3. STRENGTH INCREASE

(a) TOS from Y-3 shown whilst in Hosp wef 16 Aug 44(Auth:Med List).

B.110867	PTE	SHAW, H	I CRD	M.107758	RFN	SHAW, LJ	I CIRU
M.51514	PTE	SIMMONS, WH	I CARU	K.37548	PTE	SKUZANSKI, ER	I CRD
F.3348	PTE	SLATNWHITE, HJ	4 CIRU	B.24949	PTE	SPREITZER, FJ	2 CIRU
B.48045	SGT	STOW, PA	3 CACRU	C.21768	PTE	SULLIVAN, EC	6 CIRU
B.36515	PTE	SULLIVAN, W	3 CIRU	B.22229	PTE	SWANSON, A	2 CIRU
A.4383	TPR	SYMES, J	2 CACRU	B.63221	PTE	TALBOT, WG	I CGRU
D.86108	PTE	THOMPSON, GA	I CGRU	F.51149	PTE	THOMAS, DS	I CRD
H.17842	CPL	TOUGH, WM	I CIRU	D.139373	PTE	TREPANIER, JR	I CRD
F.2883	PTE	VICKERS, G	I CRD	D.91775	CPL	WALLETT, MJ	I CRD
B.144330	PTE	WALSH, RE	2 CIRU	D.62672	TPR	WARNES, E	2 CACRU
L.1840	SGT	WEBB, D	I CRD	D.77578	CPL	WELLS, E	I CACRU
C.4336	PTE	WHITMORE, FG	I CRD	L.66363	CPL	WILLIAMSON, HP	I CRD
K.76370	PTE	WILSON, J	I CRD	F.49767	SGT	WOLFE, DC	4 CIRU
B.75258	PTE	WORRALL, AJ	3 CIRU				
M.63920	SGT	ST. LAURENT, A	I CRD	FITTER "A"			
M.36562	GNR	WEBB, WM	I CARU	SURVEYOR "C"			
B.21229	SGMN	WHITE, GS	I CSRU	OP "C"			

(b) TOS from I CRD wef 17 Aug 44(Auth:44/Despatch/3/2(AG2a)d/3 Aug 44).

F.43675	PTE	ABRIC, G (COOK C)	L.6003	BSM	ACHTZNER, PJ	
F.40393	PTE	AFFLECK, JS	B.74449	TPR	AIDE, PW (GNR QP C)	
K.52729	CQMS	AITKEN, J	B.84172	PTE	AITKENHEAD, EL(COOK C)	
H.16635	PTE	ALEXANDER, EW(D.R.C)	D.61827	PTE	ALLAIRE, A (COOK C)	
H.25099	SPR	ALLIN, JM (MOT MECH B)	A.3524	PTE	ANDERSON, LM	
E.20468	SGT	APRIL, A (FITTER A)	D.36694	PTE	ARCHAMBAULT, R(DVR MECH C)	
P.48792	CSM	ARCHAMBAULT, L	C.11471	SGT	ARMSTRONG, HH	
F.14357	GNR	AYLWARD, WB(SHOEMKR B)	A.9251	CPL	BAGNALL, CM	
B.73559	PTE	BAKER, GJ	D.91606	MSM	BALLER, D(MACHINIST A)	
C.9316	GNR	BANKS, KA (DVR MECH C)	H.11092	PTE	BARABE, JG	

3. STRENGTH INCREASE (Cont'd)

(b) Cont'd.

F.42566	CPL	BAINES, MJ	T.91537	SPR	BARNETT, AJ (PNR C)
H.54356	GNR	BARNON, CE (SGNR C)	B.10107	GNR	BARROW, KH(DVR MECH C)
B.73729	CPL	BARSMAN, GC(CLERK C)	B.33258	SGMN	BATEY, WL
A.31134	GNR	BAUMER, SS	B.5120	PTE	BEATTY, G
M.9014	SGMN	BEGG, SG (OP SIGS B)	B.86262	PTE	BEGIN, LJ
H.1866	CFN	BERGQUIST, HL(FITTER A)	B.33062	SGMN	BESSEY, MA(DRAUGHTSMAN B)
K.47629	SGT	BILLY, AJ	D.91292	CPL	BIRKETT, RH(ELEC A)
M.5254	SPR	BLAKE, R (MINER B)	L.54832	TPR	BORLAND, TD
B.83345	PTE	BOSTON, A	B.83099	SPR	BOUDREULT, IA
C.16651	S/SGT	BOWERING, E(ARMR B)	H.13242	CPL	BOYCHUK, M (MOT MECH B)
L.18124	GNR	BRANSON, GH	B.94377	CFN	BRAZEL, DD(FITTER A)
K.85208	CFN	BRISCOE, IG(FITTER A)	B.72639	SGT	BROOKES, GCF
A.9050	PTE	BROOKS, TG(FITTER A)	B.94654	S/SGT	BROUGHTON, SH
A.3292	SGT	BROWN, SW(COOK C)	L.7107	S/SGT	BROWNLEE, FC(FITTER A)
B.86274	PTE	BRYDGES, MF	B.94156	SGT	BUCKINGHAM, RW(FITTER A)
B.86458	SGT	BURNS, IW	D.9111	PTE	CALOURI, J
L.18295	GNR	CARNRIKE, GE	B.66900	SGT	CARROLL, AJ
D.91739	PTE	CAWLISHAW, GC	B.73351	PTE	CHARBONNEAU, WA
D.16059	CSM	CHARTRES, HP	C.12385	CFN	CHITTENDEN, A(INST M. B)
W.82052	BDR	CLAMP, WT	K.5062	SGT	CLARK, H
B.84864	CQMS	CLARK, TCG	C.92017	CPL	COCHRANE, GL
K.52972	PTE	COOKE, DW	D.91028	SGT	COLLER, DD (CLERK C)
B.72899	PTE	COLLICK, F	L.23029	SQMS	COLLINS, E
B.81801	PTE	COMBER, TJ	D.105535	SGT	COONES, CA
C.58440	TPR	COUSINEAU, R	M.9607	PTE	CRAWFORD, JW(CLERK C)
B.89798	TPR	CRITCHLEY, DW	B.73939	PTE	CROSS, HE
P.80027	RQMS	CRONDALL, FA	M.15837	CSM	CUMINSKY, WF
M.2079	GNR	CUNNINGHAM, HG	B.3862	PTE	CURRIE, H
H.11005	SGT	DALEY, TJ(DENT TECH A)	B.84873	PTE	DAVIDSON, GA
H.37762	PTE	DAWSON, EJ(FITTER A)	G.4027	GNR	DEMPSEY, WS
D.117161	CFN	DENIS, RG(DVR MECH C)	D.93569	PTE	DENNIS, HG
E.5071	PTE	DESGRANGE, R(COOK C)	E.5433	PTE	DESGROSEILLIERS, E (D/M C)
P.82136	PTE	DORSON, JH	G.27234	PTE	DONCASTER, AA
C.9441	RQMS	DOWDELLY, EB	C.10314	PTE	DOW, SJ(COOK C)
M.16993	PTE	DUNFORD, WG	M.16602	PTE	DUNKLEY, GE
H.5115	GNR	DUNN, GL(DVR MECH C)	D.106028	PTE	DUROCHER, JPC
M.24171	SGT	DUXBURY, J	K.52471	CPL	EADE, JH
A.3515	PTE	ECKER, MC(DVR MECH C)	B.50113	CPL	ELLIS, GH(ELEC B)
D.81775	CSM	ELSTON, NR	M.66138	BDR	FAHEY, JO
C.11492	PTE	FAHEY, WT(POST CLERK B)	A.28038	BDR	FELKER, A
B.94750	SPR	FINCH, JS(FITTER MV B)	C.4436	PTE	FINDLAY, B
M.45237	PTE	FLATHERS, AC	B.89837	SGT	FORHAN, B(CLERK C)
K.52049	CQMS	FOSTER, GE	L.1422	TPR	FOSTER, GH
C.4095	PTE	FOX, JM	L.2193	PTE	FOX, TS
C.2124	SPR	GAGNON, PM(COOK C)	B.62389	SGT	GALIEN, RS
H.35266	SGT	GARNETT, HF(CLERK C)	F.41664	CPL	GERMAN, JB(LINESMN B)
B.94219	CFN	GILHAM, AG(ELEC A)	M.20915	CPL	GILLRIE, LG(FITTER A)
C.4430	SGT	GLEASON, CV(CLERK C)	H.16425	PTE	GLOWACHUK, R
C.5005	PTE	GOODMAN, CR	K.5073	SGT	GRANT, MC
G.17636	PTE	GRANT, SJ	A.9392	PTE	GREENSIDE, RT
B.88740	SGT	GRIFFITHS, JP(CLERK C)	G.49116	PTE	GUITARD, LF(COOK C)
B.28065	SGT	HAMILTON, GR	B.79314	PTE	HAMILTON, JJ
B.13089	GNR	HAMILTON, RHA(DVR MECH C)	B.94336	CPL	HANCOCK, J(FITTER B)
B.94227	S/SGT	HARDY, W (FITTER A)	G.5114	PTE	HARRIS, EF(COOK C)
B.94384	PTE	HARWOOD, FC	D.26107	CPL	HAWKES, AG(FITTER B)
G.17241	SGT	HAYMAN, HA(COOK B)	M.16168	PTE	HENNE, SW
B.55010	PTE	HIGGS, RH	C.5208	PTE	HILDITCH, L
B.40414	SGT	HUNAN, HD	L.7268	CSM	HOIT, FJ
H.33059	CFN	HORRICK, WB(T.N.D. C)	H.13084	SPR	HORTON, HH(CLERK C)
H.13203	SPR	HUGGINS, A(CARP B)	K.37273	PTE	HUGHES, F

3. STRENGTH INCREASE (Cont'd)

(b) Cont'd.

B.82533	SGT	HUGHES, WA
B.93682	TPR	HYATT, SD
M.21011	SPR	INVERARITY, GP(COOK C)
B.3000	SPR	JACKSON, WH(OP A)
M.20925	CPL	JARVIS, L
B.13073	PTE	JENSEN, P
B.86060	CPL	JOHNSON, W
B.94272	CFN	JONES, RT(FITTER MV B)
A.3048	CPL	KECK, WR
B.73445	SGT	KERTON, WS
B.89892	SGT	KINGSLEY, M
A.19573	SPR	KISSNER, DL(CONCRETOR B)
F.87767	PTE	KITSON, GF
L.1363	PTE	KRAHNBEL[illegible]
C.2085	SPR	LACHANCE, D(TINSMTH B)
P.22177	RSM	LAMBERT, WF
F.39642	SGT	LANGILLE, FL(COOK C)
H.5061	BQMS	LECKIE, DW
D.5128	PTE	LEMIEUX, A
L.1763	PTE	LITOSKI, WT(COOK C)
B.5226	SGT	LLOYST, RD(DENT TECH A)
M.20938	TPR	LUTES, GW(FITTER A)
H.79390	CPL	MAJURY, WT
F.41574	PTE	MARSTERS, GW
F.67558	PTE	MARTIN, CI
L.7815	SGT	MAYNES, WE
D.6921	GNR	MELNITZKY, G
B.6337	SGT	MILLER, DE
M.11151	PTE	MILLS, GA (CLERK C)
H.29035	CPL	MITCHELL, GC(SVY C)
C.4648	PTE	MOON, EC
K.347	TPR	MORRIS, WG
K.42085	CPL	MOUNTFORD, GE
K.52144	CPL	MURRAY, AF(DVR MECH C)
P.15342	CPL	MAC DONALD, JD
B.56338	PTE	MAC KENZIE, EG(CLERK C)
C.3078	CPL	MC ARTHUR, GO(CLERK C)
L.1478	CPL	MC COY, J(D/M C)
B.25316	PTE	MC DONALD, CG(BRKLR B)
B.72654	PTE	MC FARLANE, R(FITTER B)
L.9033	PTE	MC HUGH, LF(STOREMAN C)
L.18027	SGT	MC KINZIE, WJ(CLERK C)
A.21117	PTE	MC LARTY, RL (CLERK C)
M.11417	CPL	MC ROBERTS,SE(FITTER A)
H.12107	PTE	NESTIE, A
C.11325	PTE	NOLAN, TD
B.73267	CPL	O'HAGAN, FJ(CLERK C)
A.3620	PTE	PAQUETTE, D(COOK C)
B.84378	CPL	PATTERSON, vh(D/M C)
K.53371	CPL	PEARCE, EC(POST SORT B)
F.55167	PTE	PEDDLE, T
H.13108	CPL	PENNIE, J(DVR MECH C)
K.52990	PTE	PETERSON, HJ(COOK C)
B.76884	PTE	PHILLIPS, JE(D. OP C)
B.7042	GNR	PILICOSKI, W
M.63028	SGT	PITT, T
M.16091	PTE	PLANT, RV
B.21123	SGT	PRATT, LN(CLERK B)
B.73095	SGT	PUGH, ME
F.43597	CPL	RAFUSE, MB
K.73003	SPR	RAYMOND, J(PNR C)
M.16448	CPL	HUME, S
B.89784	PTE	INGEROFF, W
B.103189	PTE	JACKLIN, FE
A.3870	CFN	JAMES, AL
K.31663	SPR	JARVIS, R
M.16390	CPL	JOHNMAN, J(CARP B)
B.70127	TPR	JOHNSTON, J(GNR OP C)
M.15899	PTE	JONES, SB
B.73448	CPL	KERR, GA(BUTCHER C)
B.33116	SGT	KINGSBURY, DJ(CLERK C)
M.3647	GNR	KIRKEBY, AR
H.16332	PTE	KITCH, CP(CLERK C)
B.73043	SPR	KNOWLES, F
M.102770	TPR	HANNAS, DW
C.94874	CFN	LAJOIE, R(CLERK C)
G.17884	CPL	LANGILLE, CF(COOK C)
B.82881	PTE	LAURENCE, SG(COOK C)
K.89025	PTE	LEE, RH(FITTER MV A)
B.74150	PTE	LEYTON, KB
B.52680	PTE	LITTLE, GE
F.40422	PTE	LOGAN, RW(COOK C)
M.12445	PTE	MAHONEY, J
B.6101	GNR	MARRISON, H
C.12407	SGT	MARTELL, EA
A.3878	SGT	MAXEY, MF
P.16351	PTE	MEEK, W
A.28057	GNR	MERCER, S
E.4145	PTE	MILLER, B
B.33040	CPL	MILLS, W(D.R. C)
C.5397	PTE	MITCHELL, PH
B.84266	PTE	MORGAN, WJ(CLERK C)
B.86050	PTE	MORTON, EL
B.10141	GNR	MULLEN, DH (SVY A)
A.28148	BDR	MAC DONALD, J
L.1785	CFN	MAC DONALD, RJ(D/M C)
K.53495	PTE	MAC LEAN, R(CLERK C)
B.73519	CFN	MC CABE, M(FITTER MV B)
B.84435	SGT	MC CULLOUGH, WG(CLERK B)
C.93196	CPL	MC DONALD, MH(POST SORT B)
F.14224	SGT	MC GEE, RS
B.67202	PTE	MC KEE, TR
M.2114	SGT	MC KERCHER, RW
F.78246	PTE	MC MULLIN, DJ(COOK C)
A.3121	CPL	NASH, GR
A.2131	PTE	NICOL, AK(COOK C)
D.91774	SGT	NUGENT, A
B.13065	BSM	OSMAY, JF
B.90973	PTE	PARRISH, NH
M.25827	PTE	PAULL, AE(COOK B)
B.86077	PTE	PEATFIELD, T(T/STOREM C)
M.24059	PTE	PELLETIER, GJ(OF RM ASS B)
B.121 67	GNR	PEREIRA, EE
D.10562	SGT	PHILLIPS, GA(SVY A)
B.82701	S/SGT	PICKERING, HH(CLERK B)
D.91488	CPL	PINKNEY, DC(DVR MECH C)
A.29014	CSM	PLANK, RJ
C.27784	SPR	POFFLEY, ER(PNR C)
C.37864	PTE	PRETTY, WG(CLERK C)
F.34703	PTE	QUINN, CT
F.39947	PTE	RAFUSE, LW
H.5128	GNR	THODES, S

3. STRENGTH INCREASE (Cont'd)

(b) Cont'd.

B.96326	CFN	ROADKNIGHT, JH(FIT A)	B.36636	PTE	ROBBINS, V
D.7084	GNR	ROBERTS, A	D.96024	CFN	ROBERTSON, D (CPSMTH B)
C.83689	GNR	ROBERTSON, G	B.83649	PTE	ROBERTSON, JA
E.40904	TPR	ROBINSON, FG	M.20897	PTE	RODIE, JG(FITTER A)
B.94426	SGT	ROSS, EC(STR C)	L.19145	SPR	ROWAN, GD(CARP B)
B.5604	CFN	RUSSELL, FM(FITTER B)	L.9106	CPL	RUSSELL, JW(FITTER A)
F.34717	SGT	RUTLEDGE, HH	H.16814	PTE	SARGEANT, WAJ
B.88462	GNR	SAUNDERS, RH(CLERK C)	D.6658	GNR	SAUNDERSON, GR
B.94404	PTE	SEAL, RA(TEC STOREM C)	K.7124	GNR	SEAMAN, P
G.17023	CPL	SEARS, DH(CLERK C)	D.57959	PTE	SEERS, R
H.2278	CPL	SHARP, W	E.21846	GNR	SHARPLES, H
H.13338	SGT	SHORT, SH(COOK C)	B.7075	TRSM	SHUNK, SL
C.1291	GNR	SIMPSON, CK	K.72017	SGT	SINCLAIR, JC
D.86013	GNR	SIVIL, J (MOT MECH B)	B.9138	GNR	SKELCY, JH
C.5136	PTE	SMITH, CE	B.10033	BDR	SMITH, D
M.40803	PTE	SMITH, GW	C.115	GNR	SMITH, J(MOT MECH B)
D.16133	SPR	SMITH, JP(PNR C)	H.13131	SPR	SMITH, JR(DVR MECH C)
F.41656	PTE	SMITH, JS	M.17340	PTE	SMITH, WT(DVR MECH C)
L.2272	PTE	SPENCE, WJ	M.11544	S/SGT	SPINK, J
M.3104	GNR	SQUIRES, EV	C.10418	GNR	STACEY, LE(DVR MECH C)
C.11419	PTE	STEARNS, JD	L.10006	GNR	STEINER, R
T.14787	GNR	STEELE, EJ	M.26781	SGT	ST. JAMES, RL(ELEC A)
H.11151	SGT	STENBACK, WA	H.29119	S/SGT	STEPHENS, FJ (ART B)
B.20389	SPR	STEPHENSON, WF(PLUMBER B)	C.9321	GNR	STEVENS, SC(DVR OF C)
E.21145	GNR	STEVENSON, RG(DVR MECH C)	B.74113	SGT	STOCKMAN, W
D.136879	CPL	STUART, M(CLERK C)	G.17276	CPL	SULLIVAN, GC(DVR MECH C)
K.52316	CPL	SUTHERLAND, JD(CLERK C)	P.10777	CPL	SUTHERLAND, WL
M.63107	PTE	TALBOT, GP	M.7047	SPR	TAYLOR, CG(ELEC A)
M.16267	PTE	THIRWELL, EW	L.7562	SGT	THOMAS, CR(FITTER A)
D.81508	CPL	THOMAS, WJ(FITTER A)	G.18368	PTE	THOMSON, EN(COOK C)
L.7380	PTE	THOMSON, JC	A.9257	S/SGT	THOMPSON, CH(CLERK B)
H.87388	PTE	THOMPSON, RE	F.39697	TPR	THORBURN, NC
B.19010	TPR	TOMLINSON, RW(GNR OP C)	D.21002	CSM	TRACEY, MCJ
B.31122	SGMN	TURNEY, JH(ELEC C)	K.52608	PTE	TURNER, AS(DVR MECH C)
L.6094	SGT	TYSON, G(STOREMAN C)	M.24005	PTE	VELNE, E
A.9469	PTE	WOUSDEN, FWF	H.11139	PTE	WALKING, NS
F.9849	BSM	WALKER, F	B.73085	SGT	WALSH, GR
B.73773	SPR	WALTON, CA(PAINTER B)	B.5842	SPR	WAMAKAKER, W(DVR MECH C)
H.16668	PTE	WARREN, CH (CLERK C)	M.15928	CQMS	WARREN, LC
C.4040	SGT	WATTS, AE	G.19052	RQMS	WEBB, CH
C.4118	CPL	WEESE, GE(DVR MECH C)	M.16657	PTE	WENSEL, W
K.42030	SGT	WHEELER, HJM	L.1611	SGT	WHITMORE, WJ
D.91498	SGT	WILDEN, RK	D.91501	PTE	WILLIAMS, HV(COOK C)
B.9048	SGT	WILLIAMS, WT	C.4640	PTE	WILLMAN, A
H.3915	SGT	WILSON, FM	B.86179	PTE	WINGER, L
B.60506	SGT	WOOD B	B.32115	SGMN	WOODWARD, FC(D.R. C)
F.4639	GNR	WRIGHT, EE	B.86535	PTE	YOUNG, GE(FITTER MV A)
K.29070	SGT	YOUNG, S(ELEC A)	P.2982	TPR	ZIMMERMAN, O(SHOEMAKER C)

(c) TOS from IC HD wef 16 Aug 44 (Auth:44/Despatch/3/2(AG2a) d/3 Aug 44).

B.85841	RSM	BROWN, DS	

(d) TOS from unit shown wef 16 Aug 44 (Auth:Med List)

E.106725	PTE	DUBE, O	Regt De Hull
K.41049	PTE	GLENNIE, RW	HQ CFC

(e) TOS from Y-2, 2 CAHU wef 16 Aug 44 (Auth:Med List) on release from det,

D.82752	GNR	MILES, E	

3. STRENGTH INCREASE (Cont'd)

(f) TOS from I CRD wef 18 Aug 44(Auth:REC/4967 d/15 Aug 44).

G.3725	PTE	DEE, B(COOK C)	A.32023	GNR	HANDYSIDES, HJ(M/M B)
K.62096	CPL	JACKSON, WW	D.109131	CPL	MC CAMBRIDGE, JF
B.86409	PTE	RILEY, LG	F.35377	PTE	SWINDELL, HB(ELEC B)
D.7540	SGT	WORSLEY, J			

(g) TOS from unit shown wef 18 Aug 44 (Auth: as shown).

H.10089	CFN	HELYEA, HM	I CRD	(CLERK C)	REC/4983 d/16 Aug 44
G.46091	SGT	HOVEY, JA	24 Coy CFC	(BLKSMITH B)	AT.1256 d/15 Aug44
K.37058	PTE	MC DONNELL, RA	I CIRU	(CLERK C)	REC/K.37058 d/14 Aug 44

(h) TOS from I CRD wef 18 Aug 44(Auth:44/Despatch/3/2(AG2a) d/3 Aug 44).

H.82196	SPR	BASHUCKY, N	M.2157	HDR	BROWN, GP
F.34919	PTE	CLARKE, TA	P.9666	SGT	PERRY, GR

(i) TOS from unit shown wef 18 Aug 44(Auth.REC/4992 d/17 Aug 44).

H.63629	SPR	BECKMAN, EJ	2 CACRU	D.133107	PTE	CREVIER, CE	17 CGH
F.86611	PTE	NICKERSON, GC	2 CGPC	D.76402	TPR	WHITFORD, SA	I CACRU

(j) TOS from unit shown wef 18 Aug 44 (Auth:Med List).

A.3957	PTE	CANTY, CB	I CCCD	C.50568	HDR	CUNNINGHAM, JA	I CARU
C.70661	CMS	GOLD, B	I CACRU	K.69832	PTE	DINDRED, EL	I CRD
H.95712	GNR	KOWALUK, W	2 CARU	M.65602	SPR	LORENCOVITEH, J	I CIRU
K.73685	PTE	NAPPER, JHP	I CRD	E.0083	SGT	RABEY, MHW	2 CARU
B.3664	PTE	SWIDERSKI, A	I CGPC	C.29764	SGMN	WENBORN, RC	H4 CRU
L.2812	PTE	CORRIGAL, GH	I CSRU	(DVR OP C)			
C.40252	SGT	DONALDSON, T	2 CARU	(			
D.7147	GNR	SEGAL, C	2 CARU	(DVR MECH C)			

(k) TOS from Y-3 shown on disch from Hosp shown wef 18 Aug 44(Auth:Med List).

C.121459	PTE	AYLESWORTH, GG	6 CIRU	9 CGH
B.102603	SGT	BARTLETT, CW	3 CACRU	I HN & PS
B.150293	GNR	BOLTON, TE	I CARU	9 CGH(CURVEYOR C)
B.39333	CPL	BORROWMAN, J	I CGHU	9 CGH(PARA A)
D.57484	PTE	BOUCHARD, A	6 CIRU	I HN & PS
B.78812	PTE	BOUNDS, H	3 CIRU	I HN & PS
B.64815	RFN	BROWN, GV	3 CIRU	I HN & PS
G.49607	PTE	BUJOLD, JA	6 CIRU	23 CGH
B.136907	PTE	CARRICK, R	I CGHU	19 CGH
B.136503	PTE	CARRUTHERS, WA	3 CIRU	19 CGH
H.8302	PTE	CINQ-MARS, HE	I CRD	I HN & PS
L.27265	RFN	DAGG, LW	I CIRU	I HN & PS
B.94590	CFN	FISHER, JC	I COMERU	13 CGH(BLACKSMITH B)
B.115840	RFN	FRENCH, GJ	2 CIRU	I HN & PS
G.52950	SPR	GILBERT, TC	I CERU	I HN & PS(DVR OP C)
M.43960	GNR	HARRIS, CN	I CRD	19 CGH
B.148216	PTE	HILLARD, E	I CRD	19 CGH
F.39629	CPL	HIRTLE, EW	I CRD	19 CGH
E.9250	PTE	LANDRY, M	6 CIRU	I HN & PS
B.60990	PTE	LAPPIN, FJ	I CRD	19 CGH(COOK C)
L.12431	PTE	LATOUR, JJ	I CRD	23 CGH
E.100711	PTE	LOOF, JM	6 CIRU	I HN & PS
B.43246	PTE	O'REILLY, HO	4 CIRU	23 CGH (CLERK C)
L.41400	PTE	OSTER, J	I CRD	23 CGH
B.148025	RFN	PAY, LC	2 CIRU	I HN & PS
G.19188	PTE	RIOUX, R	I CRD	19 CGH
K.53547	PTE	SPARKES, SW	I CRD	19 CGH (COOK C)
B.131329	GNR	STANYER, AJ	I CRD	19 CGH
B.155354	PTE	TREMBLAY, JA	6 CIRU	11 CGH
A.20185	S/SGT	WILLARD, CK	I COMERU	I HN & PS (ARM B)
D.81323	SGT	WILSON, H	4 CIRU	9 CGH
H.38830	SGMN	WRIGHT, JT	I CSRU	9 CGH(D.R. C)

Exhibit "D"

3. STRENGTH INCREASE (Cont'd)

(l) TOS from Y-2 shown on release from det wef 18 Aug 44(Auth:Med List).

A.11914	PTE	ROSSO, JR	I COMERU	D.16222	SPR	DONNELLY, JJ	I CERU

(n) TOS from Y-2 shown whilst in Det wef 17 Aug 44(Auth:Med List).

M.21068	PTE	BURNS, E	I CASCRU	P.35310	PTE	DALEY, SH	I COMERU
D.91791	PTE	LAPIERRE, JE	I CASCRU	C.21196	PTE	MCINTOSH, TS	6 CIRU

(n) TOS from Y-2 I CASCRU whilst in H.M. Prison Wakefield wef 17 Aug 44(Auth: M.L.)

B.22625 PTE DONNELLY, E

(o) TOS from Y-3 shown whilst in Hosp wef 18 Aug 44(Auth:Med List).

D.57136	PTE	GAGNON, E	6 CIRU	M.107676	PTE	GANSKE, GW	I CRD
L.23330	RFN	GISLASON, G	I CIRU	(CVR MECH C)			
H.102221	GNR	HUDSON, WL	2 CARU	M.56339	TPR	JACOBSEN, N	2 CACRU
K.76591	GNR	IRWIN, GG	I CARU				
P.9132	GNR	MERRY, AJ	I CRD	(SGNR C)			

4. HOSPITAL

(a)	B.88310	CPL	BLOINY, G	Adm to 11 CCH wef 14 Aug 44
	B.60951	SGT	CHRISTIE, K	Adm to 22 CCH wef 30 Jul 44
	H.25031	SPR	HANCHS, LTC	Adm to 1 CMC wef 15 Aug 44
	H.18531	PTE	RUSSELL, T	Adm to Welsh Gen H. wef 9 Aug 44
(b)	L.2836	PTE	DUNLOP, GF	Disch from Rec Stn Aberdeen wef 15 Aug 44
	D.71160	PTE	FAHEY, BL	Disch from 2 CMC wef 14 Aug 44
	C.4476	CPL	GARRISON, J	Disch from Kilton Hill Hosp wef 16 Aug 44
	B.61361	TPR	POPP, T	Disch from 13 CCH wef 9 Aug 44
	K.58050	RQMS	WELLBURN, S	Disch from Kilton Hill Hosp 16 Aug 44

5. LEAVE OF ABSENCE

(a) Granted 7 days PL with MA wef 17-24 Aug 44.

B.143812	RFN	CLARK, JS	E.4359	PTE	LAVALLEE, E
D.142576	PTE	PLOUFFE, JG			

(b) Granted 7 days PL with MA wef 18-24 Aug 44.

H.40955	RFN	ALLEN, JT	G.541	PTE	MESHER, LJ

6. ABSENT WITHOUT LEAVE

(a)	H.16123	PTE	HESSASSON, JG	AWL from 1200 hrs 10 Aug 44
	B.19627	TPR	BOHMAN, JW	AWL 8 days at 0830 hrs 15 Aug 44
	C.5612	PTE	CLARK, SW	AWL 8 days at 1620 hrs 15 Aug 44
	J.17405	PTE	GRAHAM, JC	AWL 8 days at 0803 hrs 15 Aug 44
	E.47412	SPR	MOORE, JE	AWL 8 days at 0830 hrs 15 Aug 44
	B.88160	CPL	RYAN, VJ	AWL 8 days at 1200 hrs 15 Aug 44
	H.11177	PTE	TODD, A	AWL 8 days at 1200 hrs 14 Aug 44
	B.29387	SPR	VAN CLEAFF, KA	AWL 8 days at 0830 hrs 15 Aug 44
	A.11941	PTE	ENWRIGHT, PR	AWL 21 days at 1745 hrs 16 Aug 44
	B.75503	TPR	FORD, G	AWL 21 days at 0830 hrs 17 Aug 44
	L.12239	PTE	LINCOLN, W	AWL 21 days at 0800 hrs 17 Aug 44
	B.25318	SPR	MONCKTON, AF	AWL 21 days at 1745 hrs 16 Aug 44
(b)	G.725	PTE	COOPER, LJ	Ret from AWL time unknown) 12 Aug 44
	B.28463	SPR	CURRAN, J	" " " at 1420 hrs 15 Aug 44
	F.27901	PTE	DECOSTE, RL	" " " at 1515 hrs 15 Aug 44
	M.16882	PTE	FENNER, RD	" " " at 0820 hrs 16 Aug 44
	P.33339	PTE	HASLAM, GM	" " " at 0950 hrs 17 Aug 44
	M.1125	TPR	HOWARD, W	" " " at 1230 hrs 15 Aug 44
	B.89244	PTE	NICHOLSON, J	" " " at 1645 hrs 16 Aug 44

CERTIFIED TRUE COPY

[signature] Lt RNR

Records Officer
1 Cdn N.E.T.D.

(Lorne Scott) CA (OVT)

Officer having custody of Original

6B. ABSENT WITHOUT LEAVE (Cancel)

(a) DO 160A, 8(a) d/31 Jul 44 & DO 165A, 7(a) d/7 Aug 44 insofaras it refers to B.75963 Pte FORD, G is hereby cancelled.

7. PUNISHMENTS

(a) On 14 Aug 44 awarded a forf of 28 days pay FRI 149(2) for 2 offences under Sec 15 (I) AA(AWL from 0830 hrs 12 Jul 44 to 0200 hrs 14 Jul 44 - 1 day 17 hrs 30 min) (AWL from 1100 hrs 17 Jul 44 to 0430 hrs 13 Aug 44 - 26 days 17 hrs 30 min) Forf 29 days pay FRI 149(I)(A). Fined $16.00 for an offence under Sec 19 AA. DRUNKENNESS.
TOTAL FORF 59 days pay and $16.00.
K.74250 PTE HELLE, JH

(b) On 16 Aug 44 awarded a forf of 28 days pay FRI 149(2) for an offence under Sec 15(I) AA(AWL from 0900 hrs 29 Jul 44 to 1420 hrs 15 Aug 44 - 17 days 5 hrs 20 min) Forf 18 days pay FRI 149(I)(A).
TOTAL FORF 46 days pay.
B.88463 SPR CURRAN, J

(c) On 16 Aug 44 awarded 14 daysdet for an offence under Sec 15(I) AA(AWL from 0830 hr 8 Aug 44 to 1515 hrs 15 Aug 44 - 7 days 16 hrs 15 min) Forf 8 days pay FRI 149(I)(A).
TOTAL FORF 22 days pay
F.77901 PTE DECOSTE, HL

(d) On 14 Aug 44 awarded a forf of 8 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 0830 hrs 7 Aug 44 to 1600 hrs 12 Aug 44 - 5 days 7 hrs 30 min) Forf 6 days pay FRI 149(I)(A).
TOTAL FORF 14 days pay.
D.71979 PTE EDDLESTONE, H

(e) On 15 Aug 44 awarded a forf of 3 days pay FRI 149(2) for an offence under Sec 15(I)(AA (AWL from 2359 hrs 13 Aug 44 to 1515 hrs 14 Aug 44 - 15 hrs 16 min) Forf 1 days pay FRI 149(I)(A).
TOTAL FORF 4 days pay.
B.31877 PTE EDWARDS, AV

(f) On 16 Aug 44 awarded 14 days det for an offence under Sec 15 (I) AA(AWL from 0830 hrs 7 Aug 44 to 0820 hrs 16 Aug 44 - 8 days 23 hrs 50 min) Forf 9 days pay FRI 149(I)(A). Forf 14 days pay FRI 149(I)(B).
TOTAL FORF 23 days pay.
M.16982 PTE FENNER, RD

(g) On 17 Aug 44 awarded a forf of 10 days pay FRI 149(I)(A) for an offence under Sec 15(I) AA(AWL from 1400 hrs 7 Aug 44 to 0940 hrs 17 Aug 44 - 9 days 19 hrs 40 min) Forf 10 days pay FRI 149(I)(A).
TOTAL FORF 20 days pay.
P.86369 GNR HASLAM, GM

(h) On 14 Aug 44 admonished for [illegible] under Sec 15(I) AA(AWL from 2230 hrs 5 Aug 44 to 1845 hrs 7 Aug 44 - 1day 20 hrs 15 min) Forf 2 days pay FRI 149(I)(A). (AWL from 0800 hrs 12 Aug 44 to 1845 hrs 12 Aug 44 - 10 hrs 45 min) Forf 1 days pay FRI 149(I)(A).
TOTAL FORF 3 days pay & to pay cost of apprehension of £1.13.9
F.89089 GNR KENNY, HA

(i) On 14 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15 (I) AA(AWL from 0830 hrs 10 Aug 44 to 0815 hrs 14 Aug 44 - 3 days 23 hrs 55 min) Forf 4 days pay FRI 149(I)(A).
TOTAL FORF 10 days pay.
C.20598 PTE LESLIE, CE

7. PUNISHMENTS (Cont'd).

(j) On 16 Aug 44 awarded a forf of 14 days pay FRI 149(2) for an offence under Sec 15(I) AA(AWL from 0830 hrs 5 Jun 44 to 1130 hrs 10 Jun 44 - 5 days 3 hrs) & for an offence under Sec 40 AA. Forf 6 days pay FRI 149(I)(A).
TOTAL FORF 20 days pay and cost of apprehension of £1.13.6
H.39173 SPR SKEGGS, FJ

(k) On 16 Aug 44 awarded a forf of 6 days pay FRI 149(2) for an offence under Sec 15(I) AA (AWL from 0830 hrs 14 Aug 44 to 1945 hrs 14 Aug 44 - 11 hrs 15 min) Forf 1 days pay FRI 149(I)(A).
TOTAL FORF 7 days pay.
G.1696 PTE WOODWORTH, JE

8. REMISSION OF SENTENCE

(a) Granted remittance of sentence shown on release from det wef18 Aug 44 under [illegible] and Det Brs.
D.16222 Pte DONNELLY, JJ 30 days A.11914 PTE ROSSO,JR 20 days

8B. REMISSION OF SENTENCE (Cancel)

(a) DO 171A, 10(a) d/15 Aug 44 insofar as it refers to M.30850 Pte Letendre, T is hereby cancelled.

9. MARRIAGE

(a) Granted permission to marry Miss Marjorie Ira Hunkin wef 12 Jul 44(Auth:CMHQ 1000;110 d/12 Jul 44).
C.36552 PTE TABB, HL

ADDENDUM "A"

10. STRENGTH INCREASE

(a) TOS from Y-3, 4 CIRU on disch from I EN & PS Hosp wef 15 Aug 44(Auth:Med List).
Lieut John Chester Roy K. MAC RAE

(b) TOS from I CRD wef 15 Aug 44 (Auth:44/Despatch/3/2(AG2a) d/13 Aug 44).
Lt-Col. Alan MacDougall KEEFLER

(c) TOS from "Q" List CMHQ on disch from I EN & PS Hosp wef 18 Aug 44(Auth:Med List)
Lieut Warren THOMPSON

(d) TOS from Y-3, 4 CIRUwhilst in Hosp wef 18 Aug 44 (Auth:Med List).
Capt Donald Robert GILCHRIST

(e) TOS from Y-3 shown on disch from Hosp shown wef 18 Aug 44(Auth:Med List).

Lieut Fred	HELDHAM	6 CIRU	I EN & PS
Capt Thomas Henry	BURDETT	2 CIRU	I EN & PS
Lieut George Theodore	CRUISE	I CRD	19 CGH
Lieut Stephen Lewis	MOORE	4 CIRU	I EN & PS
Lieut Roland	MAC DOUGALL	4 CIRU	22 CGH
Lieut John Stuart	PAISLEY	I CACRU	I EN & PS

for (B.M. MACINTYRE) A/Capt
Adjutant
No. 1 Cdn N.E.T.D.(Lorne Scots)

Exhibit "E"

8. ABSENT WITHOUT LEAVE(Cont'd)

C.4994	PTE	BROWNE, EG	AWL 21 days at 0830 hrs 26 Aug 44
C.5612	PTE	CLARK, SW	AWL 21 days at 1620 hrs 28 Aug 44
D.109639	PTE	DWYER, FL	AWL 21 days at 1400 hrs 25 Aug 44
H.17486	CPL	GRAHAM, JC	AWL 21 days at 0830 hrs 28 Aug 44
D.98160	CPL	RYAN, VJ	AWL 21 days at 1200 hrs 28 Aug 44
H.11177	PTE	TODD, A	AWL 21 days at 1200 hrs 27 Aug 44

8A. ABSENT WITHOUT LEAVE(Cancl)

(a) DO 180A, 8(a) d/28 Aug 44 insofar as it refers to C.5952 PTE CHOUINARD, R is hereby Cancelled.

(b) DO 180A, 10A(b) d/28 Aug 44 insofar as it refers to H.26231 PTE RUSSELL, T is hereby Cancelled.

9. PUNISHMENTS(AMD)

(a) DO 170A, 15(n) d/14 Aug 44 insofar as it refers to D.77279 TPR JENNINGS, PJ is amd by:"DELETING all Forf of pay"(Cost of apprehension to remain)

(b) Do 169A 10(e) d/11 Aug 44 insofar as it refers to B.63948 PTE MORRIS, FF is amd by"ADDING 25 days forf to run concurrent with 110 days forf in 4 CIRU DO 166 d/28 Jun 44"

(c) DO 64, 8(a) d/20 Mar 44 insofar as it refers to D.82880 PTE BENJAMIN, HL is amd to read as follows:

33 days FRI 149(1)(a)
11 days FRI 149(1)(c) (Completely concurrent with the award of 27 Jan 44, 4 Cdn Gen Pnr Coy P II O # 9 d/ 31 Jan 44).
90 days FRI 149(1)(b) (13 days concurrent with the award of 27 Jan 44 of 4 Cdn Gen Pnr Coy P II O # 9 d/ 31 Jan 44).
110 days net forf.

10. REMISSIONS

(a) Granted remittance of sentence as shown on release from detn wef 28 Aug 44 Remission Rules for Mil Prisons and Det Bks.

B.82877 PTE ORLOW, WH 9 days

11 MARRIAGES

(a) Granted permission to marry W.59719 PTE RICCA Mary on or after 19 Oct 44 (Auth:CMHQ 1000:110h d/29 Jul 44)

B.4588 PTE VIGNEAULT, PH

12 NEXT OF KIN(AMD)

(a) DO 179A 16(a) d/25 Aug 44 insofar as it refers to A.56239 PTE CASWELL, JH is amd by WIFE to read as follows: "Mrs Elsie May CASWELL."

13 STRENGTH DECREASE

(a) SOS Cdn Army C/S and No1 Cdn. N.E.T.D, wef 29 Aug 44 unable to meet the Required Mil Physical Standards(Auth: 10 /Forshaw, WH /1 CMHQ/ d 24 Aug 44

D.81426 SPR FORSHAW, WH

14. PAY & ALLOWANCES

(a) The u/n having completed 6 months continuous service and being otherwise eligible is entitled to receive $65.00 clothing all'ce and having served on Active Service for a period of not less than 183 days and being otherwise eligible is entitled to receive Rehabilitation Grant on discharge from Cdn Army wef 29 Aug 44.

D.81426 SPR FORSHAW, WH

"CERTIFIED TRUE COPY"

Records Officer
1 Cdn N.E.T.D.
(Lorne Scots) C.A.(O/s)

Officer having custody of Original

B.M. MACINTYRE) A/CAPT
Adjutant
No.1 Cdn N.E.T.D.(Lorne Scots)

4A. STRENGTH INCREASE(AMD)(Cont'd)

(n) DO 104A, 4(g) d/12 May 44 insofar as it refers to B.84877 PTE McINNIS, D is amd by unit of TOS to read: "X-3 RCASC"

(o) DO 105A, para shown d/15 May 44 insofar as it refers to theu/N is amd by unit of TOS to read: "X-3 RCASC"
B.81068 PTE MICHIE, WH para 3(d) B.19592 PTE BROOKS, AG para 3(e)

(p) DO 106A, para shown d/16 May 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
A.9962 PTE ROCHE, RF para 2(e), M.21065 PTE KOZLOUSKY, S para 2(e)

(q) DO 111A, para shown d/ 23 May 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
D.16978 PTE GALIPEAU, L para 3(i) B.63867 PTE BARROWCLOUGH, EG para 3(i)

(r) DO 119A, 6(h) d/2 Jun 44 insofar as it refers to C.75092 PTE GUYEA, HJ is amd by unit of TOS to read: "X-3 RCASC"

(s) DO 124A, 5(i) d/ 9 Jun 44 insofar as it refers to G.42619 PTE McKEIL, CG is amd by unit of TOS to read: "X-3 RCASC"

(t) DO 125A, para shown d/ 12 Jun 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
E.42655 PTE LANGLOIS, J para 5(m) C.32659 PTE HANLAN, EH para 5(q)
B.73452 PTE CORBETT, JE para 5(q)

(u) DO 146A, para shown d/11 Jul 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
B.55989 PTE MORRILL, JRE para 5(d) G.27054 PTE FOUGERE, AJ 5(d)

4B. STRENGTH INCREASE(Cancl)

(a) DO 179A, 6(a) d/25 Aug 44 insofar as it refers to G.24142 PTE HAYMAN, FR is hereby Cancelled.

5. ATTACHED

(a) CTBA to 3 CMC wef 28 Aug 44(AuthMed Cond Ord)
C.65259 PTE BRANNIGAN, VG

6. HOSPITAL

(a)	M.16193	PTE	GAINDNER, EJ	Adm to 19 CGH wef 21 Jul 44
	K.37548	PTE	SKUZANSKI, EH	Adm to 19 CGH wef 31 Jul 44
	L.66363	PTE	WILLIAMSON, H	Adm to 19 CGH wef 31 Jul 44
	K.76361	L/CPL	WILSON, J	Adm to 19 CGH wef 31 Jul 44
(b)	G.52950	SPR	GILBERT, TC	Disch from 1 SCH wef 26 Aug 44
	D.16153	CPL	HICKS, H	Disch from I BN & PS Hosp wef 15 Aug 44
	F.76015	SPR	HOLLINGSWORTH, G	Disch from 13 CGH wef 26 Aug 44
	A.38222	PTE	HOWALD, HJ	Disch from 19 CGH wef 29 Aug 44
	D.105750	PTE	MAYO, GR	Disch from 22 CGH wef 29 Aug 44
	A.21957	PTE	VOLLICK, SG	Disch from 2 CMC wef 28 Aug 44

7. LEAVE OF ABSENCE

(a) Granted PL with MA from dates shown.

B.150293	GNR	BOLTON, RE	29- 3 Sep 44 (5 days)
H.77074	PTE	BOYER, JL	29- 5 Sep 44 (7 days)
F.31548	PTE	CAMPBELL, DA	29- 3 Sep 44 (5 days)
K.20009	S.M.	CARMENT, DM	29- 5 Sep 44 (7 days)
B.62260	PTE	GIBSON, WG	29- 5 Sep 44 (7 days)
G.52950	SPR	GILBERT, TC	29- 3 Sep 44 (5 days)
M.20630	SGT	GOURLEY, J	29- 5 Sep 44 (7 days)
C.42013	PTE	KING, AW	28- 4 Sep 44 (7 days)
B.69737	SGT	SEWELL, W	29- 5 Sep 44 (5 days)
B.155354	PTE	TREMBLAY, JH	29- 3 Sep 44 (5 days)

8. ABSENT WITHOUT LEAVE

(a)	B.94590	CFN	FISCHER, JC	AWL from 0800 hrs 21 Aug 44
	E.21862	GNR	HARQUAIL, TJ	AWL from 0800 hrs 28 Aug 44
	B.88952	PTE	STEWART, GA	AWL from 1345 hrs 15 Aug 44

4. STRENGTH INCREASE(Cont'd)

(f) TOS from Y-3 shown on disch from Hosp shown wef 29 Aug 44(Auth:Med List)

G.52028	PTE	CABLE, S	4 CIRU	I BN & PS Hosp	
B.70446	PTE	CALLOW, CL	3 CIRU	13 CGH	
B.41467	PTE	FERGER, PFAJJ	3 CIRU	22 CGH	
D.142619	PTE	FONTAINE, JA	1 CGRU	9 CGH	
C.102920	PTE	GAGNON, M	6 CIRU	I BN & PS Hosp	
A.103895	PTE	GROVES, TW	1 CRD	23 CGH	
D.219313	CFN	HARTWELL, EA	1 COMERU	22 CGH	ARMOURER "C"
B.113709	PTE	HARVEY, HF	6 CIRU	I BN & PS Hosp	DR OF " "
K.4111	PTE	HESLIP, JE	3 CIRU	I BN & PS Hosp	
L.102728	RFN	KOPE, H	1 CIRU	I BN & PS Hosp	
E.4618	PTE	LABONTE, J	6 CIRU	I BN & PS Hosp	DVR MECH "C"
C.128	PTE	LACKIE, HV	1 CASCRU	I BN & PS Hosp	
A.22279	TPR	LOCKE, JR	1 CACRU	I BN & PS Hosp	DVR MECH "C"
C.39421	SGT	MOSLEY, GL	2 CARU	I BN & PS Hosp	
B.131995	PTE	MC KEE, ML	2 CIRU	I BN & PS Hosp	
A.34332	PTE	PIDGEON, JW	CMHQ	23 CGH	
F.96482	PTE	SHELFOON, GA	3 CIRU	I BN & PS Hosp	
L.66262	PTE	SHERMAN, GW	1 CIRU	I BN & PS Hosp	

4A. STRENGTH INCREASE(AMD)

(a) DO 38A, 4(c) d/ 15 Feb 44 insofar as it refers to M.31763 PTE PICHE, J is amd by unit of TOS to read "X-3 RCASC"

(b) DO 47A, para shown d/25 Feb 44 insofar as it refers to the u/n is amd to read as follows:
A.1000 PTE MICHALEK, TT para 4(h) "X-3 RCASC"
F.56540 PTE CONRAD, HA 4(i) "X-3 RCASC"

(c) DO 55A, 3(g) d/7 Mar 44 insofar as it refers to L.103867 PTE TURNCLIFFE, WD is amd by unit of TOS to read: "X-3 RCASC"

(d) DO 60A, para shown d/14 Mar 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
G.52396 PTE BERNARD,GM para 3(e) D.26127 PTE ELIAS, D para 3(e)
H.51927 CPL MATHESON, JA para 3(e)

(e) DO 63A, para shown d/17 Mar 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
A.9561 CPL O'CONNER, P para 3(g) B.63752 PTE BAKER, LJ para (3(g)

(f) DO 65A, 4(b) d/ 21 Mar 44 insofar as it refers to B.89182 PTE MOORE, JG is amd by unit of TOS to read: "X-3 RCASC"

(g) DO 66A. para shown d/22 Mar 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
H.52126 MSM NORDSTROM, M para 3(e) K.45221 PTE PEDEN, HE para 3(e)

(h) DO 68A, para shown d/24 Mar 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
F.39667 PTE MAC DONALD, LR para 2(k) A.63110 PTE NORLEY, GTW para 2(k)

(i) DO 70A, 2(e) d/28 Mar 44 insofar as it refers to K.84341 PTE SCHOOLEY, ET is amd by unit of TOS to read: "X-3 RCASC"

(j) DO 73A, 2(d) d/31 Mar 44 insofar as it refers to E.14178 PTE LECLAIR, A is amd by unit of TOS to read: "X-3 RCASC"

(k) DO 73A 13(f) d/7 Apr 44 insofar as it refers to M.60663 PTE LUNDE, EB is amd by unit of TOS to read: "X-3 RCASC"

(l) DO 96A para shown d/2 May 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
F.87253 PTE PRIEST, LLH para 4(e) M.16629 PTE DANARD, AV para 4(e)

(m) DO 99A para shown d/5 May 44 insofar as it refers to the u/n is amd by unit of TOS to read: "X-3 RCASC"
M.50778 PTE TATE, RJ para 1(k) B.64033 PTE CUNNIGHAM, K para 1(k)

Last Order
No. 180 "B"
d/28 Aug 44

PART II ORDER
No. 1 Canadian Non-Effective Transit Depot
(Lorne Scots)
issued by
Col. Louis Keene, ED

This Order
No. 181 "A"
d/29 Aug 44

SECTION "A"

1. STRENGTH INCREASE
(a) TOS from UNITS SHOWN WEF 29 Aug 44(Auth:As shown)

Lieut	Alfred Edward	BALFE	1 CASCRU	MS 3120 d/25 Aug 44
Lieut	William John	KEEFE	1 CRD	44/Despatch/3/2(AG2a)d/3Aug 44
Lieut	Joseph Oliver Arnagh	LEFEBVRE	1 CRD	Rec/34/AEF EVAC/1 d/30 Jun 44
Capt	Fredrick Kenneth	STONE	1 CRD	Rec/34/AEF EVAC/1 d/30 Jun 44
Lieut	William Robert	WATERSON	2 CARU	MS 3150 d/28 Aug 44

(b) TOS from "Q" CMHQ on disch from I BN & PS Hosp wef 29 Aug 44(Auth:Med List)
Capt Geoffrey BROOKS

(c) TOS from Y-3 1 CARU on disch from 13 CGH wef 29 Aug 44(Auth:Med List)
Lieut Raymond Edward MC AFEE

1A STRENGTH INCREASE (AMD)
(a) DO 2LA, 1(b) d/25 Jan 44 insofar as it refers to N/S Claire JUTEAU is amd to read as follows. "TOS from 17 CGH whilst in 17 CGH wef 26 Jan 44"

2. HOSPITAL
(a) Capt Leslie G ELHATTAN Adm to 19 CGH wef 31 Jul 44
Capt J.L. SAVAGE Adm to 22 CGH wef 26 Aug 44

3. LEAVE OF ABSENCE
(a) Granted PL with MA dates as shown
Lieut N/S G.E. BRIGHTMAN wef 12 Aug 44 (14 days)
Lieut J.D. MILLIGAN wef 29-5 Sept 44 (7 days)

SECTION "B"

4. STRENGTH INCREASE
(a) TOS from Cdn Army Show whilst att to Alderbrook Conv Hosp wef 30 Mar 44(Auth: AT 1432 d/28 Aug 44)
W.20979 PTE DAGG, LE

(b) TOS from units shown and stt to Hosp shown wef 29 Aug 44(Auth:As shown)

A.11333	PTE	BODDY, CH	2 CIRU	22 CGH 408/Dr Cond/1(PTA)	21 Aug44
M.56637	PTE	COOPER, PB	1 CGRU	I BN & PS H 408/Dr Cond/1(PTA)	23 Aug44
C.4332	PTE	TURGEON, L	1 Adm Trans Coy I BN & PS H	408/Dr Cond/1(PTA) d/25 Aug 44	

(c) TOS from units shown wef 29 Aug 44(Auth:As Shown)

F.33300	PTE	BROWNER, JI	1 CRD	44/Despatch/3/2(AG2a)d/3 Aug 44	COOK "C"
B.91122	PTE	COLLINS, JA	1 CRD	44/Despatch/3/2(AG2a)d/3 Aug 44	
E.22561	PTE	LAPLANTE, W	1 CARU	AT.1362 d/22 Aug 44	
D.76714	PTE	TOWER, RD	1 CRD	AT.1421 d/26 Aug 44	M/Mech "B"

(d) TOS from units shown wef 29 Aug 44(Auth:Med.List)

L.1418	PTE	CHANTIGNY, E	6 CIRU	
C.11574	PTE	FOURNIER, HE	1 CASCRU	FITTER "A"
G.17334	SGT	KNOX, CB	4 CIRU	
B.15257	GNR	MC DERMOTT, J	2 CGPC	
B.73377	PTE	NICOL, RW	3 CIRU	
B.15454	GNR	SHOVORLOK, W	1 CGPC	
B.94465	GNR	SWAIL, RW	2 CARU	
D.71017	PTE	THORNTON, SE	2 CIRU	
B.75294	CPL	WEIR, R	1 CASCRU	

(e) TOS from "S" 1 CGRU on disch from I BN & PS Hosp wef 29 Aug 44 (Auth:Med List)
P.21463 SGT FALCONER, JRD

Last Order
No. 184 "A"
d/ 1 Sep 44

PART II ORDER
No. 1 Canadian Non-Effective Transit Depot
(Lorne Scots)
issued by
Col. Louis Keene, ED

This Order
No. 185 "A"
d/ 4 Sep 44

SECTION "A"

1. STRENGTH INCREASE
(a) TOS from Y-3 2 CIRU whilst in Hosp wef 30 Aug 44(Auth:Med List)
Lieut Joseph Stanley ROGERS

(b) TOS from Y-3 shown whilst in Hosp wef 1 Sep 44(Auth:Med List)
A/Major Samuel Allison CREIGHTON 1 CGRU
A/Major John Augustine MacDONALD 4 CIRU

(c) TOS from 6 CIRU wef 1 Sep 44(Auth:10/SARA-BOURNET,CG/1(MS2),d/21 Aug 44)
Lieut Gerard SARRA-BOURNET

(d) TOS from Y-3 1 CACRU on disch from I BN & PS Hosp wef 1 Sep 44(Auth:Med List)
Lieut Claude MARCEAU

(e) TOS from 1 CID wef 2 Sep 44(Auth:MS 3128/d 26 Aug 44)
Capt James Leslie HENDERSON
Lieut Robert Armstrong PATTERSON

(f) TOS from Y-3 6 CIRU on disch from I BN & PS Hosp wef 4 Sep 44(Auth:Med List)
Lt-col James Edward Victor MURRELL

1A. STRENGTH INCREASE (AMD)
(a) DO 180A, 1(f) d/4 Aug 44 insofar as it refers to the u/n is amd by UNIT of TOS to read: "Can Loan Scheme"
Lieut Harry Dixon BELL Capt George Wynne BALDWIN

1B. STRENGTH INCREASE(Cancl)
(a) DO 180A, 1(a) d/23 Aug 44 insofar as it refers to Cdn/16 Lieut Kenneth William CARSTAIRS is hereby CANCELLED.

2. STRENGTH DECREASE
(a) SOS to 1 CGRU wef 31 Aug 44(Auth:MS, 3203 /d 4 Sep 44)
Lieut Joe FOLKES Lieut Joseph MANNION

(b) SOS to 1 CGRU wef 2 Sep 44(Auth:MS,3260/d 2 Sep 44)
Lt-col Thomas Pope GILDAY

2A. STRENGTH DECREASE(AMD)
(a) DO 180A, 13(a) d/26 Jun 44 insofar as it refers to Capt James William BEVERIDGE is amd to read as follows: " SOS Cdn Army O/S and No. 1 Cdn N.E.T.D. wef 26 Jun 44 upon being returned to Reserve Status(Auth:6535/d 13 Jun 44)

SECTION "B"

1. STRENGTH INCREASE
(a) TOS from X-3 Algonquin Regt whilst in Hosp wef 25 Jul 44(Auth:Med List)
B.144487 PTE SAWYER, KB

(b) TOS from 1 Cdn Det Bks wef 1 Sep 44(Auth:AT.1333/ d 21 Aug 44)
B.19034 CPL CHAMBERS, KR

(c) TOS from HQ RS CFC wef 1 Sep 44(Auth:Med List)
D.113034 PTE LECLAIR, G K.41080 PTE YATES, ER

(d) TOS from Y-2 2 CARU on release from Det wef 1 Sep 44(Auth:Med List)
B.15220 GNR PARTRIDGE, WT

P T O

3. STRENGTH INCREASE

(e) TOS from Y-3 shown on disch from Hosp shown wef 1 Sep 44(Auth:Med List)

C.30409	SGT	BURSON, GW	1 COMSU	I BE & PS Hosp	M/MECH "B"
B.38179	CPL	CAMERON, DR	1 CIRU	19 CGH	
H.19095	PTE	DUNCAN, CA	2 CIRU	R.W.C.Hosp	
M.30991	CPL	FARQUHAR, W	1 CRD	19 CGH	
A.47548	PTE	KENNEDY, FL	2 CIRU	18 CGH	
B.83960	CSM	O'GRADY, FM	1 C.SQMU	R.W.C. Hosp	

(f) TOS from Y-3 shown whilst in Hosp wef 1 Sep 44(Auth:Med List)

A.82158	PTE	ALLENSEN, WP	1 CRD	COOK "C"	
D.122856	TPR	CAMPBELL, DF	1 CRD	GNR OP "C"	
L.105006	PTE	COCHRANE, WR	1 CIRU		
D.138476	PTE	DeCOURCY, RJJ	1 CRD		
L.5235	GNR	EINARSON, HE	1 CARU	SURVEYOR "C"	
H.40874	SPR	HOUDE, LE	1 CERU	PIONEER "C"	
B.4181	TPR	LOUDY, WE	3 CACRU	DVR MECH "C"	
F.55378	PTE	MYERS, RE	1 CRD		
D.143616	PTE	OUELLET, R	6 CIRU		
H.102301	TPR	SYKES, WJ	1 CRD		

(g) TOS from unit shown & att to I BE & PS Hosp wef 2 Sep 44(Auth:408/Dr Cond/1(PTA)D/
L.100473 GNR PELLETIER, S 2 CARU B.28618 CPL WHITFORD, FW 27 Aug 44

(h) TOS from HQ CRU & remain att to HQ CRU for duty and att to 47 Coy CWAC for RQ & PAY wef 3 Sep 44(Auth:Med List)
W.15177 PTE DAVIS, ML

(i) TOS from 1 CGRU wef 2 Sep 44(Auth:Med List)
D.6896 PTE ARCHAMBAULT, C

(j) TOS from Y-2 6 CIRU whilst in Cdn Det Bks wef 3 Sep 44(Auth:Med List)
E.10523 PTE LANDRY, E

(k) TOS from Y-2 3 CIRU whilst in Hosp wef 4 Sep 44(Auth:Med List)
C.58777 PTE PHILLIPS, JH

3A. STRENGTH INCREASE(AMD)

(a) DO 164A, 6(j) d/ 4 Aug 44 in sofar as it refers to the u/n is amd to read as follows:

K.70804	SGMN	SAMINTIUK, G	"Deleting TF Inst Mech "A" "
L.27799	RFN	STONEHOUSE, CA	"Rank to READ: "A/CPL"

(b) DO 166A, 6(b) d/8 Aug 44 in sofar as it refers to E.42074 RFN RICOX, H is amd by ADD" DVR MECH "C" "

(c) DO 171A, 4(a) d/15 Aug 44 insofar as it refers to K.11178 SPR ESPETVEIDT, LM is amd by ADD "BLACKSMITH "C" "

(d) DO 172A, para shown d/16 Aug 44 insofar as it refers to the u/n is amd to read as follows:

H.82300	SPR	FOX, JS	para 3(a)	"ADD CARPENTER "C" "
B.27879	SPR	MacKINNON, HH	3(d)	"ADD CONCRETOR "C" "
K.46302	GNR	NAUNTON, HW	3(d)	"ADD DVR MECH "C" "
D.18051	SPR	RAGLIONE, N	3(d)	"ADD STOREMAN "C" "

(e) DO 174A, 3(k) d/18 Aug 44 insofar as it refers to B.78812 PTE BOUNDS, H is amd by ADD: "STOREMAN "C" "

(f) DO 177A, 4(c) d/22 Aug 44 insofar as it refers to the u/n is amd to read as follows:

C.6095	PTE	DODGE, JP	"NUMBER TO READ""C.6085"
F.95150	PTE	GAUDET, FJ	"ADD""CARPENTER "C" "

4. HOSPITAL

(a) A.3723	SGT	BATES, JE	Dischfrom 1 Cdn Spec Hosp wef 2 Sep 44
H.39119	SPR	COCHRANE, G	Disch from Royal Sheffield Hosp wef 3 Sep 44
C.4476	CPL	GARRISON, JE	Disch from County Gen H. Worksop wef 16 Aug4
C.5197	TPR	MARVIN, FW	Disch from 1 Cdn Spec Hosp wef 3 Sep 44

P T O

5. ABSENT WITHOUT LEAVE

(a)	G.60910	PTE	CASSIDY, HB	AWL from 0830 hrs 26 Aug 44
	B.77223	TPR	ROBERTS, A	AWL from 2359 hrs 27 Aug 44
(b)	E.21861	PTE	ALLEYN, E	AWL 21 days at 2359 hrs 3 Sep 44
(c)	B.69782	PTE	BUTTERFIELD, J	Ret from AWL at 0830 hrs 1 Sep 44
	D.71979	PTE	EDDLESTONE, H	Ret from AWL at 1700 hrs 28 Aug 44
	B.31839	PTE	GROVE, WG	Ret from AWL at 1210 hrs 29 Aug 44
	E.21862	GNR	HARQUAIL, TJ	Ret from AWL at 2320 hrs 31 Aug 44
	F.76219	GNR	McMAHON, JH	Ret from AWL at 1600 hrs 30 Aug 44
	E.29976	PTE	WATTERS, H	Ret from AWL at 2135 hrs 31 Aug 44
	K.74201	SPR	WING, GG	Ret from AWL at 1535 hrs 31 Aug 44

5A. ABSENT WITHOUT LEAVE(AMD)

(a) DO 180A, 6(b) d- 28 Aug 44 insofar as it refers to H.39119 SPR COCHRANE is amd by date to read: "wef 1800 hrs 18 Aug 44"

5B. ABSENT WITHOUT LEAVE(Cancl)

(a) DO 175A, 9(a) d/21 Aug 44 insofar as it refers to B.35234 SGMN STOTHERS, J is hereby CANCELLED

(b) DO 179A, 10(a) d/25 Aug 44 insofar as it refers to B.35234 SGMN STOTHERS, J is hereby CANCELLED.

(c) DO 182A, 7(a) d/ 30 Aug 44 insofar as it refers to B.6928 GNR KATHUM, M is hereby CANCELLED.

6. REVERSIONS

(a) The u/n personnel revert to the rank of PTE (ates shown and to draw Regt'l Rates of Pay of $1.50 per diem (Auth: ORO 4668 para 38-39)

B.58483	L/CPL	CHYNOWETH, EC	wef 18 Jul 44
A.34971	L/CPL	FORD, NW	wef 10 Jun 44
B.32878	L/CPL	GUBB, T	wef 10 Jun 44
C.80034	L/CPL	HITSMAN, FC	wef 10 Jun 44
F.96613	L/CPL	LOUGHERAN, IG	wef 24 Jun 44
P.10763	A/CPL	MORETON, WD	wef 21 Aug 44
M.100049	A/CPL	NELSON, RL	wef 23 Aug 44
H.21103	L/CPL	SADLER, LR	wef 4 Aug 44

7. PUNISHMENTS

(a) On 1 Sep 44 awarded a forf of 28 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 0830 hrs 19 Aug 44 to 1600 hrs 30 Aug 44 - 11 days 7 hrs 30 min)
Forf 12 days pay FRI 149(I)(a)
TOTAL FORF 40 days pay
G.10311 GNR McMAHON, JH

(b) On 1 Sep 44 awarded a forf of 2 days pay FRI 149(2) for an offence under SEC 15(I) AA (AWL from 0800 hrs 31 Aug 44 to 1e25 hrs 31 Aug 44 - 8 hrs 25 min)
Forf 1 days pay FRI 149(I)(a)
TOTAL FORF 3 days pay
B.91122 PTE COLLINS, JA

(c) On 1 Sep 44 awarded a forf of 4 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 0800 hrs 28 Aug 44 to 2320 hrs 31 Aug 44 - 3 days 15 hrs 20 min) Forf 4 days pay FRI 149(I)(a)
TOTAL FRO 8 days pay
E.21826 GNR HARQUAIL, TJ

(d) On 1 Sep 44 awarded a forf of 2 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 1500 hrs 30 Aug 44 to 2225 hrs 30 Aug 44 - 7 hrs 25 min)
Forf 1 days pay FRI 149(I)(a)
TOTAL FORF 3 days pay
B.67906 TPR McCARTNEY, DW

(e) On 1 Sep 44 awarded a forf of 28 days pay FRI 149(2) for an offence under Sec 15(I)AA (AWL from 1345 hrs 15 Aug 44 to 1115 hrs 28 Aug 44 - 12 days 11 hrs 15 min)
Forf 13 days pay FRI 149(I)(a) TOTAL FORF 41 days pay
F.88952 PTE STEWART, GA

Exhibit "F"

7. PUNISHMENTS

(f) On 3 Sep 44 awarded a severe reprimand for two offences under Sec 15(I)AA (1) (AWL from 1800 hrs 30 Aug 44 to 2225 hrs 30 Aug 44 - 7 hrs 25 min) (2) For subsidiary offence under Sec 40 AA FORF 1 days pay FRI 149(I)(a)
TOTAL FROF 1 days pay
B.75894 CPL WEIR, TR

(g) On 2 Sep 44 awarded a forf of 4 days pay FRI 149(I)(a) for an offence under Sec 15(I)AA (AWL from 1200 hrs 29 Aug 44 to 1020 hrs 2 Sep 44 - 3 days 22 hrs)
TOTAL FORF 4 DAYS PAY
B.136803 PTE CARRUTHERS, WA

8. REMISSIONS

(a) Granted remittance of sentence as shown on release from Det wef dates shown under Rules for Mil Prisons an Det Brs.
L.6300 PTE ANDERSON, FJ 9 days wef 6 Sep 44
B.15825 GNR PARTRIDGE, WT 50 days wef 2 Sep 44

(a) Sentence awarded by F.G.C.M. wef 8 Nov 43 suspended wef 8 May 44 is remitted wef 31 Aug 44 TOTAL 69 days Remission(Sentence awarded wef 3 Jul 44 is to be contin Auth:10/Harvey C.A./1(AG8a) d/1 Sep 44)
B.55474 PTE HARVEY, CA

9. HONOURS AND AWARDS

(a) Awarded the 1939 -43 star (Auth:ORO 4630)
R.25127 SPR BUCKMAN, TP L.74364 GNR LACEY, RJ

10. PAY AND ALLOWANCE

(a) Granted increased Regt'l rates of pay of $1.50 per diem wef 11 Jun 44
A.88096 PTE APPLEYARD, L

11 STRENGTH DECREASE

(a) SOS to 1 CGHQ & CTBA to 22 CGH wef 4 Sep 44(Auth:452/Green, H /1 D/29 Aug 44)
B.40259 PTE LABRIE, L

(b) SOS to unit shown wef 4 Sep 44(Auth:As Shown)
B.40746 GNR THOMPSON, JH 1 CARU 452/Thompson, J.H/1 d/1 Sep 44
A.52895 PTE DUNLOP, CM 1 CIRU 452/Dunlop, C.M./1 d/1 Sep 44

(c) The o/m having been declared fy a Court of Inquiry held 1 Sep 44 to be illegally absent from time and dates shown and that they are still absent are SOS as deserters wef 1 Sep 44. Deficiencies in Kit as shown.

H.15122	GNR	HESSASON, SG	1200 hrs 10 Aug 44	£7:6:11½	
C.4694	PTE	BROWNE, EG	0830 hrs 5 Aug 44	£3:18:1	
D.112839	TPR	CASADRANDE, WD	0800 hrs 1 Aug 44	£5:13:4	
D.109639	PTE	DWYER, FL	1400 hrs 4 Aug 44	£7:8:6½	
B.6501	GNR	GILBY, AW	1200 hrs 31 Jul 44	£5:2:10	
B.86160	CPL	RYAN, VJ	1200 hrs 7 Aug 44	£3:15:9½	
H.11177	PTE	TODD, A	1200 hrs 6 Aug 44	£3:7:9	
B.76675	PTE	TORRENS, J	2130 hrs 4 Aug 44	£18:11:6½	
B.88287	SPR	VANCLIEF, K.	0830 hrs 7 Aug 44	£3:10:8½	

CERTIFIED TRUE COPY

Records Officer
1 Cdn N.E.T.D.
(Lorne Scots) C.A.(O/s)

Officer having custody of Original

for (B.M. MACINTYRE) A/CAPT
Adjutant
No.1 Cdn. N.E.T.D(Lorne Scots)

CHARGE

Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ARMY MEDICAL CORPS Regiment

4th. FIELD AMBULANCE Battery / Squadron / Troop or / Company

CHARGE against No. H/11177 Rank PRIVATE.

Name TODD, A.

Place Date of Offence

OFFENCE W.O.A.S. Absent from ... until surrendering himself to the Military Police at NOTTINGHAM on the 22nd September 1944 about 1730 hours.

J. Buxton Lieut
ASSISTANT PROVOST MARSHAL
152 H.Q. PROVOST COMPANY
NORTHERN COMMAND

Names of Witnesses :—

Sgt. J. Twist. C.M. Police

Artificial 163 (1) (7) A.A. (attached)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

20168. Wt.W21374/1961. 2,000,000. 10/42. K. & H., Ltd. G467/47.

P.T.O.

Statement of EVIDENCE in the case of:-

H/11177 PTE. TODD. A.,
No. M. CANADIAN FIELD AMBULANCE,
ROYAL CANADIAN ARMY MEDICAL CORPS,
attached NO. 1 C.I.R.U.,
Canadian Forces, ENGLAND.

Sir,

Certificate 163 (1) (J) attached.

NOTTINGHAM.
02 Sept. 1941.

7689313 J. Lunn Sgt.
C.M. POLICE.
150 HQ PROVOST COMPANY,
NORTHERN COMMAND

REMARKS

1200- 6 Aug 44

Officer Commanding:- File No.....31/170...

NO.1.M.E.T.D. (~~Base~~) (C R U)

Re:-

H-11177 Pte. Todd A.

Forwarded for your information and necessary action, please, and disposal under C.A.R.O. 388, dated 28 Oct 40.

London
24-Sept-44 No complaints

(F.T. Stimson), Capt.,
D.A.P.M. C.M.H.Q.

APPENDIX "A"

Herewith list of kit deficiencies of H.11177 Pte. Todd, A. as of 30 Aug 44.

Article	No.	Vocab. Price £	s	d	Expended value (less 25%) £	s	d
Anklets web prs	1		4	5		3	4
Blouses battle dress	1	1	3	6		17	7½
Cap field service	1		2	6		1	10½
Drawers cell. short prs	1		1	11		1	5
Shirts angola drab	1		9	1		6	10
Boots ankle prs	1	1	4	5		18	4
Trousers battle dress prs	1	1	4	1½		18	0½
Badges cap	1			4½			3½
	TOTAL£	4	10	4	3	7	9

APPENDIX "A"

Herewith list of kit deficiencies of H.11177 Pte. Todd, A. as of 30 Aug 44.

Article	No.	Vocab. Price £	s	d	Expended value (less 25%) £	s	d
Anklets web prs	1		4	5		3	4
Blouses battle dress	1	1	3	6		17	7½
Cap field service	1		2	6		1	10½
Drawers cell. short prs	1		1	11		1	5
Shirts angola drab	1		9	1		6	10
Boots ankle prs	1	1	4	5		18	4
Trousers battle dress prs	1	1	4	1½		18	0½
Badges cap	1			4½			3½
TOTAL£		4	10	4	3	7	9

APPENDIX "A"

Herewith list of kit deficiencies of N.11177 Pte. Todd, A. as of 30 Aug 44.

Article	No.	Vocab. Price £	s	d	Expended value (less 25%) £	s	d
Anklets web prs	1		4	5		3	4
Blouses battle dress	1	1	3	6		17	7½
Cap field service	1		2	6		1	10½
Drawers cell. short pair	1		1	11		1	5
Shirts angola drab	1		9	1		6	10
Boots ankle prs	1	1	4	5		18	4
Trousers battle dress prs	1	1	4	1½		18	0½
Badges cap	1			4½			3½
TOTALS		4	10	4	3	7	9

APPENDIX "A"

Herewith list of kit deficencies of H.11177 Pte. Todd, A. as of 30 Aug. 44

Article	No.	Vocab. Price £ s d	Expende Value (less 25%) £ s d
Anklets web prs.	1	4. 6	3. 4
Blouses battle dress	1	1. 3. 6	17. 7½
Cap field service	1	7. 6	1.10½
Drawers cell. short prs.	1	1.11	1. 5
Shirts angola drab	1	9. 1	6.10
[illegible]	1	[illegible]	
Boots ankle prs.	1	1. 4. 6	18. 4
Trousers battle dress prs	1	1. 4. 1½	18. 0½
Badges cap	1	4½	3½
		TOTAL 4.10.4	3.7.9

hr

Pte. Parker

1 Sup. Hn.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

Record of the Declaration of a Court of Inquiry assembled at Superior Camp on the 30th day of August 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.11177 Pte. Todd, A.

DECLARATION.

The Court declare, H11177 Pte. Todd, A. is absent without leave from 1200 hrs on the 6th of August 44 unti l 1200 hrs on the 27th August 44, that he is still so absent and that he is deficient in Arms, Ammunition, Regimental Necessities and clothing in the amount of £3/7/9. (expended value)

Certified true copy 12 Oct 44

(F.R. Holmes) Lieut.
A/Adjutant,
No.1 Cdn R.E.T.D.

Names of President and Members Lieut. J.G. Mimms

Lieut. C.H. Parker

Signature of Commanding Officer Major H.W. Marsh

CERTIFIED TRUE COPY

Capt.B.F. Bunt

Signature of Officer having custody of the Original Record.

(4167) Wt. 57837/1049 40,000 5/44 C.& S.L.P.& P.Co.Ltd. 51-7 Forms/B.118/88

NO: 14/1117.7 RANK PTE

NAME TODD. A.
11th Canadian Field Ambulance

UNIT No. 1.C.A.F.U.

Was handed over to me by the Military Police at.....

ABOUT 1825 HRS ON THE 22/9/44...

HE WAS SOBER & WEARING UNIFORM.

I DETAINED HIM IN THE B.D.R. NOTTINGHAM

N.C.O. i/c GUARD.....

PRINTED C. E. Roberts

Garrison Provost R.M.P.

REC/34/MFM 4 & 6/1
R.2. Admin.

CANADIAN MILITARY HEADQUARTERS

11 Oct 44

Officer Commanding
2nd Incr. 1 Cdn N.E.T.D.
Canadian Army England

A-37335 Cpl. Moon, J.A.
H-11177 Pte. Todd, A.

Reference your 6-9 dated 7 Oct 44.

2. The marginally named soldier's documents have been returned to Canada, Therefore their MF'sM 4 and 6 are not available.

3. Enclosed, please find documents for Pte. Barrett, H.W. as requested.

4. For your information, please.

(Signed) C.E. LeFrost, Capt.
for (R.A.C. Johnson) Capt.
For Colonel,
OIC Records,
Canadian Military Headquarters

FHG/M188

Certified true copy 16 Oct 44

(F.R. Holmes) Officer having custody of Original Document.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 day of Oct 44

(T.H. Holmes) Lieut
A/Adjt
#2 Indr. 1 Cdn MSTD

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

H 11177 Pte TODD, A. of the RCAMC

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 604, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

(NOTE.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For No Regt'l Docs available	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~ NIL

or,

~~There are no entries in the Conduct sheets of the accused.~~ NIL

2. ~~The accused has not been previously convicted.~~ NIL

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42648/664 50,000 2/45 W. S. Ltd 51—9304

Ex D 1742

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence for~~
~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

for 9 days in Civil Custody,

and 19 days in Military Custody.

Total 28 days.

Of which days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 29 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 13 Nov 39

MBM I Pt I

MBM I Pt 1

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs

8. The accused is entitled to deferred pay or gratuity in respect of years' service.

9. The accused is entitled to reckon 5 yrs years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, ~~no military decoration or military reward [or is in possession of or entitled to~~

CVSM & clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of ,	years,
In the rank of ,	years,
In the rank of ,	years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name H 111777 Pte Alexander TODD of the RCAMC

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or Status of Officer dispensing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

All Regimental Documents previously forwarded to Canada by Officer i/c Records, Acton.

(See attached letter)

(*Continued overleaf.*)

The Accused requests that an Officer to defend him be appointed by the Convening Officer.

17 Oct 44.

A Todd

H 11177 Pte Todd, A.

LIST OF WITNESSES

First Witness

B 52360 Sgt Windeyer, R.C. (Lorne Scots) on the strength of #2 Incr. 1 Cdn NETD.

Second Witness

Lieut F.R. Holmes (RCA) A/Adjt of #2 Incr. 1 Cdn NETD.

LIST OF EXHIBITS

Exhibit "A"

Certificate of Apprehension signed by the APM 152 HQ Provost Coy Nthn.Comd.

Exhibit "B"

Certificate of cost of apprehension (£1. 11.8d).

Exhibit "C"

DO Pt II #170 "A" d/14 Aug 44 issued by 1 Cdn NETD

Exhibit "D"

DO Pt II #174 "A" d/18 Aug 44 issued by 1 Cdn NETD

Exhibit "E"

DO. Pt II #181 "A" d/29 Aug 44 issued by 1 Cdn NETD.

Exhibit "F"

DO Pt II #185 "A" d/4 Sep 44 issued by 1 Cdn NETD.

4 H-33.

Ste. Todd. A.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B136837 Pte Alvin William Todd C(y)R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec. 15(1) A.A.	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six (6) months

(Sgd) ..... Judge-Advocate, if any.

10 Nov 44 Date awarded.

(Sgd) D McMeadows President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised. AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) E Bewsher Brig

Date 14 Nov 44 Commanding 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B136837 Pte Alvin William Todd.	15 Nov 44.	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 44-33
CF A96 (Rev 52 AF A3) 40-9-A.G.S. 1868 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col J.W. Allard DSO Comd 3 Cdn Inf Bde dated 8 Nov 44

ACCUSED.

(As for trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B136837	Pte	Alvin William	TODD	C(y)R

PROCEEDINGS REVIEWED
J.C. Campbell Major
REVIEWING OFFICER, CAG BRANCH CMHQ
13 Dec 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 10 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E - 52

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.(1) Do you object to~~ NA ~~as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D McMeadows	Westnr Rs
Member	Capt	D E Smith MC	C(y)R
Member	Capt	J.L. Charlebois	R22eR
Judge-Advocate		NA	
Prosecutor	Lieut	C.M. Mackie	C(y)R
Defending Offr	Lieut	R.B. Savage	C(y)R

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused B136837 Pte Alvin William Todd before arraignment make(s) (no) (~~.....~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~was~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~adjourned~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

A4/93 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.
F44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 80, 1[illegible] ; *see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) (change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(2)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The accused elects right to be tried by Fd General Court Martial.

CHARGE SHEET

The accused B136837 Pte Alvin William Todd, a soldier of the Canadian Army Overseas on the strength of the Carlt & York Regt. C.M.F. is charged with:-

First charge AA Sec.15(1) when on active service, absenting himself without leave,

in that he,

in the Field, in Italy, absented himself without leave from approximately 1330 hrs. 3 Oct.44. until he was apprehended at ROME at 1535 hrs. 17 Oct.44,

Total absence 14 days 2 hrs, 5 minutes.

In the field

Date 7 Nov 44

(J.F. Ensor) Lt.-col.
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
8 Nov 44

Lt.-Col.,
A/Comd 3 Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFA39 (In lieu of CAFA39)
40(FA39)1697 (29968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B136837	Pte		Alvin William	TODD	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 8 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified~~ offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D W McAdam	WNSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D E Smith MC	CYR
Capt	J.L. Charlebois	R22R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D G Kirk	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*) (*Signed personally. RP 105 fn 2.*) Lt-Col., (*Rank.*)

Date 8 Nov 44 A/Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

KR(CaN) PARA. 327

I certify that I have this morning examined

No. B-136837 Pte. Todd, A.W.

of the Carleton & York Regiment and in my opinion he is

fit ~~unfit~~ to undergo Trial by Court Martial

Station Field

Date 10 Nov. 1944

Capt.,
Medical Officer
R.M.O. Carleton & York Regt.

PLEA IN MITIGATION

In passing sentence on 3-136837 Pte. Todd J. W. may the following facts be brought to the attention of the court

1. Todd joined the unit last year in Dec at Oshawa.
2. This man has been in army two years and has a good fighting record with the CYR and this is his first ~~[illegible]~~ crime since joining the CYR.

R. B. Savage Lt.
Defending Officer.

Plea of Mitigation

Summary of evidence in the case of B136837 Pte Todd, A.W. a soldier of the Canadian Army(Overseas). on the strength of the Carlt & York R. CMF.

Exhibit "B"

First Witness for Prosecution

C5639 Sjt Smelt, R.N. Carlt & York R. having been duly sworn states:-

I am C5639 Sjt Smelt, R.N. Platoon Sjt 11 Pl. "B" Coy Carlt & York R. At approximately 1330 hrs 3 Oct 44. I fell the Platoon in for Parade, and the accused Pte Todd was absent, I reported him A.W.L.

R. N. Smelt

The accused declines to cross-examine this witness.

Second Witness for Prosecution

Capt. W.T. McGrath, Adjutant, Carlt & York R. having been duly sworn states:-

I am Capt. W.T. McGrath, Adjutant, Carlt & York R. I submit Certificate of arrest in accordance with AA sec 163 (i) (jj) dated 17 Oct44, showing that B136837 Pte Alvin William Todd, was arrested at ROME on that date. This document came into my possession through normal channels. MARKED EXHIBIT A

W. McGrath capt

The accused declines to cross-examine this witness.

Question to the accused

Do you wish to make a statement or to give evidence upon oath? You are not obliged to do so, but any evidence you give or any statement you make will be taken down in writing and may be given in evidence.

Answer by the accused

No.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

In the field
Date 10/10/44,

Officer taking summary.

List of exhibits

In the case of B136837 Pte Todd, A.W. a soldier of the Canadian Army (overseas) on the strength of the Carlt & York R.

Exhibit "A" Certificate of apprehension under AA 163 (i) (jj)

List of witnesses

In the case of B136837 Pte Todd, A.W. a soldier of the Canadian Army (Overseas) on the strength of the Carlt & York R.

For the Prosecution: C5639 Sjt Smelt, R.N. Carlt & York R.
Capt. W.T. McGrath Carlt & York R.

850

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No B/136837 Rank PRIVATE Name TODD A.W.

of the CARLETON AND YORK REGIMENT

was arrested at ROME at 1535 Hrs.,

on the 17th day of OCTOBER 1944.

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest. [signature]

Rank Captain

Appointment (if any) D.A.P.M.

Commanding 111 PROVOST COMPANY, C.M.POLICE

Date 17th October 1944

PSSN/771/5-44/2.500

Exhibit "C"

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B136837	Private	Todd. A.W.	Carleton & York

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ FIELD conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the entries or figures in the conduct sheets, the inference being given in the most serious offence in each entry and to be recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1) AA	(1) time	(2) times.
For Sec 11 AA	times	(1) time
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, or WTM

There are no entries in the conduct sheets of the accused.

2. ~~The accused has~~ not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this ~~statement~~.

3. ~~The accused is~~ not under sentence at the present time, *or* The accused at the present time is under sentence for ~~beginning~~ on the WTM day of

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 23 days in military custody, making a total of 23 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 21 yrs.

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 30 Nov 42.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs service.

9. The accused is entitled to reckon 2 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of WTM

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of WTM dated

(P18250) W1.15832/144 175,000 8/41 A.S.R.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 6/13687 Rank Pte Name Todd, A.W. of C Y Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of Nov 44

W Mc Guelcop
Offic'r i/c Record
Cadet Unit R

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	
In the rank of	years,
In the rank of	years
	years.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected accordingly.)

Exhibit "D"

MFM 6
(AFB 122)
40/P&S/136 (3480)

B/136837 No. Name Todd, A.W. Sqn. Battery or Company Corps C/in/INF Corps Date of enlistment 30 Nov 42 GC Badges Service or Proficiency Pay N/A Character Dem

Date of last entry in Company Conduct Sheet 8 Apr 43 No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous ~~Sheet~~				destroyed on Completion of 6 months Service 30 May 43 Last entry 13-4-43					
Field	23 Sept 43	Pte		AA Sec 15(1) WOAS. Absent from 0730 hrs 23 Sept 43 till 1045 hrs 23 Sept 43 Absent 1 hour 15 Min.	~~Sgt~~ Mc Cowie Pte Whitney	10 days Pay	3 Sept 43	Gt Clinton Lt-Col	For 10 days Pay FR-1 149(2) Total forf. 10 days Pay.
Field	17 Oct 43	"		WOAS Contravening Routine Orders being beyond the bounds detailed by RCRO 81 Para 337 Without a Pass when apprehended by CMP at 1850 hrs 17-10-43. AA. Sec 11	Documentary	5 days Pay	19 Oct 43	Gt Clinton Lt-Col	Total forf 5 days Pay FR-1 149 (2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Feld	21 NOV 43	Pte		AA 15(1) A.W.L. 1 hr. from 2200 hrs 21 NOV 43 till 2300 hrs 21 NOV 43	Sgt Billingham	5 days C.B.	22 NOV 43		

Certified true copy
W. Jn. Shanks Capt.
Officer i/c Records

For the defence:- Nil

Page 2 Exhibit B Dew

Certificate by the accused

I certify that I have received free of charge, a copy of the Charge Sheet, Summary of evidence, list of witnesses and list of exhibits pertaining to my trial by court martial.
I require the services of an officer to defend me at my trial

In the field
Date 1 Nov 44,

A. W. Todd.

SH-17

Pa. Todd, B. F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-113444 Pte Brian Frederick TODD A&SH of C att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (a)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 90 days detention

(Sgd) ..... Judge-Advocate, if any. 31 Mar '45 Date awarded. (Sgd) George B H Cox Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) (G S N Gostling) Brig

Date 2 APR 45 Commanding 2 CDN BASE RFT GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B113444 Pte Todd, BF 6 Apl 45 A Hall Lt-Col. Comdg, 1 Cdn Disciplinary Centre

CR #15 19-4 8/5 Apl 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5H 17.

Case-file item of APAG 40-P-8-1688 (45010)

4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col J Runcie, MC A/Comd 2 CBRG dated 30 Mar 45

HEADQUARTERS 15 MAY 1945 ARMY GROUP ROYAL CANADIAN ARTILLERY

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-113444	Pte	Brian Frederick	TODD	A&SH of C att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED 16 May 45 Major Deputy Assistant Director Legal Services

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 31 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmln RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.20 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC att 1 Cdn Disciplinary Centre
Member	Major.	A E Lefroy, Leinth Hussars	att 1 Cdn Dis Centre
Member	Captain.	J D Pollock - Can Fus.	att 1 Cdn Dis Centre
Judge-Advocate			
Prosecutor	Captain.	J H Labrie. Rde Hais.	att 1 Cdn Dis Centre
Defending Offr	Captain.	F C Karn - Can Fus.	att 1 Cdn Dis Centre.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-113444 Pte Brian Frederick TODD before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 6 P 14.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 90(A) (b); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, in mitigation of punishment, as per exhibit D.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court is told permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined B113444 (No.)
Pte (Rank) Todd, B.E. (Name) and in my opinion he is
fit ~~unfit~~ to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 31 Mar 45

(Sgd) [illegible] Capt
Medical Officer
1 Cdn Disciplinary Centre

Unit 1 Cdn Disciplinary Centre

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAB)
40/P&S/1697 (D603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-113444	Pte		Brian Frederick	TODD	A&SH of C att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 30 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~6. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G B H COX		CAC att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	A E LEFROY		Seaforth Highrs att 1 Cdn Disciplinary Centre
Capt	J D POLLOCK		Can Fus att 1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 30 Mar 45

(Signed personally. RP 105 fn 2.)
(J Rumcie)

Lt-Col (Rank.)

A/Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, B-113444 Pte Brian Frederick TODD, A & SH of C, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 2300 hrs 23 Feb 45 until surrendering himself in LONDON, England, at 2130 hrs 2 Mar 45.
(Absent 6 days 22 hrs 30 minutes)

(A O Hood) Lt col
Commanding
1 Cdn Disc Centre

In the Field
4 Mar 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J Runcie) Lt-Col
A/Commander
2 Cdn Base Rft Gp

In the Field
30 Mar 45

Exhibit "D"

31 Mar 45

Plea of Mitigation

B-113444 Pte Brian Frederick TODD, A&SH of Canada

The accused is 28 years of age, married, one child.
He enlisted 20 May 42.
arrived in the UK in July 43 from Canada.
Landed in France 21 July 44 with his unit.
He fought with his unit from 21 July 44
to 13 Feb 45 as sec 2/c for part of the time.
This soldier has fought well with his unit
causing no trouble whatever.
He was granted 9 days leave in England
and it was then that he absented
himself. While on leave he met several
of his old friends and took a few extra days.
The accused was most willing to return
and surrendered himself at Victoria
Station in London.
This soldier has had one minor A&W
during his career in the army.
His category is A-1 and wished to return to his unit

Because of the accused's good service while
in the line and his clean record the defence
asks that the Court give the minimum
punishment and allow Pte Todd to return
to his unit at once.

Fletcher Capt
Defending Officer

Exhibit 'A' C113

Summary of Evidence in the case of B-113444 Pte Brian Frederick TODD, A & SH of C, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certificate of surrender dated 3 Mar 45.

FIRST WITNESS

A-3379 Cpl GRANGER AW att SIS CPro C, 1 Cdn Disc Centre sworn states:-

On the 23rd day of Mar 45, I interviewed the accused B-113444 Pte Brian Frederick TODD, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity, I cautioned him as follows:- "You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence." The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "B".

The accused declines to cross-examine this witness.

A-3379 Cpl GRANGER AW

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the field
24 Mar 45

EXHIBIT "A"
M. Rousseau Capt

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (A) (1)

I (R.E.BIRCH) Capt. D.A.P.M. CMHQ. certify that

Regt. No. B-113444. RANK Pte. NAME Todd.R.F.

REGIMENT A. & S. High. of Canada. 4th.Div. First Canadian Army.

UNIT

STATIONED AT

Surrendered himself to No. C-65156 Rank L/Cpl. Name Madeau.W.R.
B-78577 L/Cpl. Fisher.J.R.

Of the Canadian Provost Corps. No.6.(Area) Cdn.Provost Coy.

On the 2 day of March 1945 at London Hours 2130 hrs.

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) ~~Civilian~~

~~Clothes~~.

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer or Commanding Officer of the Portion of His Majesty's Forces or the Officer, Warrant Officer, or the non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering. (Strike out part inapplicable).

R.E.Birch

London
3-Mar-45.

(R.E.Birch), Capt.
D.A.P.M., CMHQ.

Exhibit "B"

M. Rousseau Capt

CANADIAN PROVOST CORPS

Special Investigation Section - 1 Canadian Disciplinary Centre

STATEMENT

PLACE: Jail DATE: 23 Mar 45

SUBJECT:-

Reg No: B-113444 Rank: Pte Name: Todd, Brian Fredrick, ~~Pte~~ R.C.A.F.(C)
Unit: 4 Cdn Div.

STATES: "I have been cautioned that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I fully understand the meaning of this warning and to show that I do so, I sign my name herewith."

Signature B. F. Todd

I am B. 113444 Pte Todd B.F. I identify a combined leave pass and railway ticket B. 039229 issued to me on 13 Feb 45 by my unit for leave to Eng. It file in Eng. I received information that party No 48, the was on leave party of which I was part of, had been granted a 24 hr extention. I went to the R.T.O. at Manchester railway station and got my extention pass. At the end of my leave I was to report to Victoria Station, London, by 23.00 hrs on 23 Feb 45. Instead of going to London on 23 Feb 45 I stayed in Manchester until 2 Mar 45 when I went to London and surrendered to Can Pro corps at Victoria Station telling them I was an absentee.

I was taken to Pro H.Q. in London and was kept there until the following morning. I was then taken to No 3 C.I.R. at Hitchy. A week later I was returned to Europe and kept at 11 Bn, 2 C.B.R.D. I was kept there for about 4 days and then sent to 1 Can Disc Centre

I have read over the statement and it has been read to me and it is the truth. I have had the opportunity to add or delete any thing I wish

Sgt B. F. Todd

Statement taken down in writing and witnessed by A3379 Lpl A. H. Granger at 1 C.D.S. 1 Pro C 1 Cdn Disc C.

Certified true copy of Exhibit B.

CANADIAN PROVOST CORPS

Special Investigation Section - 1 Canadian Disciplinary Centre

STATEMENT

PLACE: Field DATE: 23 Mar 45

SUBJECT:- AWL

Reg No. B 113444 Rank: Pte. Name: TODD, Brian Frederick.
Unit: A S H of C 4 Cdn Div.

S T A T E S : "I have been cautioned that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I fully understand the meaning of this warning and to show that I do so, I sign my name herewith."

Signature...B.F.Todd.....

I am B 113444 Pte Todd B F., I identify a combined leave pass and railway ticket B 039229 issued to me on 13 Feb 45 by my unit for leave to Eng. While in Eng I received information that party No 44, this was the leave party of which I was part, I went to the R.T.O. at Manchester railway station and got my extension pass. At the end of my leave I was to report to Victoria Station, London by 2300 hrs on 23 Feb 45. Instead of going to London on 23 Feb 45 I stayed in Manchester until 2 Mar 45 when I went to London and surrendered to Cdn Pro Corps at Victoria Station telling them I was an absentee.

I was taken to Pro H.Q. in London and was kept there until the following morning. I was then taken to No 3 C.I.T.R. at Witley. A week later I was returned to Europe and kept at 11 Bn 2 CBRG. I was kept there for about 4 days and then sent to 1 Cdn Disc Centre.

I have read over this statement and it has been read to me and it is the truth. I have had the opportunity to add or delete anything I wish.

(SGD) B.F.Todd

Statement taken down in writing and witnessed by A 3379 Cpl. A.W.Granger, att SIS, C. Pro. C., 1 Cdn Disc Centre.

CERTIFIED TRUE COPY

J. A. Thomson Lt
(J.A.Thomson)
OIC SIS C Pro C
1 Cdn Disc Centre

SIS/A-1/70-CDC

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B113444	Pte	TODD BF	A & SH of C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For 15 (1) AWL 1 1 times.
For _____ _____ times.
For _____ _____ times.
For _____ _____ times.

Date of first entry in Field Conduct Sheet 7 Jul 44
Date of last entry in Field Conduct Sheet -----

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for No
beginning on the _____ day of _____

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 28 days in military custody, *i.e.*, NIL days in open arrest, 28 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 24 years old and five months

6. The date of his attestation ~~calling up for military service~~ is 20 May 42

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of //////////	_____
In the war substantive rank of //////////	_____
In the acting rank of //////////	_____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27833) W1.24939/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 31st day of Mar 45

1 Cdn Discipline Centre

Exhibit C

MFM 6
(AFB 122)
40/PAM/136 (3458)

No. B113444 Name TODD BF | Sqn, Battery, or Company | Corps CIC | Date of enlistment 20May42 GC Badges | Service or Proficiency Pay 1.50 | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AWL 3 days 6 hrs 30 mins AA 15(1)		7 days FP & 7 days pay	7Jul44		Forf 7 dys pay FR&I 149 (2) & 4 days pay FR&I 149 (1) (a)

Duplicate created from MFM 4 14 Mar 45. Record of conduct in Canada not available

(Fenelon) Capt Officer ic Records "C" Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of MFM 6 in my possession

1 Cdn Dist ... Capt.

(PTO)

LIST OF WITNESSES

PROSECUTION A-3379 Cpl GRANGER AW att to SIS C Pro C 1 Cdn Disc Centre

DEFENCE N/A

LIST OF EXHIBITS

Certificate of apprehension dated 3 Mar 45	"A"
Statement of accused taken by A-3379 Cpl GRANGER AW att to SIS C Pro C 1 Cdn Disc Centre, dated 23 Mar 45	B"

I, B-113444 Pte TODD BF, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge on 24 Mar 45.

B.F. Todd

B-113444 Pte TODD BF

Y.X-9
GNR TODD E.V.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.66668 GNR ERNEST VICTOR TODD RCA HQ FIRST CDN ARMY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date)~~ (1) N/A

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 80 days.

(Sgd) W. B. Bate Major 9 DEC 43 (Sgd) C. I. Stuart Major.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

Proceedings Reviewed AJAG 15 Dec 43

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

By ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) C. I. Stuart Lt-Col.

Date 10 Dec 43 Commanding C.R.E. (Work) First Can Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused H.66668 Gnr. Todd, E.V. Date 13 Nov 43. Signature of Officer

Promulgation will appear in our Casuality Return No. 177

.....

Lt-Col. Camp Commandant

H.Q. First Cdn. Army.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

XX-9

CFA96 (in lieu of AFA3) 40-P-A-87/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of LT-COL N.I. FRASER ~~Comd~~ CON CRE (WORKS) dated 9 DEC 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.66668	GNR	ERNEST VICTOR	TODD	RCA HQ FIRST CDN ARMY

Proceedings Reviewed 17 Dec 43 JAG

Reviewing Officer (J.A.G.) / CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 9 DEC 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) AA

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0910 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ AA

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ N/A

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	C.I. STUART	HQ FIRST CDN ARMY
Member	CAPT	J.A. HUTCHINS	" " " "
Member	LIEUT.	D.W. TAYLOR	" " " "
Judge-Advocate	MAJOR	W.B. BATE DJA	" " " "
Prosecutor	CAPT.	R.E. MORDEN	HQ FIRST CDN ARMY
Defending Offr	LIEUT.	J.P. THOMPSON	" " " "

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~as~~) plea ~~as~~ N/A (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. AA

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E AA

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR. .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex F, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 3.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A96. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3)
(1. *AFB 355 or AFB 256.* 2. *AFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES, BY MY DEFENDING OFFICER.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 66-90, 69, 118, 119(A), KR Can 308, 310, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NO. H-66668 GUNNER ERNEST VICTOR TODD, R.C.A., HEADQUARTERS, FIRST CANADIAN ARMY, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:

CHARGE
SEC 18(4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the Field, between 1730 hours 24 Nov 43 and 1200 hours 27 Nov 43, stole a pair of shoes, the property of L-12791 L/Cpl CARSON, G.R.F., HQ First Cdn Army, a person subject to military law.

In the Field
7 Dec 43

(R. D. King) Lt-Col
OIC Details
HQ First Cdn Army

Approved for trial by Field General Court Martial under KR(Can) 540.

A.A.
H.Q., First Cdn Army

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
8 Dec 43

(N.I.FRASER) Lt-Col
Cdn CRE (Works)

9 Dec 43

I certify that I have this date examined H 66668 Pte Todd, E.V. HQ First Cdn Army, and find him medically fit to undergo trial by Field General Court Martial.

B Mills Major
MO HQ First Canadian Army

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
80/FAS/1697 (28602)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-66668	GNR.		Ernest Victor	TODD	HQ First Cdn Army.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~how~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Dec 43 endorsed by me, (~~or by an officer duly authorized~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial because to do so would be prejudicial to the~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby make the following appointments: (a) I appoint Offr as Judge-Advocate at the said trial; (b) I detail Offr as substitute for the said Judge-Advocate in the event of his illness or~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) C. I. STUART, (Must be named. RP 106.) HQ First Cdn Army. (Unit.)

MEMBERS.

Captain J. A. HUTCHINS, HQ First Cdn Army

Lieutenant (Rank.) D. W. TAYLOR, (Named or detailed. RP 106.) HQ First Cdn Army (Unit.)

WAITING MEMBER.

Lieutenant (Rank.) J. E. SECORD, (Named or detailed, if any. RP 106.) HQ First Cdn Army (Unit.)

JUDGE-ADVOCATE.

Major (Rank.) W. B. BATE, DJA, (Must be named, if any. RP 106.) HQ First Cdn Army (Unit.)

On Active Service in the Fd

in England (Country.)

Date 8 Dec 43

(Signed personally. RP 105 fn 2.)

(N. I. FRASER)

Lt-Col (Rank.)

Commanding Cdn CRE (Works)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

The Defending Officer in mitigation of Punishment states:-

I would like the Court to take into account the accused's army record. He has been in the army over 2 years - 10 months of which have been spent at this unit. He has had no charges against him in this time which proves that he is not a criminal. This charge which is admitted by the accused is more a slip on his part than one of many crimes. The ~~Officer~~ NP defence acknowledges that the accused must be punished but asks the Court for leniency for it is felt that a severe sentence which is not warranted may turn this soldier on the wrong track.

W.B.B.

Exhibit "F"

SUMMARY of EVIDENCE

in the case of H66668 Gnr Todd, E.V. of Headquarters First Canadian Army. By order of the Commanding Officer the evidence is to be taken on oath.

A.J. Swan Major
D/J.A. Judge Advocate

FIRST WITNESS C30818 Sgt Tait T.B. #1 SIS First Cdn Army
Having been duly sworn states:

On the afternoon of Nov 29, 1943, in Company with Sgt. Jackson, I conducted inquiries at First Cdn Army HQ regarding the theft of a pair of brown shoes from the billets there. As a result of these inquiries I interviewed Gnr. Todd whom I identify as the accused, I cautioned the accused in these words, "You do not have to say anything unless you wish to do so but anything that you do say will be taken down in writing and may be given in evidence". The accused did not make a statement at this time.

At about 1600 hours 29 Nov 43, I was informed by Sgt. McKee that the accused wished to see me. I saw the accused and interviewed him at the guard room First Cdn Army HQ. I said to the accused "Well." He replied " I am sorry to have caused all this trouble Sgt. I admit that I took these shoes." I asked the accused where he had stolen them from and he replied. "From Hut 1". I then took the accused immediately to the Camp RSM when Gnr. Todd repeated his admission in our presence. A

Accused - No questions.

.....
(Sgt. Tait T.B.)

SECOND WITNESS H26267 Sgt Jackson J.C. of Headquarters First Canadian Army.
Having been duly sworn states:

At approximately 1145 hrs Saturday 27 November 1943 L/Cpl Carson reported to me the disappearance of a pair of his shoes from his quarters in hut No. 1. In company with him I conducted an investigation throughout the camp lines including the Car Park quarters. At that time no trace of the shoes was found.

At approximately 1100 hours Monday 29 November Sgt McKee informed me that the shoes had been turned in by Pte. [redacted]. After further investigation Gnr. Todd was placed under close arrest. I was present when S/Sgt Taite of the SIS questioned the accused and the shoes were shown to him. At first the accused denied knowledge of the shoes but after Sgt Taite had left for further investigations the accused asked to see him again. Sgt Taite took the accused to RSM McArthur. As a result I was told by the RSM to keep Gnr Todd under close arrest. I initialed the shoes for further indentification and and produce them now to the court.

Accused - No questions.

.....
(Sgt. Jackson, J.C.

THIRD WITNESS B15334 Pte Wray L.H. of Headquarters First Canadian Army.
Having been duly sworn states:

On Saturday morning 27 November 1943 Gnr Todd brought a pair of shoes to the M.T. Park where I was working. I took them from him and was to pay for them the following Tuesday. After I had received the shoes I sold them to Pte Renaud[illegible] and he gave me ten shillings then and was to pay me the balance of five shillings on the following Tuesday which was pay day.

When he took the shoes to the camp shoe repair shop he was told that the Regimental Police were looking for this pair of shoes. He returned and told me about it, and I gave him back the ten shillings and told him that if I had known the shoes had been stolen in the first place I would not have sold them to him. The shoes had been taken by the Regimental Police from the repair shop.

QUESTION BY THE COURT Do you identify this pair of shoes as the ones sold to you by Gnr. Todd? * (Exhibit X to proceedings)

Witness I do

Accused - No questions

L12 Wray L.H.
(Pte Wray L.H.)

FOURTH WITNESS L12791 L/Cpl Carson G.R.F. of Headquarters First Canadian Army.
Having been duly sworn states:

When I returned from Training Camp Wednesday night 24 November 1943 I took my shoes which had been stored in my kit bag and placed them under my bed. Thursday morning when I made up my bed I placed the shoes on the bed.

As far as I can remember they were there until Friday morning. As a rule I do not place my civilian shoes on the bed and that is why I did not miss them until Saturday morning. About 1130 hours Saturday 27 November 1943 I reported to Sgt Jackson at the Mess Hall that the shoes were missing. Sgt Jackson went with me to all the huts in camp and the Car Park. We could not find the shoes.

About 1300 hours Sgt Jackson told me he would keep a lookout for the shoes. Monday morning 29 November 1943 L/Cpl Chisholm of the Regimental Police came into G. Branch where I work and said that he had a pair of shoes in the R.P. hut. He asked me to go down to see if they belonged to me. I went down and the shoes there, were mine.

QUESTION BY THE COURT Do you identify these shoes as the same pair and as being yours?

Witness These are my shoes

Accused - No questions

L/Cpl Carson GRF
(L/Cpl Carson G.R.F.)

FIFTH WITNESS C12474 Pte. Renaud, W.G. of Headquarters First Canadian Army.
Having been duly sworn states:

On Saturday morning 27 November, 1943 at about 1030 hours Pte. Wray offered to sell me a pair of shoes. I said that I would buy them. He wanted fifteen shillings so I gave him ten shillings and the remaining five shillings would be paid on pay day. I received the shoes Sunday 28 November. When I tried on the shoes they were too large for me so I decided to have them repaired with the view of re-selling them to someone else.

Before taking them to the shoemaker I was told that the shoes resembled a pair that had been stolen.

I took the shoes to the Regimental Police where they were identified as being the stolen ones. The Regimental Police kept the shoes and I went back and told Pte. Wray. He said that he had bought them from another person and did not know that they had been stolen. He returned to me the ten shillings.

QUESTION BY THE COURT Do you identify these shoes as the same pair that you bought from Pte. Wray.

Witness They are the same pair of shoes.

Accused - No questions.

W. G. Renaud
.....
Pte Renaud, W.G.

The accused, having been warned as follows: "Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", declines to make any statement.

Certified that R.P. 4(c), (d), (e), (f) have been complied with.

Certified that the foregoing Summary, consisting of three pages has been taken down by me in the presence and hearing of the accused this 4th day of December, 1943.

R E Morden Capt

(R.E. Morden) Captain
HQ FIRST CANADIAN ARMY

MFM 6
(AFH 122)
40/PAS/136 (3428)

NoH66668 Name Todd E.V. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
S'toon	15-6-42	Pte		AWL 0600-15-6-42 to 1200-15-6-42	Pte. Trodd, R.H.	Admonished	16-6-42	Major H.E. Ford	Forfeits 1 day's pay FRI 149(1)(a)

Evidence
D.A. Asst Engr
E.B. Bolton major
Judge Advocate

Certified a true copy from the Regtl books held in my custody
6 Dec 43

[redacted] Capt
[redacted]
HQ FIRST CANADIAN ARMY

(PTO)

Exhibit "C"
J. A. Stewart Major
W. B. Bate Major
Judge Advocate

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-30-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-66668	Gnr.	TODD, E.V.	RCA, HQ First Cdn Army

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	times	one times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in civil custody, and 10 ~~Air Force~~ days in military custody, making a total of 10 days in custody, of which N/L days were spent in hospital.

5. The present age of the accused according to his ~~regimental~~ attestation paper is

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper 22 Oct 41

7. The service which the accused is allowed to reckon towards discharge is 2 years 1 month 15 days

8. The accused is entitled to reckon 2 yrs 1 month 15 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of N/A

~~11.—(In the case of an officer.)—The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force

~~.....~~ unit

~~.....~~, ~~and in his regiment (or corps), the rank of~~

~~.....~~.

~~12.—The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

~~Date of promotion.~~

~~In the rank of ..... years.~~

~~In the rank of ..... years.~~

~~In the rank of ..... years.~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of December 1943 R.F. Reeder Lt-Col
Asst Camp Commandant
for Lieut-Col Camp Commandant

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5A-144

Pte. Todd, F.

RECORDED AT CMHQ IN AB 160 - 57-144

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H65638 Pte Frank TODD - 1 Cdn Repat Depot

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial - a total of ..... days, of which ..... days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court:~~

The accused was Released

(Sgd) ..... Judge-Advocate, if any. 2 Apl/45 Date awarded. (Sgd) ..... President. (RP 52, 53.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd): .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED APR 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

CFA98 (Ten lines of AFA81) 40/P & S/1698 4/38B

Convening Order of Maj-Gen D.C. Spry DSO Comd CRU dated 30 Mar 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H65638	Private	Frank	TODD	1 Cdn Repat Depot

PROCEEDINGS REVIEWED 6 Apr 45 K.F. Dick, Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 2 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to SGT SINCLAIR A M as shorthand writer? Ans NO
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO sir(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. Redman VD	HQ CRU
Member	Capt	A.D. GREENWOOD	2 CARU
Member	Lt	W.R. DAKIN	2 CARU
~~XXXXXXXX~~			
Prosecutor	LT	G.H. MILSON	1 C REP DEPOT
Defending Offr	LT	R.A. QUINTON	1C REP DEPOT

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-AIT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. To the evidence. Do you intend to call witnesses on your behalf ? Ans. Yes Sir Are they witnesses as to character only ? Ans. Yes - Sir
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE AIT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.~~(1) ~~Or~~, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.65636 Private TODD, Frank, on the transit strength of No. 1 Canadian Repatriation Depot a soldier of the Canadian Army Overseas is charged with: -

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

Army Act Sec 15 (1)

At Superior Camp, Ludshott, Hants. absented himself without leave from 1600 hours 18th January 1945 until surrendering himself at 1100 hours 9th March 1945.
Total time absent, Forty-nine (49) days, nineteen (19) hours.

(LOUIS KEENE) Colonel
Commanding Officer,
No.1 Cdn Repatriation Depot
(Lorne Scots)

Superior Camp, Ludshott.
Hants. England
17th day of March 1945.

To be tried by Field General Court Martial.

(D.C. Spry) Maj-Gen
Comd
Cdn Rft Units

Farnborough, Hants
30 March 1945

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H65638	Private	Frank	TODD	1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 30 Mar 45 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO		2 CARU
Lt	To be detailed by CO		2 CARU
	[redacted]		
		(Named or detailed, if any. RP 106.)	
	[redacted]		
		(Must be named, if any. RP 106.)	

On Active Service in the Fd

in England
(Country.)

D.C. Spry
(Signed personally. RP 105 (fn 2.))

Maj-Gen
(Rank.)

Date 30 March 1945

(D.C. Spry)
Commanding Canadian Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA3) 40/P & S/1097 (4031)

(See overleaf for oaths and notes for use on trial.)

5/2/1/MED GEN/1 (2 Incr)
2 Apr 45

H.65638 PTE. TODD F.

1. This is to certify that the m/n soldier is fit to undergo trial by Field General Court Martial.

K.D. McQuaig Capt.
(K.D. McQuaig) Capt. RCAMC
Medical Officer
1 Cdn Repat Depot (2 Incr)

/DB

TRANSCRIPT BY: P.28126
SGT AH SINCLAIR

CASE OF

H.65638 Pte TODD F 1 Cdn Repat Depot

PROSECUTION

The Prosecutor produced:

(1) A certified true copy of the Record of a Declaration of a Court of Inquiry, relating to the accused.

DOCUMENT MARKED EXHIBIT 1

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH KR 85(B).

FIRST WITNESS

B.58070 Lepl BONNEVEIL FL, 2 Cdn Repat Depot, having been duly sworn, states:

Sir, while on duty at the Gd House, 2 Repat Depot, at 1100 hrs 9 Mar 45, the accused, whom I now recognize, surrender d himself and I placed him under close arrest.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH KR 85(B).

THE PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS

The accused, having been duly sworn, states:

Sir, I never at any time had any intention of being absent from the unit, as during my stay at home I was very ill, and during the whole time I was away I was only out on three occasions, and on one of them I sent a telegram to my unit to wire for an extension because my Mother was very ill. My sister who is afully qualified nurse and at one time was Asst Matron in a hospital wrote me a letter which I hand to the Court now to read as evidence.

LETTER DATED DATED 13 MAR 45 MARKED EXHIBIT 2

(witness continues)

I have here a slip from the Emergency Hosp that was given to me the day before I came back to the unit.

AFB 256A SIGNED BY THE M/O MARKED EXHIBIT 3

I also have here a letter written to the Chief Paymaster's Office, and also a letter from my Mother explaining to the Treasury Dept about my illness.

LETTER WRITTEN BY ACCUSED TO CHIEF PMR'S OFFICE MARKED EXHIBIT 4

ACCUSED'S MOTHER'S LETTER MARKED EXHIBIT 5.

I also have here the Chief Paymaster's letter.

CHIEF PAYMASTER'S LETTER MARKED EXHIBIT 6

(witness continues)

My leave was to expire on 18 Jan at 1600 hrs, Sir, but I got a cold when I was on leave and on arriving hom I found my Mother was sick and I sent a telegram to the OC my unit asking for an extension of leave and on walking home from town I got worse and went to bed the following morning and developed sciatica. I received medical attention from my sister at home, and then I went to the Emergency Hospital the day before I reported back to Camp.

Q. How long were you in bed?
A. Practically all the time until I reported back to Camp, Sir

Q. When you came back the Mo gave you excused duty?
A. No, he gave me nothing but very light duties while I was in the Guard Room, Sir. I got 24 hrs excused duty when I came back. Here is the Sick Report.

SICK REPORT MARKED EXHIBIT 7.

Q. During your 8 weeks in Camp before going on leave were you mentally depressed?
A. I left the hospital on 28 Nov, Sir, and should have gone back to Camp as a stretcher case, but when I got to Camp I caught a further cold there, and I applied 5 times for a 7 day leave and after 8 weeks I got it. During all this time I was sick, and miserable and I had no peace of mind at all. I wqs just answering parades and I had nothing to do. I was sick, physically and mentally, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

CHARACTER WITNESS

K.1018 CSM (WO II) SULLIVAN B, 2 Repat Depot, having been duly sworn, states:

The accused, whom I now recognize, was with us about 8 weeks and he was suffering from a bad back during that time, and had excused duty from the MO. I considered him a very good soldier, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

STATEMENT BY THE PROSECUTOR ON THE FINDING

I believe the facts of the case are before the Court, and the accused's duty as a soldier was to inform his unit of his staying away. That is all I have to say, Sir.

STATEMENT BY THE DEF OFF ON FINDING

(NOTE ATT)

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT REOPENS

STATEMENT BY DEF OFFR ON FINDING

H65638 [redacted] in [redacted] E-6

Pte Todd, Frank.

Gentlemen, Private Todd and I wish to present the true facts concerning his present unfortunate case.

First may I give a short history of his life so far.

Frank Todd was born in June 1900 at Southport Lanc., where his father was a dairyman. At 16 years he left school and helped with the business and his family life was a happy one. He enlisted on Jan 6th 1918, (at 17 years) served in France and Germany and was demobilized in June 1919 with an unblemished army record. He reentered the dairy business but endowed with a pioneer spirit and having studied geology and mineralogy in England, he left in 1927 and went to Manitoba where he became a prospector. He worked at prospecting and construction until he enlisted again in June 1941

Right now, Todd is anxious to get back to his claims and his work in Canada.

In this war, Todd has definitely soldiered and worked hard. In Canada he became a Corporal and was employed at Portage la Prairie and Red Deer Alberta, as a platoon Cpl, small arms & bayonet fighting instr.

In March 1942 he arrived in the U.K. where he had to take down his stripes, regaining them in 2 weeks.

In May he reverted to proceed to #33 Coy corps troops supply. R.C.A.S.C. where he was employed as storeman and A/A L.M.G duties.

From this coy. #34 Coy was formed and Todd was attached to it. He worked hard and was well thought of by his officers and N.C.O.s.

In sept 1943 when the S.P.O. assigned Todd to H.Q. 1st Can Army, he being over 40 years, both his O.C. Major Morris and his platoon officer tried to retain him but without success.

He was transferred and served with #1 Can Car Coy. and his O.C. Major Shepherd

asked him to remain in England when the unit was going overseas, and expressed his pleasure when Todd told him no.

Todd served through France and Belgium with this unit and on 28th Sept 44 received a back injury at Ghent. He was flown back to England having spent 36 days in hospital he was categorized PSLS under pulhems and he is to undergo a spinal operation in Canada. He was told he would be in NETO only 3 to 4 wks during which time he would be given a 7 day leave.

It was unfortunate that Todd waited eight wks in Superior Camp before being granted his leave. Todd applied for his leave every week whilst at 2 inc. 10 C. Repat. Depot.

During this time gentlemen, Todd, who had all his life been accustomed to a healthy active routine, developed what might be termed extreme mental depression. It was during the cold spell of the winter with fuel shortage, cold barrack rooms. Todd suffered from recurrent chest colds and pains in his back resulting in sleepless nights, naturally his peace of mind was a thing to him, of great importance. The medical officer wanted to give him deemed duty on the basis of his age and service rather than the disability.

Todd went on leave on 9th Jan 45 and found his mother who is 74 years of age, ill with rheumatism and stomach trouble. His mothers illness became worse and on the 15th Jan (7 days before his leave was up) he went to the G.P.O. and wired the O.C. for an extension of leave due to his mothers illness. It was a very cold day and he developed a further cold and cough. stayed at

home to cure it and await the reply to his telegram which never arrived even though Todd checked that his wire had been accepted

On two days later, Todd, whilst lying in bed contracted sciaticia and bronchitis.

I present a letter from Todds sister, who is a fully qualified nurse, who nursed him during this illness. She insisted on calling in her doctor but Todd preferred the advantages of home treatment, warmth, proper food and nursing care with peace of mind, to the emergency hospital 2nd Mar.

I also present a letter written by Todd to Chief paymasters office, later sent to the repat. depot, also a letter from Todds mother.

On this time gentlemen, this soldier was very ill towards the end of Feb his chest cough returned.

On 5th March, a p.c came to the home with instructions to take Todd to Ravenscourt escorts, he found him in bed and decided Todd was not fit to travel.

On 8th March Todd, reported to the emergency hospital, Southport, was examined by an MO and was given the cert. (enclosed) stating he was fit to travel. He arrived back and reported into camp on 9th March, and was placed under arrest. He still suffers from colds and has been awaiting trial in the guard room 24 days.

Todd has - been away record gentlemen, it is far from his intention to commit any offence and it is unfortunate that the circumstances of his illnesses NOT home and the advantages in some

respects, have brought about this state of affairs.

Todd cannot consider himself guilty of this charge, gentlemen, he had no intention of being AWL. S have explained his reasons for not going to the emergency loop, or informing through his unit, in truth this is what he feels he is guilty of rather than being absent

S trust you will fully appreciate the psychology of this case gentlemen, which to my mind, S have only crudely brought out, the illness, frustration, loneliness and mental depression and circumstances of the past months in this soldiers case. Fundamentally he is guilty of no offence. He is very anxious that his army record be unblemished and wants to get back to Canada. S ask the mercy and justice of the court gentlemen and plead that this charge be completely dismissed on the grounds that he was so ill that it was impossible for him to return willfully thus endangering his [illegible]

R W Hunter Lieut

LIEUT. R B QUINTON, R.C.A.
2 i/c. 1 Can Repat Depot.

P.S.

Appendix "A"

Herewith list of kit deficiencies of: -

H.56538 Pte. Todd, F.

as of 9 Feb 45

Item	No	Voc. Price £	s	d	Expended Value (less 25%) £	s	d
Blouse B.D.	1	1	3	6		17	7½
Trousers B.D.	1	1	4	1½		18	0½
Caps f/Service	1		2	6		1	10½
Boots Ankle pr.	2	1	4	5		18	4
Drawers Woollen	2		10	9		8	1
Vests Woollen	1		10	9		8	1
Gloves Woollen	1		2	1		1	6½
Greatcoat Drab	2	2	10	7	1	17	11½
Shirts Angola	2		18	2		13	8
Socks Worsted prs.	1		3	4		2	6
Braces prs.			1	4		1	0
TOTAL		£ 18	11	6½	£ 6	8	8½

Checked by.....

Witness.....

EXHIBIT B

RECORD of the Declaration of a Court of Inquiry assembled at Superior Camp Ludshott on the Ninth day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.65038 PTE. TODD F.

DECLARATION

The Court declare that No. H.65038 PTE. TODD F. of No. 1 Canadian Non-Effective Transit Depot

illegally absented himself without leave from Superior Camp Hants.

at 1600 hours on the Eighteenth day of January 1945, that he is still so absent, and that on the 9th February 1945 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE

E H Milsom Lt President
(E.H. Milsom) Lieut. RCA

S Stevenson Lt. Member
(S. Stevenson) Lieut. RCASC

Member

Signed at Superior Camp, Ludshott Hants. England

this 9th day of February 19 45

Signature of Commanding Officer (LOUIS KEENS) Colonel
Commanding Officer 1 Cdn N.E.T.D.

Certified true copy G Adams Sgt.
Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/392 (6610)

EX 1

protests about my calling in my own doctor, who could have given me a definite diagnosis of your back, stomach & chest, but at the time home treatment, dieting, & nursing seemed adequate. The last war left a lot of sick & badly injured men who gave me plenty of experience in cases like yours.

You are the third of the family who has needed careful nursing. It was "touch-&-go" with John before his operation - his surgeon explained his case to me at the time — then Dad in 1939. A strange nurse, however willing, could have done what I did; there again diet was very important.

E & P. 9 Vernon Road,
Southport
Lancashire
13.3.45

My Dear Frank,

Mother & I were relieved to get your letter, & to know you had a good journey south. I am glad you are feeling better, but that is due to a few weeks' home treatment. You appeared to me a very sick man when you came home with that dreadful cold, but what was worse to my mind is that sciatica apparently caused by your injury. Rest & warmth indoors have certainly improved your appearance of better health. You can't be really well until your back has been attended to. So many English doctors have a

home unable to sit down with comfort for any length of time, and with a very bad cold. In about six days you got another, which definitely became bronchitis. Your expectoration almost made me suspect something much worse. You have also some gastric trouble that may need attention, unless careful dieting has relieved it. Your pulse & temperature were up, but not high enough to indicate possible lung trouble. A journey back to camp at that time could have aggravated your condition to pneumonia. I have not forgotten you had a severe dose of pneumonia when you were a schoolboy. I am sorry now I did not over-ride your

very high opinion of medicine & surgery in Canada that I am glad to know you will get the best possible treatment, & you will soon be as well as ever, & "back on the trail," hey?

I am sorry you have got into trouble for over-staying your seven-days' leave. But it was quite impossible for you to return in that state. If you had been in Canada they would not have operated on account of the bronchitis you have had, so don't worry about missing a draft.

Would it help if I gave you particulars to show your officer?

I am a fully-trained nurse in every branch of the service — even to district nursing you came

And now for news.

Mr. Lloyd came in to see you the ~~day~~ evening after you left, & looked surprised, knowing how ill you had been. The old man likes a chat on gardening, the grandchildren, the weather, the — well anything to pass an evening. I am to give you his best wishes for a good recovery.

Stephen Frank has gone abroad. My parcel of a book & drawings was returned; I am sorry he didn't get them. I don't know now whether I can repost the parcel in fresh wrapping or not, you saw the contents. When I get an address, can I send

Howden, his book-keeper, is, & where he is. He was taken prisoner by the Germans about three years ago.

Mother will write in a few days.

Love & best wishes from us both, & everyone

Ellen

them on, or will it be stopped? I spent an awful lot of time over those instructive sketches.

The children round about miss you — Barbara, Babbie, Beryl, Ann, all want to know when "Uncle Frank" is coming back — already! Well, Sister Ellen & Mother would like you back as well. We miss you, badly. — John has got his new bottle-washer fixed up. He has shown me the architect's plans for further development of his premises. He badly needs a few of his good men back from the various services. I sometimes wonder how Mrs.

PART 2 (a).

This form to be returned to the Officer in medical charge of the patient's unit, noting :—

DIAGNOSIS AND DISPOSAL OR TREATMENT.

c/o 1. cough & pain in chest
2. sciatica.

States he is awaiting transport to Canada for op^n for retropulsed disc.
Has been in bed at home for 6 weeks apparently not under any doctor.
Chest - some rhonchi only.
X rays. shows periarticular changes only.

No signs of sciatica. has stiff back.
Fit to travel.

Signed A. Woolgarden
Appointment R.M.O. Date 8.3.45

PART 2 (b).

DEFICIENCIES IN KIT OR DOCUMENTS.

Kindly forward at once items marked "*" or added in writing.

A.B.64 Part I ..... Part II	Helmet, Steel .....
Medical History Sheet, A.F. B178	Respirator, A.G. .....
Dental Treatment Card, A.F. 15033	Great coat .....
	Small kit .....
	Canvas Shoes .....
	Boots .....

Signed .....
Appointment ..... Date .....

(Z5464) W1.45150/928 500,000 1/43 A.S.E.W.Ltd. Gp.698
(Z5140) W1.21790/967 880,000 7/45 Forms B.256A/1

CONFIDENTIAL

ARMY FORM B 256A

APPLICATION FOR EXAMINATION AND/OR TREATMENT AT A HOSPITAL (MILITARY OR CIVIL)

This form will be completed in duplicate at Part 1 by the Medical Officer referring the case, and sent to the hospital concerned in a sealed envelope.

The specialist examining the patient (in the case of out-patients) or department of the hospital will complete Part 2 (*a*) of the form and return one copy to the Unit Medical Officer.

If the patient is retained in hospital, Part 2 (*b*) will be used to notify the unit of any deficiencies in kit or documents.

The Medical History Sheet A.F.B. 175 or A.F.B. 178A should accompany the application form when patients are sent to military hospitals, but not when patients are sent to civil hospitals.

PART 1.

To O.C. _____ Hospital.

Please arrange *examination/out-patient treatment/admission for :—

Name and Initials TODD. F. Rank PTE. Religion _____

Army/Personal Number H/65638. Age HH Service H yrs.

Unit No. 1. M.E.T.D. (overflow) Station HAZELMERE. SURREY

Provisional Diagnosis _____

REASON FOR SENDING PATIENT TO HOSPITAL (MILITARY OR CIVIL).—(To include Commanding Officer's opinion where likely to have a bearing on the disposal of the case.)

Army Form A 35* "Infectious Diseases, Notification Form" has/has not been rendered.

Date _____ *Signed* _____

Officer in medical charge of case.

* *Delete words not applicable.*

DISPOSAL BY HOSPITAL AND ANY SPECIAL RECOMMENDATIONS TO BE RECORDED OVERLEAF.

[P.T.O.

H65638 Pte. H. Pedley
9 Vernon Rd
Southport
Lancashire
2-3-44

Sir.

This morning I recd your letter to my mother Ref. Ref: Pt/H65638 and wish to state that I have stayed at the above address since coming on leave on the 9th of January 1945. I explained to her that I was due for hospitalisation pending discharge and that my physical condition was getting worse due to the extremly cold and damp weather and explained

proper authoritatives.

If possible please forward this letter to C/E. 1st N.C.T.D. (Overflow) Can. Army Englamd

Yours Obediently

Frank Todd H65638

that camp officials would probably send for me as my name came up for draft.

I was told in in 1st Gen. Hospital I would possibly be three (3) weeks at N.C.T.D. instead I was kept there eight (8) weeks and then given seven days leave.

My Mothers health has not been good and I applied for an extension of leave by telegram to which I got no reply.

It is my intention to stay here until I receive notification from

9 Vernon Road
Southport Lancs.
March 2nd 1945

Dear Sir

in acknowledge of your communication received this morning my son Private Frank Todd has been with me during his absence from Camp.
he arrived home from a battle cold camp very unwell he developed Bronchitis and stomach trouble.
my daughter who is a fully trained nurse and myself gave him every attention. I myself have been very unwell also. My son explained to me that he was waiting for a draft back to Canada.
I hope this explanation is satisfactory for my son being at home

I Remain Yours Sincerely
Ellen A Todd

EXS-

Tel: SHEpherds Bush 3[illegible]

2 Incr. 1 Cdn. Repat. Depot

C.O.		TPT	
2 ic			
ADJ		RSM	
Q M		Acct's	
P/Y			

CANADA

CANADIAN MILITARY HEADQUARTERS

Quote No. PT/II/65638 (Pay 2c).

CHIEF PAYMASTER'S OFFICE,
GOVERNMENT BUILDING,
BROMYARD AVENUE,
ACTON, LONDON, W.3

6 Mar 45.

The Officer Commanding,
1 Cdn. Repat. Depot (Lorne Scots).

H.65638 - Pte. Todd, F.
1 Cdn.Repat.Depot(Lorne Scots).

1. Attached is letter from the m/n soldier, and also a letter from his mother received by the Chief Treasury Officer.

2. According to records available at this office, Pte. Todd was reported A.W.L. from your unit from 1600 hrs. 19 Jan 45, and is still absent.

3. H.Q. (telephone conversation, Major Hutcheon - Sgt. Ferguson). Pte. Todd's address has been advised S.I.S.,

4. These letters are forwarded to you for information.

Encls:

(D.S.Hutcheon) Major,
for Chief Paymaster,
Canadian Army Overseas.

1/58B CMHQ 1521
40:PAS:244 (6592)

Guard. Room. (Squadron / Battery / Company / Detachment) # 1. Repat. D. Unit or Battalion

MORNING SICK REPORT

12/1 1945

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
H65618	PTE TODD F	44	C.OF.	P	M	acute nasopharyngitis	Excused Duty 24 hrs.
						EXT	
						Maj	

Capt. Medical Officer J. L. Constant Sgt. Orderly N.C.O.

3/60A M.F.B. 192 10/P & S/142

(OVER)

SUMMARY OF EVIDENCE

In the case of H.65638 Private Todd, F. on the transient strength of No. 1 Canadian Repatriation Depot, formerly No. 1 Canadian Non-Effective Transit Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this summary of evidence is taken on Oath.

First Witness for the Prosecution

Lieut. G.F. Adamson, Lorne Scots, Acting Adjutant of No. 1 Cdn Repat Depot (2 Increment) having been duly sworn states:

"I am Lieut. G.F. Adamson, Lorne Scots, Acting Adjutant of No. 1 Cdn Repat Depot (2 Incr). The accused H.65638 Pte. Todd, F. was taken on transient strength of this depot from Y-3 List 1 C.A.S.C.R.U. wef 28 Nov 44.
I submit as evidence in accordance with A.A. Sec 163 the following:
I. Certified true copy of the Court of Inquiry showing the accused as being illegally absent without leave from 1600 hrs 18th day of January 1945.
II. I also submit as Appendix "B" the document showing that H.56538 Pte. Todd, F. presented himself at the Guard Room Superior Camp at 1100 hrs 9th day of March 1945. (Appendix "B" attached)."

G.F. Adamson Lt.
Lieut. G.F. Adamson C.I.C.

The accused declines to cross-examine this witness.

Certified true copy of Declaration of Court of Inquiry, Exhibits "A" & "B" as referred to in the evidence were respectfully read over, shown to the accused and attached to this summary.

L. Adamakis Lt.
(L. Adamakis) Officer detailed to take the Summary of Evidence.

The accused ~~XXXXXXXXX~~ declines to cross-examine this witness.

The accused was warned in accordance with R.P. 4(c) as follows:

" Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of One page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

L. Adamakis Lt.
(L. Adamakis) Officer detailed to take the Summary of Evidence.

Superior Camp, Ludshott.
Hants, England
12 March 1945.

LIST OF WITNESSES

FOR THE PROSECUTION

First Witness: - Lieut. G.F. Adamson C.I.C. of 1 C Repat D (2 Incr)

FOR THE DEFENCE

Nil.

LIST OF EXHIBITS

EXHIBIT "A" - Certificate of Surrender.

EXHIBIT "B" - Declaration of Court of Inquiry.

STATEMENT BY THE ACCUSED

It is my wish that the Convening Officer appoint an officer to defend me at my trial.

H65638 F. Todd

H.65638 Pte. TODD, Frank.

EXHIBIT 'A'

STATEMENT OF EVIDENCE IN THE CASE OF

NO. H65638 RANK Pte NAME Todd. F.

Sir:

The a/m soldier presented himself at the Guard Room at 1100 hrs 9-3 1945

He was not in possession of a pass.

He was properly dressed and sober.

He was placed under close arrest,
warned to attend the Orderly Room Parade.

WITNESS

No. L103310

Rank Pte

Name LONGSTAFFER

Signature L/R Longstaff

(SIGNED)

No B52070

Rank L/Cpl.

Name Bonstud. F.L.

Signature F.L. Bonstud

(H.W. Marsh) Major
Officer Commanding
1 C Repat D (2 Incr.)

SK-18

Edwin. Todd. Jr.

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA)
40-P-6-8/1065

4 361

REVIEWED by Order of Lt Col E M Smith Comd 4 Cdn Armd Bde dated 22 May 45.

6 JUN 1945
JAG BRANCH
C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or temporary (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

No.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B112048	Pte		Justus W	Todd	22 Cdn Armd Regt

PROCEEDINGS REVIEWED
[illegible]
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

HELD at Tilburg (*town*) Germany (*country*) on (*date(s)*) 24 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 32/63.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Hans Pedermann as interpreter? Ans No

The Interpreter is sworn.(1) Do you object to ~~X m p o~~ as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major L.L. Morell	21 Cdn Armd Regt
Member	Capt. D.A. Johnson	Lake Sup. R (Mot)
Member	Capt. J.E. Brooks	28 Cdn Armd Regt
Judge-Advocate	Major E.G. Wasson	DJAG 1 Cdn Armd Div.
Prosecutor	Lieut A.W. Sullivan	22 Cdn Armd Regt
Defending Offr	Major I.P. Phelan	22 Cdn Armd Regt

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1) X m.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol. 4 Feb. 61

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be read in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole of part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B112048 Gdsm Justus W TOLD, 22 Cdn Armd Regt (C&G) a soldier of the Canadian Army Overseas, placed on Active Service, is charged with:-

First Charge: Sec 41 A A — WHEN IN A PLACE NOT IN HIS MAJESTY'S DOMINIONS COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, HOUSEBREAKING WITH INTENT CONTRARY TO SECTION 27 OF THE LARCENY ACT 1916

in that he

on 12 May 45 at Bockhorn in Germany, broke and entered the dwelling house of Kale Fuhrken with intent to commit a felony, namely, to steal therein.

Second Charge: Sec 41 A A — COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT,

in that he

at Bockhorn, Germany, on 12 May 45 assaulted Mr. Hans Konken.

Third Charge: Sec 19 A A — DRUNKENNESS

in that he

at Bockhorn, Germany, on Tuesday night, 11/12 May 45 was drunk.

(A A AMY) Lt-Col
Comd, 22 Cdn Armd Regt (C&G)

Dated 20 May 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(E.V. SMITH) Lt-Col
A/Comd 4 Cdn Armd Bde

Field,
21 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy: AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B112048	Gdsm		Justus W.	TODD	22 Cdn Armd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) [illegible] endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	[illegible] L.L. Morell	21 Cdn Armd Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be appointed by 22 Cdn Armd Regt	
Capt	To be appointed by Lake Sup R (M)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be appointed by 22 Cdn Armd Regt	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	E.E. Wreson	4 Cdn Armd Div

On Active Service in the Fd

in GERMANY (Country.) (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Dat 22 May 45 A/Commanding 4 Cdn Armd Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B112048 Pvt Todd Jas.
of 22 Con. Armd Regt is in a good state of health,
and fit to undergo Trial by Court martial.

W. Ed. M., Capt RAMC
Medical Officer

Station Field (Germany)

Date 24 May 1945

M. F. B. 246
25M—9-41 (1742)
H.Q. 1772-89 480

L.M. pus.

First Witness for the Prosecution.

Kate Futterer, Beckhorn, Germany. married woman, wife of Hans Funkhaken having been duly sworn states:-

night of 11/12 May 45 at about 1 a.m. I was awakened by my house maid coming into my room. I heard Hans Koukken who lives upstairs talking to someone outside. After everything was quiet. Later I heard a window being broken. Shortly after a man was standing in my bed-room. He was dressed in pants and shirt, no cap. I told this man to leave the room and pointed to the door. The man took cigaret-lighter and tried to light it and held it in my face. He got it lighted. I called for help. There was sound of someone coming downstairs and man left my bed-room. I then saw Hans Koukken fighting with man who had come in my bed-room. Mrs. Koukken who lives upstairs with her husband came down to my bed-room. I asked Mrs. Koukken to go out and call for help. It took quite a while as I decided to go through the corridors myself meanwhile. Then I met Mrs. Koukken coming with two soldiers.

X-examination.

My bed-room is on the ground floor.

I don't know what the conversation was between Hans Koukken and this man outside. I don't know if it was in German or English. I saw the man and broken in the maids room. One large square of glass was broken.

The type of catch is one that is a lever. It must be pulled out by a slot, then swung up which withdraws the locking bars. Then the lever is turned inwards to allow the windows to swing.
To get from maids room to mine a person would have to go down the hall and kitchen.
I do not know how long it was between time window in maids room was broken and time man came into my room
The maid and my son were sleeping in maids room. Maid and son left maids room before window was broken and came into my room.
I did not call for help when I first heard the window broken. I was very excited. I called for help when man entered my bed room. Person going for maids room to mine would go down stairs doors and make turns.
There is no furniture in kitchen to get in the way. I did not hear anything between breaking of window and man coming in my bed room. My bed room door opens into the kitchen. It was very dark. I could not see anyone in the kitchen. I only saw the man using a lighter in my room. Nothing was missing from my house after this affair. When he light the lighter I saw it was a man. He had on trousers and shirt. No hard dress. I do not know if he had a tie on. His hair was dark. I do not know if he had a moustache. There were five people in my room. He went to each bed and used lighter to see who was there. I cried for help because man came to my bed room.

The man said nothing. I could smell liquor in the room. I am not sure I would recognize the man who came into my bed-room.
(Witness points at accused) I think that is the man. The reason I think so is because the expression in his face is the same.
~~yes I said in the summary~~ at present
I don't remember exactly what I said in the summary.
It is true that I was very frightened. ~~that~~ The man was standing close to me - fell to pole.
I could hear that the accused is the man.
A few seconds elapsed from time I called for help till Knudsen came down stairs.
Meanwhile man left my bed-room quickly.
He did not knock over any furniture. I don't know if my light was still lighted.
The two people struggling in the hall were Knudsen and man who had been in my bed-room. Here Knudsen is the man living upstairs. I did not pass Knudsen and man when I left the house. I left to see if Mrs Knudsen was getting help. Mrs Knudsen had come into my room & right after the man left my room. The men were struggling in the hall at least 10 minutes. The men spoke when they were fighting in both English and German. I drink understand what they were saying. About 10 minutes elapsed for till soldiers came.
By the Court -
The door of my room in passage was not locked before man came in my room.
It would take me about the same time to walk around the house into the hall.

By the C.d.
The window of the maids room was closed and
locked & up & the grass unbroken
and the grass unbroken
I saw Hawe (Konken when I reached there
with soldiers. The man he had been
slung q eng with was gone. (Konken's shirt
was torn - he was bleeding a little somewhere
on his hands. (R P 8 3 is complied with)

Second Witness for the Prosecution
Hans Konken, Bockhorn, Timmerman, Office clerk,
having been duly sworn states:
On the night of 11/12 May 45 I was awakened
where I live in rms. I understand by someone
home
(Knocking on door. I asked in Eng who was
there. Someone answered in German open
the door." I told the man outside Dgo house and
I went back to bed. I heard nothing for a few
minutes. Then I heard rms. I understand call for
help so I went downstairs. The kitchen door
opened and a man came out. I opened the
outside door and told the man Dgs outside
home. The man lit his cig. lighter and
drew a pistol and pointed it at me. I grabbed
his arm and took the pistol from him.
Then rms my wife came down stairs and I
told her Dgs over at the first and first
nearby. The man wanted Dgs put and tried
to get the pistol back. I told him to wait until
his comrades came over. We stood Dgs for
several minutes. The man grabbed my shirt.
This lasted till my wife came back with Dgs.
When the man heard the others coming he
ran outside, around house and disappeared
I gave the pistol to the soldiers.
It was about 1230 A explosion I first heard

Kneeling. The man was dressed in khaki
and pants. He had on a belt and German
pistol holster. I don't know what kind of
shoes. I can't say the accused as the man
I fought with that night. (Witness points
to the accused)
X - examination -
I called out in English when I first heard
knocking because no one but Can soldier
could be on the street at that time of night.
I know a little school English. I asked
who was there. The answer was in German -
"Open the door". I then said in English
"Go home to your comrade". I did not hear
a window break. Mrs. Fuhrken cried -
"Mr. Fuhrken helps me". The time between
was 3, 4 or 5 minutes. I put on my pants
and went downstairs. I was able to find
the stairs and get down. At the same
moment I got down the man climbed out of
the kitchen. I was standing in the hall-way
when I first saw the accused. I was able
to see because first I opened the outside door,
the accused lit his lighter, the floor is quite
a light color. I could see him draw his
pistol. He pointed the pistol at me. He
did not say anything. I grabbed his arm,
pushed it away and got hold of the pistol.
The accused was standing about 1½ metres
from me. There was nothing missing from
the house afterwards. When I got the pistol
I held it down by my side. The accused
spoke in German and English. The accused
said "No comrades". I told him in English

my wife goes & your comrades & bring them here". I hit the accused on the jaw with my right hand and my left. The fight would stop and start again. I knew that the accused was intoxicated so I would ask for his pistol. I could smell alcohol. The accused was struggling with me and got pistol back. It was about 2 A.M. when the accused ran away. He went because he heard Mrs. Coulter coming back with help. The accused went out the main door. He went quickly. I gave the pistol to the soldiers when they came. They tried to follow the accused, did not get him and came back to the house. They looked everything over. I heard shots fired when they were away. They came back to the kitchen. They said they would return the next day.
I saw the accused point the pistol at me.
(The Prosecution produces a pistol marked "A" for identification)
I think the pistol I took from the accused was a German pistol. 8 mm and that was the pistol. I turned over to the two soldiers.

By the Court.

The accused spoke broken German.
The door was always open while we were fighting. We were fighting at all times in the hall way. There was enough light for me to see how the accused was dressed.
The accused was intoxicated that I can only tell because he was smelling of alcohol and his hair was messed up.
The accused did not identify me before I took the pistol from him.

The accused struck me later.
(The witness is shown pistol marked A)
The hammer is the same. I did not look at the pistol closely. May be this was the same pistol I took from the accused. May be the one I took was a little bigger. In the fight I had a cut on my right hand and the accused had a cut above his left eye. (RP 53B complied with)
Third Witness for the Prosecution.
F29841 Gnr. Conrad A.D. 22 Can Armd Regt. having been duly sworn states:-
On night 11/12 May 45 0035 hrs. I was awakened Gnr Mayhew. I went with him and a civilian woman to a house. There I saw Hans Koulen, a German civilian who was standing base footed and with underwear down on the doorsteps. He handed Gnr Mayhew a pistol. Mayhew and I went around the house and heard footsteps running down the road away from us. We called out to halt and fired 2 shots. We returned to the same house and saw 2 broken windows, one in the hallway and one into another room. The broken glass was there. When we returned to RAP the accused was helped in without boots or tunic. His left leg appeared to be cut and blood around his face. He seemed to be in a dazed condition. It was a 9 mm Browning that Koulen gave us.

X - examination.
I don't know whether accused was in danger because of drunkenness or an accident.
I didn't notice whether he had a belt or holster. He didn't speak to me. I didn't examine the cut over his eye. He was helped into the jeep. The steps running away from the house were shady pool steps.
The pistol taken from Hankin was turned over to Cpl. Best (A1-8313 Corporal Best)
Fourth witness
D 76674 Adam Bonneau J.M. Private
Armed Guard having been duly sworn states,
I know accused fairly well - have known him for 4 or 5 months.
Night of 11 May 45 I had something to drink with the accused. Both accused and I went for a walk. We walked around for awhile. Accused drank more than I did. I would say he was drunk. We talked and argued about various things. After awhile I got tired and suggested going back and going to bed. The accused said he would rather stay out for awhile. I went in and went to bed. We weren't arguing about anything unpleasant. The accused said he was looking for girls. I said there were no girls around and it was fairly late. The only ones were Police girls around. We didn't find the camps. I don't know when I got back.
X - examination.
I don't know what liquor we were drinking. It didn't taste like cognac. I believe it was German stuff. It was new to me.

accused didn't say anything about breaking into any place or stealing. Accused was very drunk - was unsteady on his feet.

By the Court.

Accused was dressed in khaki slacks, not sure of shirt. We were wearing revolvers and holsters. I have no idea of times. We were in tents.

Accused drank close on a bottle of mixed liquor.

Accused was carrying an Ross Browning 9 mm.

It was dark when I left the accused.

(R.P.S. 3/15 complied with)

Fifth Witness for the Prosecution.

D/26017 A/Q/Sgt. Atkinson W. J. re-sworn

Armd Regt having been duly sworn states:-

(The responding of Police warnes made by this witness under as he understood calling him himself in any event)

The pistol marked A for identification was given to me by Sgt. Bell, Provost Officer. This pistol was not in charge of the accused. (Pistol marked Exhibit "A" by the Court) (X-examination) This pistol is not on charge to any one to my knowledge. The pistol was not loaded when I received it. The pistol was turned into me about 13 May 45. The accused is issued with one rifle which is on charge to him. Usual cautions & admonitions were recorded on request. I did not know who was getting them.

When these were examined pistols ~~hardly~~ ever got both 6 shots. They were acquired by individuals. We have no requisition of all weapons obtained. This pistol does not appear on our registers.
(A.P. 833 complied with).

Defence.

B 112048 Edwin Todd / W 2nd Edmund Regt. having kindly sworn 6 shots + night 11 May 45, we started drinking, I was warned about Brocklebank home. Apparently I drank more liquor than I could handle as far as breathing and walking is concerned. I don't remember being there at all. After leaving the billets and walking with Edwin Bowman, I don't remember anything until the next morning. I have not seen the Civilian house where this is supposed to have happened. I had seen the civilians who gave evidence here prior to taking summary of evidence. It was when I was first up for these charges that is the first time I ever saw them. I don't remember going down + got back that night. I don't remember being shocked. I don't remember loosing my web belt pistol + holster during the night. Ex. A is the same as the pistol I was issued with. I don't know the number of the one I had. I don't know pistol loaded around with 6 rounds. don't have many in. I am not short of money.

I can speak German. I can say open the door in German. I received basic training in C.C.P. I was put under close arrest at 1400 hrs 12 May 45. I don't know what I was drinking. It was German liquor. I had never had any German liquor before. I have never been up on drunk charge before. My youngest daughter is ill with ear trouble. My wife who is blind She is having doctor and specialist. At present I send her money.
The only entry in my A & E 6 is an admonishment for an accident.
I volunteered for service in East Pacific because I can get home and see the family quicker that way and also I figure my brother will go and I want to be with him. I had a Canadian holster on my belt might in question.

X examination.

I lost my belt holster + pistol that night.
I never had drunk German liquor before.

By the Court.

I drive the CO's jeep. I turned in the rifle that the shells was + untangled with.
The Quartermaster himself issued me with the pistol when we first arrived in Germany.

By the J.A.

I am married and have 2 daughters 7 and 3 years of age.
I was a transport driver in civil life and worked in numerous jobs before I entered army. My home is Toronto + I worked really outside Toronto (R.R. 830 Lambton)

Capt. E W S Bignell, adjt. 22 Can Mtd Regt having been duly sworn states. I have known accused since Nov 44. He was 1 i/c 4 gun 2 pdr Tk & I was 2 i/c. He served faithfully - carrying out all orders given to him sometimes under enemy fire. He was absolutely dependable and his conduct was satisfactory. His conduct was always good. Previous to this occasion we were billeted and messed with him. When 00 4 gun became CO he requested that accused be transferred to A Tk & and he has kept him as his 1 i/c ever since. (RP 83 B completed)

J. A. Lecture Notes

1. Innocent until proven guilty
2. Doctrine of reasonable doubt.
3. Court finds the facts
4. J. A. advises on law - advice to be followed.
5. Housebreaking with unlawful —
   (a) must be a dwelling
   (b) — must be actual breaking
   (c) intent must be proven.
6. Common assault —
   — menacing with a pistol with presence
   - ability to carry out threat is an essential
7. Drunkenness —
   — needs no elaboration.

Plea in mitigation.

The accused has served over three years. During that time he has never been charged. The only entry on his sheet is an unimportant one as much as an admonishment should not be entered. His services are so highly thought of in this unit that the C.O will have no objection to his continued service. He is an expert marksman - a sane and sober family man. He has never been guilty of drinking even in a small way. The reason for his misbehaving that night can have been no other than the fact that his daughter was very ill at home. His family life is beyond reproach and he has volunteered for Active Service with no other reason in mind than that he be able to get home that much sooner. His record as a soldier is excellent. He has shown for the C.O - in an open boys in trenches that have been under enemy shell fire. He is highly respected amongst his comrades and highly thought of among the officers of his Regt. as a sober and reliable soldier. His testimony of temporary intoxication can only be the direct cause of not knowing what the effects of a strange liquor can be.

It is reasonable to assume that the unknown potency of this liquor caused him to lose control of himself where a similar amount of a known brand would have no ill effect.

(Plea in mit cont'd)

He is not belligerent by nature and to threaten another person is not something that he would do in full control of his senses.

In case during the sentence it is to be hoped that the Court will take into account that a serious and sober family man with an excellent service record who has volunteered for continued service as soon as he has helped the difficult situation at home, will be determined by the opportunity of the army having conducted his case in his own home and continuing his service U. S.

Summary of Evidencein the case of: B112048 Gdsm TODD, Justus W, 22 Cn Armd Regt(CGG), Cdn Army Overseas charged with:- (1). Sec. 41 AA Committing a Civil Offence, that is to say, housebreaking, in that he at BOCKHORN, GERMANY,,on 12 May 45 did break and enter the dwelling house of one Kale Furken, a citizen of Germany. (2) Sec. 41 AA Committing a civil Offence, that is to say, common assault, in that he at BOCKHORN, GERMANY on 12 May 45 assaulted Mr. Hans Konken, Bockhorn, by pointing a pistol at him. (3) Sec 19 AA Drunkenness, in that he at Bockhorn, Germany on Tuesday night 11/12 May 45 was drunk.

Summary of evidence in the case of: B-112048 Gdsm Todd Justus W., 22nd Cdn Armd Regt (CGG) Cdn Army Overseas charged with: (1)Sec. 40 AA Conduct to the prejudice of good order and military discipline in that he did enter and molest the occupants of a German dwelling namely Mrs Fuhrken who is the owner on the night of 11/12 May 45. (2) Drunkenness, Sec-19 AA, in that he on the night 11/12 May 45 was drunk.

The CO directs that the evidence be taken on oath.

First Witness

Kale Fuhrken, Bockhorn Germany, sworn states :

On the night of 11/12 May 45 I, Kale Fuhrken was sleeping in my bedroom. Between the hours of 0100 and 0200 I was awakened by a house maid who told me someone was knocking at my door. I heard someone upstairs talking to a man who was outside. Everything then became quiet. In a few minutes I heard a window being smashed and someone entered through the window of the maid's room and through the kitchen, hall and entered my bedroom. This person light a cigarette lighter and looked around the room. I cried for help. There was then a noise of someone coming down the stairs. The person in my room turned and left. I saw two people struggling in the hall. I ran outside. That was all I saw.

Question:- Do you recognize the accused as the person who was in your room ?

Answer:- I was very frightened and did not look very closely.

Question:- Was it a man who entered your room ?

Answer:- Yes.

Question:- How was he dressed ?

Answer:- He had no hat on and was in shirt and trousers, he had dark hair.

The accused declines to cross-examine the witness.

Kale Fuhrken

Signature of witness

Second Witness:-

F-29841 Cpl Conrad A D 22nd Cdn Armd Regt (CGG), sworn, states

I, Cpl Conrad A D am on the Regtl Medical Staff as a duty driver on the MO staff half track. On the night of the 11/12 may 45 I was awakened by Cpl Moylen at 0005 hrs and there was a woman outside our window who led us to a house. There we were met by a German civilian man who gave Cpl Moylen a Browning pistol and said: "Comrade". We went around the house and heard footsteps running up the road. The civilian who gave Cpl Moylen the pistol had blood on his bare feet. He showed us two broken windows. We then went and woke up Lt Lett and gave him the pistol. We returned to the RAP and at about 0145 hrs the accused was brought down from No: 2 Squadron by the CCP jeep. We went and got Lt Lett who came to the RAP. Gdsm O'Dell dressed the wound which was on the accused's left eye. He was taken to the hospital.

Question:- Was the accused in your opinion drunk ?

Answer:- He was supported into the room and was in a stupor.

The accused declines to cross examine the witness.

A D Conrad

Signature of witness

Third Witness:-
B-50892 Cpl Moylen P 22nd Cdn Armd Regt (CGG), sworn, states
On the night 11/12 May 45 I was awakened at about 0025 hrs by a woman outside my window. I woke Cpl Conrad and we went with the woman to a house. A German civilian man handed me a Browning issue pistol. We heard footsteps running away. I shouted halt then fired two shots into the air. We saw that pursuit was useless and went into the house. We saw a window broken in what appeared to be a bedroom. We returned and woke up Lt Lett. I gave him the pistol. We went back ~~thm~~ to the RAP and in a few minutes the accused was brought in. He appeared to be in a daze not knowing what was happening around him.
Question:- In your opinion would the accused have been able to carry out his duties at the time you saw him.
Answer:- No, Sir.
The accused declines to cross examine the witness.

P. Moylen
Signature of Witness

Fourth Witness:-
D-26624 Gdsm Bonneau J M 22nd Cdn Armd Regt (CGG), sworn, states
On the evening 11 May 45 I started drinking with the accused. We drank for some time. I began to feel pretty good. The accused who have been drinking more than I, was drunk. Later the accused said: "Let's go for a walk" and I said alright. We walked around for some time arguing. I became tired and wanted the accused to go to our billets but he said he wanted to stay out. I returned to my quarters, alone.
Question:- In your opinion was the accused drunk.
Answer:- Yes, Sir.
Question :- Did the accused go home with you?
Answer:- No, Sir.
Question:- At what time did you go home ?
Answer:- I don't know, but it was late.
The accused decline to cross examine the witness.

J M Bonneau
Signature of Witness

Fifth Witness:-
Hans Konken, Bockhorn Germany, sworn, states
On the night of 11/12 May 45 I, Hans Konken was awakened at approx 0030 hrs by the sound of someone knocking on a door. I called from an upstairs window "Whoes' out there?" A voice answered in German "open the door". I told him in English to go home to his comrades. I then went back to bed. Soon after this I heard Mrs Fuhrken call for help. I put on my pants and went downstairs. Then I saw a soldier coming out of the kitchen. I opened the outside door and told him to go home to his comrades. Then the man took out his cigarette lighter and tried to light it. He then took out his pistol and pointed it at me. I then grabbed the man's arm and took the pistol away from him by force.

(cont'd overleaf)

I sent my wife who came down from upstairs for help. This man then tried to take his pistol back. I told him to wait until his comrades came. We fought some more and the man tore my shirt. I gave the soldier a black eye. I believe I did this with the pistol in my hand. My wife came back with two soldiers and the man that I was fighting with ran around the house and escaped. I went out of the house and gave the pistol to one of the two soldiers. The two soldiers went around the house and one fired two shots. Later they came back and looked everything over and told me they would come back in the morning.

Question:- Do you recognize the accused as the man you fought with ?

Answer:. Yes.

Question:- How was the accused dressed ?

Answer:-In shirt and trousers, he wore no cap.

Question:- Was the pistol you took from the accused loaded ?

Answer:- I don't know.

The accused decline to cross examine the witness.

!!!! [signature]
Signature of Witness

The accused:- I have nothing to say at this time.

The accused declines to call witnesses on his own behalf.

I certify that RP 4 has been complied with.

Taken by me in the Field in the presence of the accused this 15 day of May 1945.

[signature]
Signature of Officer taking Summary

I, B112048 Gdsm Justus W TODD, desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of Major J. Julian if he is available.

J. W. Todd

(B112048 Gdsm Justus W TODD)

20th May 1945

Trial of B112048 Gdsm Justus W TODD

22 Cdn Armd Regt(CGG)

List of Witnesses for the Prosecution

Kale Fuhrken	Bockhorn, Germany.
F29841 Cpl Conrad, A D	22 Cdn Armd Regt(CGG)
B50892 Cpl Moylen, P	22 Cdn Armd Regt(CGG)
D26624 Gdsm Bonneau, J M	22 Cdn Armd Regt(CGG)
Hans Konken,	Bockhorn, Germany.

Dated at this 20th day of May 1945

E S Bignell

(E S Bignell) Capt
Adjutant
22 Cdn Armd Regt(CGG)

Exhibit "X"

L.L. Morse maj pro

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B112048	Gdsm	Justus W TODD	22 Cdn Armd Regt(CGG)

1. The following is a fair and true summary of the entries in the regimental and squadron conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months		* Since Enlistment	
For	Sec 40 A A	Nil times	one	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times
For	N/A	times	N/A	times

E/B Number or instances of gallantry or distinguished conduct

E/B There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

E/B Previous convictions of the accused by a court martial or award under section 47 of the Army Act, and dispensations with trial under section 77 of the Army Act, are not set out in the schedule annexed to this statement.

E/B 3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence of imprisonment for the term of

E/B 4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 12 days in military custody, making a total of 12 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 28 yrs 3 1/2 months

E/B 6. The date of his attestation specified in his record of service is 25 Apr 42

E/B 7. The service which the accused has rendered counts for pay or transfer to the reserve

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 3 weeks service.

E/B 9. The accused is entitled to no service for the purpose of determining his pension

10. The accused is in possession of, or entitled to, no military decoration or military award

E/B Entitled to wear any ribbon

E/B 11. The accused holds no rank

E/B

12.

E/B Dated in his statement for rank the

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No H112042 *Rank* Gdsm *Name* Joshua W TODD of 22 Cdn Armd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of May 1945

(A S Bignell) Capt & Adjutant
22 Cdn Armd Regt(CGG)

X Strike out whichever is inapplicable. X Delete as appropriate.

X Insert name of accused.

X Insert number, rank and name of officer.

X In the case of a soldier.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph retained amended accordingly.*)

No M112048 Name TODD, Justus | Sqn, Battery, or Company | Corps C A C | Date of enlistment 25-4-42 | GC Badges | 25-4- | Service or Proficiency Pay | N/A | MFM 6 (AFB 122) (ex PAM.) 38 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc CA Dupn Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
				Entries Nil 15-5-42				FW Bansall Lieut	
In the Field	14-12-43	Gdsm	Nil	Sec 40 Neglect to the prejudice etc, caused damage to another vehicle 14-12-43	Cpl Nasino,GT Pte Smith JE Pte Hall,CLH Cpl Armstrong,LB Gdsm Moylen,F	Admonished	21-12-43	Lt-Col WW Halpenny	CA Greenleaf Capt WAdj

Certified true copy.

(E S Bignell) Capt &Adj
22 Cdn Armd Regt(CGG)

Exhibit "Y"
K.K. Mueller maj.
pers.

(PTO)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (X) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2)~~ The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give Evidence. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans Yes.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), ~~if any~~, of Not Guilty on the first charge and states to the accused that the finding(s) of the Court on the second and third charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith; and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans Yes Sir. Evidence and witnesses.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 309, 330, 563-566, Overseas RO XCV, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Not guilty	
2nd	Not guilty	guilty	
3rd	Not guilty	guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

~~Cells~~ Stoppage of pay

To undergo detention for a period of twenty-eight (28) days.

(Sgd) ..... 24 May 45 (Sgd) L.L. Morel Maj.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57H, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

~~[illegible]~~ (1. AA 57A. Delete if not used.)

(Sgd) .....

Date 25 May 45. A/ Commanding (E.M. Smith) Lt Col., 4 Cdn Armd Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 112048 Gnr Todd J.W.	29 May 45	W.W. Turnbull Major 22 CAR (C&E)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

AA-120
PTE TODD L.E.

H-16430 Pte (A/Cpl) Lawrence Elmer TODD
P.P.C.L.I. 1 C.I.R.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of APRIL, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [redacted]

*Omit if not applicable.

*(1. [redacted]

*(2. [redacted]

[redacted]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE (C.H.of O.)	5 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Major		3 C.I.R.U.
Captain		3 C.I.R.U.
Waiting Member Lieutenant	I. Fleming (R.H.C.)	5 C.I.R.U.

*Signed H. Stewart Lovell
Brigadier,
Commanding "G" Gp Cdn Rft Units,
Convening Officer. C.A.(O).

Attd A. Pettapiece, Major

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-16430 Pte (A/Cpl) Lawrence Elmer TODD P.P.C.L.I. 1 C.I.R.U.	First Charge A.A. Sec. 40 SEE CHARGE SHEET ATTACHED.	Guilty	Guilty Sentenced to be severely reprimanded and to be put under stoppages of pay until he has made good the sum of $ 5-2-6 in respect of the damages to Canadian Military Vehicle No CZ-220589.	confirmed

"I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge(charges) before this Court Martial."

Arthur S. Pettypiece, Major
President of the Court

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
(Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J. Stewart Lough (Signed) Arthur S. Pettypiece, Major
Brigadier,
Commanding "G" Gp Cdn Rft Units,
Convening Officer (*c*) C.A.(O). President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 29th day of April 1943.

Arthur S. Pettypiece, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 ,~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 30th day of April 1943.

J. R. Stewart Lough Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of H-16430 Pte. (A/Cpl) Todd, L.E.(PPCLI
Promulgated in Part II D.O. 73 dated 3 May 43.
(*a*) (Dated) May 1943 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2557) Wt.46178-850 50,000 2-43 A.S.E.W.Ltd. Gp.498

CHARGE SHEET

The accused, H-16430 Pte. (A/Cpl.) Lawrence Elmer TODD, Princess Patricia's Canadian Light Infantry, on the strength of 1 Canadian Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army Overseas is charged with, when on Active Service,

FIRST CHARGE SECTION 40 ARMY ACT.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Barrosa Barracks, Aldershot, Hants on the 17th day of April, 1943, improperly used Canadian Military Vehicle No. CZ-4205294 and petrol for private purposes thereby occasioning damage to the said vehicle in the sum of Twenty pounds and Ten shillings (£20-10-0).

.....Colonel
(C.W. Devey) Commander,
1 Cdn. Inf. Reinf. Unit.

Barrosa Barracks,
Aldershot, Hants.

26 April 1943.

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Brigadier,
Commanding,
"G" Gp Cdn Rft Units,
C.A.(O).

Convening Officer

28 Apr 43

Arthur L. Pettapiece, Major
President

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. H-16430 Cpl. Todd, L.E.

Of I CIRU and in my opinion he

is fit to undergo Trial by Court Martial.

~~unfit~~

Station. Field.

Date. 22 APR. 43.

B Murphy Capt
Medical Officer

GGP Form 10

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT Aquino, Italy ON THE 23rd DAY OF April 43

TRIAL OF:- No. H-1648 Pte (A/Cpl) Todd, N.E. Unit 1 C.I.R.U. (PPCLI)

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Capt. B.M. McLean (Unit) 1 C.I.R.U.

Defending Officer:- (Name) Lieut. J.A. Stephens (Unit) 1 C.I.R.U.

At 1100 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President Maj. A.A. Patterson (Unit) H.Q. C.R.U.

Members Maj. L.D. Gibbon (Unit) 5 C.I.R.U.

Capt. W.A.J. Robins (Unit) 3 C.I.R.U.

~~The officers under instruction are duly sworn.~~

~~Q2 Do you object to.....acting as Shorthand Writer? A2 -~~

~~The shorthand writer is duly sworn.~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Capt. B.M. McLean (Unit) 1 C.I.R.U. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - Yes, as to character

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

attached hereto.

In the case of H16400 Pte (A/Cpl) Todd L.E. 1 C.I.R.U. (P.R.C.A.)

1st Witness as to character. Capt. R. M. Hosken 1 C.I.R.U. (P.R.C.A.)

having been duly sworn, states.

I have known the accused since 1939 and I met him again in 1940 in England where he was employed as a clerk. He was a very efficient clerk, was promoted for good service in 1941 and I know that he has always behaved himself and did a thoroughly good job. I have had knowledge of him every thing is right at any time and was always on duty. On one occasion he voluntarily took down a subject to carry on with a job at the reinforcement unit. I know that he was thoroughly reliable.

2nd Witness as to character

No cross-examination. Capt. C.B. Harvey H.Q. 1 C.I.R.U. (P.R.C.A.

having been duly sworn states.

Cpl Todd was a clerk in my office. I have known him for about 2 years and he is an honest, efficient, dependable man. He was recommended very highly to me by other officers. He was employed at one time at the Cabinet. He was good and reliable at any time and I would be sorry to lose his services.

No cross-examination.

2nd Character Witness Major J.A. Early, No 1 C.I.R.U. (P.R.C.A.)

having been duly sworn, states.

I've known the accused since Nov. 1939 except for a very short time. He has an excellent character and has never been in trouble. He was very young about 17 in 1939 and at one time he voluntarily gave up his subjects to

(over) CHP

Carey as with this pris. I've always thought he was good NCO
material and his 4th C thought they good men.

Address to the Court by Defending Officer is attached hereto.

The Court is closed for consideration of sentence.

Arthur L. Pettigrew Maj A

6th Inf Plan
to Post

Plea of Mitigation, for Mansell.
Gl. Tould

Now I will lay it before the court as my address, We have nothing but their own word that they are of all culpable.

As you will see, these men, both of them N.C.O.s with hitherto unblemished characters, got out and had a few drinks after working for long hours, especially got a few drinks under their belts and thought they'd go to London; but before they got very far they realized the seriousness of their action and turned back of their own accord and were on their way to Aldershot Barossa again when the mishap occurred. They could have left the car there and the blame could have been laid. But They confessed the They immediately came and confessed what had happened

They are both excellent soldiers - N.C.Os. and in view of their own confession and especially as they voluntarily, as soon as they realized their offending heads they had not been apprehended, returned and the realized what they had done, I plead that the utmost mitigation be accorded them in this case.

J. Steph Stephens Lt.
RPCLI.
No 1 C.I.R.U.
Aldershot Hants

It will be noted that Pte. (A/Cpl. Todd) was confirmed in the rank of Sgt. 1 Nov 41, his previous conduct sheet being destroyed at that time. He then reverted at his own request.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Barrosa Barracks, Aldershot, HANTS, preliminary to my Court-martial. I further acknowledge that I have been served with a trup copy of the charge under which I am being brought to Court-martial.

Signed at Aldershot, HANTS,

This 28th day of Aug

April 1943

L/E Todd Gnr.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut. J. A. Stephens if he is available.

SUMMARY OF EVIDENCE

In the case of H-16430 Cpl. Todd, L.E., Administration Wing, 1 Canadian Infantry Reinforcement Unit.

By the direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Capt. C.B. Howey, R.C.E., Q.M., 1. Canadian Infantry Reinforcement Unit, having been duly sworn, states:

I am Capt. C.B. Howey, the Quartermaster of 1. Canadian Infantry Reinforcement Unit. At approximately 0730 hrs. Saturday, the 17th. April, 1943, No. A-3919 Sgt. Mansell, W.A., a member of my Q.M. Staff, came to my quarters and reported that he and No. H-16430 Cpl. Todd, L.E. had been in an accident with an 8 cwt. truck, the property of 1. C.I.R.U. The truck was taken from the No. 1. Coy., M.T. Compound, at Barrosa Barracks (1 CIRU). Sgt. Mansell told me that they were returning to Camp when the accident happened. He stated that they had started for London, but having realized the offence they were committing, had turned around and started back to Camp.

I reported the accident to Regimental Headquarters, 1 Canadian Infantry Reinforcement Unit, and to "A" Wing, 1 CIRU.

When I went to the office, I spoke to Cpl. Todd, who told me the same story I had heard from Sgt. Mansell.

The accused declines to cross-examine this witness.

.....Capt.
(C.B. Howey) "A" Wing.

2ND. WITNESS FOR THE PROSECUTION

B-62679 Sgmn. Smith, J.A., 1. CSRU (attached to 1 CIRU) having been duly sworn, states:

I am B-62679 Sigmn. Smith, J.A., 1. CSRU(attached to 1. CIRU). On the 16th. April, 1943, I was the driver in charge of vehicle number CZ-4205294. Prior to proceeding on leave, I had a tool check at 1630 hrs. on the 16th. April, 1943, and turned in my keys to the M.T. Office. At that time, I left the vehicle parked in the lines between "F" and "G" Blocks, Barrosa Lines, at the north end. It was the last vehicle in the row. I have not seen the vehicle since.

The accused declines to cross-examine this witness.

.....
(B-62679 Sgmn. Smith, J.A.)

3RD. WITNESS FOR THE PROSECUTION

A-2318 C.S.M. Harwood, H.T., No.1. Coy., 1 CSRU(att'd. to 1 CIRU), having been duly sworn, states:

I am A-2318 C.S.M. Harwood, H.T., No.1. Coy. CSM - 1 CSRU (attached to 1 CIRU). At about 0900 hrs, 17th. April, 1943, I was informed that vehicle No.CZ-4205294 (Ford 8 cwt) had been involved in an accident. I made a check of the vehicle park in Barrosa Lines, and found the vehicle missing. The driver, on whose charge the vehicle was, B-62679 Sgmn. Smith, J.A., had proceeded on Privilege leave at 0800 hrs. 17th. April, 1943, having turned in his keys and had his tools checked the previous evening.

The accused declines to cross-examine this witness.

.....
(A-2318 CSM Harwood, H.T.)

SUMMARY OF EVIDENCE

In the case of H-16430 Cpl. Todd, L.E., Administration Wing, 1. Canadian Infantry Reinforcement Unit.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

4TH. WITNESS FOR THE PROSECUTION

Lieut. James, H. Ross, Officer Commanding No.65, L.A.D., having been duly sworn, states:

I am Lieut. James H. Ross, O.C., No.65, L.A.D., RCOC, stationed at Cove, Hants. On the afternoon of 17th. April, 1943, I proceeded to West Mosely, near Kingston-on-Thames, where I found vehicle No. CZ-4205294, in an allotment at a roundabout. The vehicle had gone through a wood and wire fence, and was facing the road, thirty to fifty feet from the pavement. I removed all small articles from the vehicle and informed the Police at West Mosely. On Monday, the 19th. April, 1943, I recovered the vehicle and had it taken to No.4 Sub-Depot, 1. CBOD for repair. From examination, the following damage was evident:

Front springs and shackles broken, windshield in rear window broken; there is extensive body damage and transmission and steering were injured. The headlights and bumper were broken.

I estimate the cost of repair at £20-10-0, £8-10-0 being the cost of parts, and £12-0-0 for labour.

The accused declines to cross-examine this witness.

James H. Ross
.....Lieut.
(James H. Ross) RCOC.

The accused, having been duly warned in accordance with Rule of Proceedure 4(e), elects to make a statement.

The accused, H-16430 Cpl. Todd, L.E., Administration Wing, (PPCLI) 1. CIRU, states:

In company with Sgt. Mansell, W.A., A-3919, I was drinking on the night of the 16th. - 17th. April, 1943, and very late, I do not recall the exact time, we walked down to the Signals vehicle park, and got into an 8 cwt. truck, and drove off. We had planned to go to London. Soon, we realized what we had done, and turned around and started back. Near a roundabout, the truck got out of control and crashed into a field. I struck my head and do not recall exactly what happened. However, we got back to Camp as soon as possible, and Sgt. Mansell went to find Capt. Howey. I reported to the F.A.P. and then went to the Q.M. Office, where I informed Capt. Howey of what I had done.

L.E. Todd
.....
(H-16430 Cpl. Todd, L.E.)

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused at Barrosa Barracks, Aldershot, Hants, on the 26th. April, 1943, and that Rule of Proceedure, 4 (c)(d) (e) and (f) have been complied with.

.....Capt.
(Officer taking Summary)

Barrosa Barracks,
Aldershot, Hants.
26th. April, 1943.

Arthur J. Pettapiece Major

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-16430	A/CPL.	TODD, L.E.	PPCLI

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~*or* The accused at the present time is under sentence for~~ BK

~~beginning on the day of~~ BK

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 (open arrest) days in military custody, making a total of 5 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 8 months, 4 days

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 27 Nov,. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs,152 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs, 152 days service.

9. The accused is entitled to reckon 3 yrs, 152 days service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of, or entitled to (*state any military decoration or reward*)).~~ BK

11. (~~*If the accused is a warrant officer.*~~) ~~The accused before he was made a warrant officer last held the regimental rank of~~ BK BK

12. (~~*In the case of an officer.*~~) ~~The accused holds in the army the rank of , dated~~ BK

~~and in his regiment (or corps or department) the rank of , dated~~ BK

(*16448) WL30248/902 75,000 12/40 A.& E.W.,Ltd. Gp.686
(17862) WL48491/1987 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of April 1943

Arthur S. Battaglia Major

Officer having custody of Original Documents.

13—The accused has served as a non commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of ..... years,	.....
In the rank of ..... years	.....
In the rank of ..... years.	.....

(INSTRUCTIONS—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraphs corrected accordingly.)

CERTIFIED TRUE COPY.

No. H16430 Name TODD, L.E. Sqn., Battery, or Company Corps PPCLI Date of enlistment 27.11.39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 125M—7-41 (1215-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 4. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 1 Nov. 41 this soldier was confirmed in the rank of Sgt. and in accordance with C.R.O. 319, previous sheet with no regimental entries, was destroyed.									

(Signed) J.J. Carter, /Capt.
Camp Commandant, Can. Sect. G.H.Q. 2nd Echelon.

Certified True Copy.

(B.M. McLean) Captain.
2 i/c Administration Wing.
1 Can. Inf. Reinf. Unit.

Arthur T. Ketchum, Major.

(P.T.O.)

EEE·14

PTE TODD T·A·

ENTERED IN RECORDS OF C.M. E66-14

D93

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Ninth day of February, 1944.

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to superior authority]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint
*(Three Officers of my command for the
*(A Field Officer as President)
for the following reasons, namely:—]

J. Rutigliano Capt
21 March 1944.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.H. McDougall	L Edmn R

Members.

Rank.	Name.	Regiment.
Captain	L.V. McGurran	L Edmn R
Lieut.	D.C. Rhodes	Seaforth of C
(W) Lieut.	J.L. Thirlwell	Seaforth of C

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (E.M. Hoffmeister) Brig
Commanding 2 Cdn Inf Bde.
Convening Officer.

D 93

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H17801 Private TODD, Thurman Alivan. Princess Patricia's Canadian Light Infantry.	First Charge A.A. Sec 15(1) When on active service, Absenting himself without leave.	Guilty	~~Guilty~~ Guilty. The court sentences the accused to serve sixty (60) days detention. 12 Feb 44 [illegible]	I confirm ~~Convict~~ the finding and sentence of the court 15 Feb Brutb

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Brut Hoffmeister (Signed) [illegible] Maj

(B.M. Hoffmeister) Brig — L. Edmon R.

Commanding 2 Cdn Inf Bde. — President.

Convening Officer (c)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12 day of Feb 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 12 day of Feb 19 44.

[illegible] Maj

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I do)~~ omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.) Brutb

Signed this 15 day of FEB 1944.

Brut Hoffmeister Brig

Confirming Officer.

Promulgated and extracts taken in the case of H17801 Pte Todd, T.A.

(a) (Dated) 16th February, 1944 (Signed) R.W. Pitt Capt
Adjutant, P.P.C.L.I.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23179) W1-46178-830 50,000 7-43 A.A.E.W.116. Gp.498

The accused elects to be tried under A.A Sec 46(6)

CHARGE SHEET

The accused, H17801 Private Thurman Alivan TODD, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, C.M.F., is charged with, whilst on Active Service:-

1st Charge
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself from leave from 1830 hrs 21 Dec 43 until surrendering himself to the Canadian Military Police, Avellino, at 1200 hrs 26 Dec 43. (Absent 4 days 17 hrs 30 mins)

In the Field
4 Feb 44

(C.B. Ware) Lieut-Col
Commanding, P.P.C.L.I.

To be tried by F.G.C.M.

In the field
9 Feb 44

(B.M. Hoffmeister) Brig
Comd 2 Cdn Inf Bde

HHM.

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No. H17801 Private TODD T.A. of P.P.C.L.I. and in my opinion he is fit/~~unfit~~ to undergo trial by Court-Martial.

Station In the Field

Date 12 Feb 44

W. Fowler Capt
(Medical Officer)

PAGE

Accused H17601 PTE THURMAN ALVAN TODD PPCLI
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ITALY on 12 FEB 44
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	F.H. McDOUGALL	L EDMNR
MEMBERS:	CAPT	L.V. McGURRAN	L EDMN R
	LIEUT	D.C. RHODES	S.H. of C
JUDGE ADVOCATE: (if any)		N.A.	
OFFICERS UNDER INSTRUCTION:	LIEUT	G.A. DONALDSON	L EDMN R.
	LIEUT	D.A. GOWER	PPCLI
	LIEUT	J.L. THIRWELL	S.H. of C.

PROSECUTING OFFICER: CAPT B.L.G. BURTON Lawyer? Ans NO

DEFENDING OFFICER: LIEUT J.A. SHIRKIE Lawyer? Ans NO

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (RSP 1(E), 22(A)).

The President, in closed court, (RP 22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (are) brought before the Court, and at 0900 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 172) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to N/A as interpreter? Ans

The interpreter is duly sworn.

Do you object to N/A as Shorthand Writer? Ans

The Shorthand Writer is duly sworn. (Forms of Oath on Page 'D')
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President Members, Judge Advocate and Officers under Instruction are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (~~has not~~) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RSP 62(E), 103); or as to the jurisdiction of the Court (RP 34), or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 37), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge GUILTY	Fifth Charge
Second Charge	Sixth Charge
Third Charge	Seventh Charge
Fourth Charge	Eighth Charge

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (RP 37(B)) Ans NO

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans YES

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans NO

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "C", and "D", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans NO (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, KR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is not announced to the accused by the Court.

W.M. McDougall Major
(Signature of President)

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans_____

2. The Prosecutor's opening address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans_____
Q. Do you intend to call any other witnesses in your defence? Ans_____
Q. Is he a witness as to character only? (RP 40(B)) Ans_____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans_____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

PLEA of DEFENDING OFFICER IN MITIGATION of PUNISHMENT

The accused has been Cpl + Sgt in the Regt + is fully aware of the gravity of this charge. He has been through Sicily and Italy with the Regiment + therefore it is not fear which made him do this. The fact that he voluntarily surrendered is another point in his favor. In his statement to me as Defending Officer I have gathered that he felt that his nerve was going to crack. All the members of this Court have been under shell-fire + are aware of this feeling I submit that this man was taking steps in his own interests to preserve his nervous well-being. I would also in closing draw the Courts attention to the mans Comparatively clean record of service.

J.H.K.

75

Army Form B 252
(See King's Regulations)

P.P.C.L.I. Regiment

Battery / Squadron / Troop or / Company

CHARGE against No. H-17801 Rank Pte.

Name TODD, T.A.

Place Avellino Date of Offence 26 Dec.43

OFFENCE W.O.A.S.

1. Absent without leave from.....

until time of voluntary surrender, 1200

hours, 26th December 1943.

(H.F. Law) Captain
O.C. No. 1 Can. L of C Provost Co

Names of Witnesses :—

H-3519 Sgt. Barbour, T.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30168 W4 W3179—41. 2,000,000 10/42. K & H. Ltd. (A6742)

STATEMENT OF **EVIDENCE** IN THE CASE OF:

H-17801 Pte. TODD, T.A.
P.P.C.L.I. in the Field.

At 1200 hours, 26th December 1943, while on duty as Desk Sergeant at the Cdn. Provost Corps Office, Avellino, I was approached by the a/m soldier. He stated that he was A.W.L. and wished to give himself up.

On obtaining his particulars, he volunteered the information that he left his Unit at Artona, on the 21st. De.c. 1943.

I placed him under close arrest and had him escorted to 5 Bn., 2 C.B.R.D. Guard Room.

H-3519 Sgt. Barbour, T.,
No. 1 Cdn. L of C Provost Coy.

REMARKS

Summary of Evidence in the case of
H17801 Pte. TODD, T.A., P.P.C.L.I.

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st WITNESS for the PROSECUTION

H 3519 Sgt Barbour T., No. 1 Cdn L of C Provost Coy.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence as Exhibit "A".

Having regard to the exigencies of the service, attendance of this witness cannot in my opinion be readily procured.

(Signed) (V.S. Allan) Lieut.
Officer taking Summary

The accused does not demand the attendance of this witness for cross examination.

(Signed) (T.A. Todd)
Signature of Accused.

2nd WITNESS for the PROSECUTION

No. H16470 Pte. Bowen, J.S.P., P.P.C.L.I., having been duly sworn, states:-

"At approximately 1630 hrs 21 Dec 43, Pte. Todd reported down to have a wash and shave; he also had supper with Pte Hamilton and myself and about 1830 hrs I told Todd he might as well stay with me and go back in the morning. I then went to play bridge and didn't see him after that."

(Signed) J.S.P. Bowen)
Signature of Witness

The accused declines to cross examine this witness.

3rd WITNESS for the PROSECUTION

No. H16298 Pte. Hamilton, J.G., P.P.C.L.I., having been duly sworn, states:-

"At approximately 1630 hrs on the 21 Dec 43, Pte. Todd came back from the front, where the rest of the platoon were and I asked him if he wanted any equipment or tools to ake back to the platoon. He said, no, he had just come back fro a wash and a change of clothes. He had supper with us, then we told him to stay with us for the night and go back in the morning, but he said, no, that they expected him back and he would go back tonight. That is the last time I saw him."

(Signed) (J.G. Hamilton)
Signature of Witness

The accused declines to cross examine this witness.

4th WITNESS for the PROSECUTION

No. H16242 Sgt Holland T., P.P.C.L.I., having been duly sworn states:-

"At approximately 1300 hrs on the 21 Dec 43 Pte Todd asked permission to go to "F" Echelon where our truck was, for clean clothes, and a general clean up. I gave him permission to go and he left shortly after. From then on I had no idea of his whereabouts".

(Signed)(T. Holland)Sgt
Signature of Witness

The accused declines to cross examine this witness.

The accused having been duly cautioned in accordance with R.P. 4(E), elects to give evidence on oath.

The accused, No. H17801 Pte Todd T.A., P.P.C.L.I., having been duly sworn states:-

"On the 21 Dec 43 I left the platoon, which was on the ridge south of Ortona directly behind "A" Coy H.Q. When I left, I left with the intention of going to Naples and not returning, until on Christmas Day I was told that my name had been seen on a casualty list as missing and presumed dead. I thought to myself, there is no sense of a dead man walking around, so the next day, finding no Canadian Provost in Naples, I went back as far as Avellino and turned myself in to Sgt Barbour".

(Signed)(T.A. Todd)
Signature of accused

The accused does not call any witness for the defence.

Certified that R.P. 4(C) (D) (E) (F) and (G) have been complied with.
Taken down by me in the presence and hearing of the accused this 2 day of February 1944 at Bn H.Q., P.P.C.L.I., in the field.

(Signed)(V/S/ Allan)Lieut
Officer taking Summary

In the Field
2 Feb 44

LIST OF WITNESSES
FOR THE
PROSECUTION

H 3519 Sgt Barbour T.
No. 1 Cdn L of C Provost Coy
Avellino

H16470 Pte Bowen J.S.P.
Sp Coy., P.P.C.L.I.
Cdn Army Overseas
C.M.F.

H16298 Pte Hamilton J.G.
Sp Coy., P.P.C.L.I.
Cdn Army Overseas
C.M.F.

H16242 Sgt Holland T.
Sp Coy., P.P.C.L.I.
Cdn Army Overseas
C.M.F.

DEFENCE

NIL

(C.B. Ware,) Lieut-Col
Commanding, P.P.C.L.I.

In the Field
4 Feb 44

LIST OF EXHIBITS

"A" - Army Form B 252
Charge Sheet and Documentary Evidence

C.B. Ware.

(C.B. Ware,) Lieut-Col
Commanding, P.P.C.L.I.

In the Field
4 Feb 44

With reference to my pending trial by Field General Court Martial, I wish that an officer be assigned to act as Defending Officer.

(T.A. TODD) Pte.

T.A. Todd

Summary of Evidence in the case of No H17801
Pte Todd T.H. P.P.C.L.I

By direction of the Commanding Officer the summary of evidence is taken on oath.

1st WITNESS FOR PROSECUTION.

H 3519 Sgt Barbeau T No 1 Can R of C Record Office

A writhe statement of this witnesses evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence as exhibit A.

Having regard to the exigencies of the service attendance of this witness cannot in my opinion be readily procured

W.S. Allan Lieut.

The accused does not demand the attendance of this witness for cross examination

[illegible] 1918

Signature of accused.

2nd WITNESS FOR PROSECUTION

No H16470 Private Bowen J.S.R. P.P.C.L.I

having been duly sworn States

At approximately 1630 hrs 2nd inst Pte Todd reported [illegible] to have a week end a shave, he also had supper with Pte Hamilton and myself and about 1730 hrs I told Todd he might as well stay with me and go back in the morning. I then went to play bridge and didnt see him after that.

Signature of Witness

The accused declines to cross examine this witness

3rd Witness for Prosecution

No H 16398 Private Hamilton J. G. P.P.C.L.I.
having been duly sworn states.

At approximately 1630 hrs On the 21 Dec 43 Pte Todd came back from the front where the rest of the platoon were and I asked him if he wanted any equipment or tools to take back to the platoon he said no he had just come back for a wash and a change of clothes he had supper with us then we told him to stay with us for the night and go back in the morning but he said no that they expected him back and he would go back to night. That is the last time I saw him.

Signature of Witness

Accused declines to cross examine this witness

J. Hamilton. Pte

4th Witness for Prosecution

No H16242 Sgt Holland J R.P.C.L.I.

Having been duly sworn states :-

At approximately 1300 hrs on the 21st Dec #3 Pte Todd asked permission to go to Echelon where our truck was for clean clothes and a general clean up. I gave him permission to go and he left shortly after. I saw him on Dec 22nd no date of his return to unit

The accused declines to cross examine the witness.

Signature of Witness.

Thos Holland Sgt.

The accused having been duly cautioned in accordance with R.P. 4(E) elects to give evidence on oath.

The accused No H17501 Pte Todd J.A. R.C.A.S.C. having been duly sworn states

On the 2 Dec 42 I left the platoon which was on ~~[illegible]~~ day ridge south of Orsogna. My mess tin was missing from behind my HQ when I left that night with the intention of going to Naples and not returning until on Christmas Day I was told that my name had been carded a casualty that I was missing and presumed dead. I thought to myself there is no sense of a dead man walking around so the next day finding no Canadian Provost in Naples I went back as far as Cassino and made myself up to get Barbara

J.A. Todd
Signature of Witness

The accused does not call any witnesses for the defence.

Certified that R.P. 4 (C) (D) (E) (F) and (G) have been complied with

Taken down by me in the presence and hearing of the accused this 2 day of February 1943 at Bde HQ R.C.A.S.C. in the field

W.B. Allan Lieut
Signature of Officer taking summary.

M.F.M. 6
(A.F. B.122).
40/(P.& /2136 (2968)

No. H17801 Name Todd T.A. | Sqn., Battery, or Company A | Corps | Date of enlistment 11.11.40 | C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. (Sgd)C.W.Campbell)Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13May 43	Pte	-	Supplementary A.A.Sec 15(1) WOAS. AWL from 1330 hrs 13 May 43 to 2200 hrs 13 May 43 (Abs. 8 hrs 30 mins)	Sgt McKie W. Cpl Dick G.L.	2 Extra fatigues	14 May 43	Lieut T. Stephens	Forf 1 days pay by FR&I 149(1)(a)

CERTIFIED TRUE COPY

(C.B. Ware, Lieut-Col
Commanding, P.P.C.L.I.

D

(P.T.O.)

C"

In lieu of A.F. B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or as the case may b
H17801	Pte	Thurman Alivan TODD	P.P.C.L.I.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company conduct sheets of the accused, exclusive of convictions by a Court Martial or Civil Court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 Months	Since Enlistment
For A.A. Sec 15(1)	1 Times	Times
For	Times	Times
For	Times	Times
For	Times	Times
For	Times	Times
For	Times	Times

xxxxx of xxxx

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

No. H19801 Rank Pte Name Todd T.A. of P.P.C.L.I. xxxxxxxx 6da (or as case may be)

Description of court by which tried, or status of Offr disposing of the charge or dispensing with trial	Date and place of trial, or summary award under AA 47, or of order dispensing with trial	Charges upon which convicted or in respect of which trial was dispensed with.	Sentence of the Court or authority disposing of the charge, or order of the dispensing authority	Punishment Remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trail is a true extract from the regimental books in my custody.

Signed this 12th day of February 1944

(C.B. Ware,) Lieut-Col
Commanding, P.P.C.L.I.

5-1-109

Spr. Toddhunter J. R.

RECORDED AT CMHQ IN AB 160 * 55-109

CP Allied (to item of C.A.F.) 407/P & B/1646 — 4/38B

RECEIVED 28 MAY 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

Convened by Brig J.A.R. Gough Comd A. Tps Area dated 22 Apr 45

Brig J.A.R. Gough — First Canadian Army

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-22502		John Richard	Todhunter	2 Bn. RCE

PROCEEDINGS REVIEWED for Col J.A.D.J. 3rd Cdn. Inf. Div. HQ 21 Army Gp.

H.B. Williams Maj 43 — REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 26 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/44

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under Instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect of KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1)~~ ~~Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under Instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.J.J.W. Lussault	3 Bn R C E
Member	Capt.	W.H. Wyand	69 Cdn Gen Tpt Coy RCASC
Member	Lieut	A.H. Rhoenie	1 Cdn Mech Equip Pk Coy RCE
Judge-Advocate	Capt.	J.H. Jermyn	H & A Tps Area First Canadian Army
Prosecutor	Capt.	R.C. Paris	2 Bn RCE
Defending Offr	Lieut	P.S. McNulty	2 Bn RCE

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

12-130

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, ~~if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s)(1). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (~~not~~) so informed, ~~and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~not~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

FIRST CHARGE
A.A. Sec 15(1)

The accused, B22802 Spr John Richard TODHUNTER, of 2 Battalion, RCE, a soldier of the Canadian Army Overseas is charged with:

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the Field, absented himself without leave from 2230 hrs 8 Apr 45 till 1330 hrs 13 Apr 45.

Absent 4 days 15 hrs.

(G.L. MACDONALD) Lt Col RCE
Commanding Officer
2 Battalion, RCE

Field
17 Apr 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(JBR Gough) Brig
Comd A Tps Area
First Cdn Army

In the Field
22 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.22802	Spr	Spr	John Richard	TOLHUNTER	2 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Apr 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint ~~(a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons stated in the certificate~~ attached hereto. ~~-~~
(AA 49, RP 106(B), 107(A). ~~Delete the whole or part, if not applicable.~~)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.J.J. W. Dussault	3 Bn RCE

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 69 Cdn Gen Tpt Coy	RCASC
Subaltern	To be detailed by OC 1 Cdn Mech Eqpt Fk Coy	RCE

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	G.H. Jermyn	R.C.A.

On Active Service in the Fd

in HOLLAND (Country.)

Date 22 Apr 45

(Signed personally. RP 105 fn 2.)

(JRR Gough) Brigadier (Rank.)

Commanding A Tps Ares, First Cdn Army Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

"I certify that I have this morning examined B86603
number

Sapper Todhunter.J.B. 8 Bn. R.C.E.
rank name Unit

and in my opinion he is fit to undergo trial by Court Martial".

26 April 1945

Capt RCAMC
2nd Battalion, RCE

B·2 Statement by deceased

On the night of 8 Apr I had an opportunity to go to see friends in Nijmegen. I had three bottles of cognac which I took with me. On the way down I had quite some of it. I remember getting to Nijmegen. I continued to drink and sometime during the evening everything went blank after that I have only vague recollections when I was. Tuesday afternoon I came to my senses. I found I was near Venlo. I went into a farmhouse feeling very ill. The people put me up and I stayed there until Thursday afternoon when I felt somewhat better. I left there to work my way back to camp which I arrived about 1330 hrs. When I was in Venlo I talked to an American MP. but he said he couldn't do anything for me. Spr Arsenault. Webber saw me with the cognac.

E·1 Character Evidence

B·39691 C.S.M. La Brash, S.R. HQ Coy 2 Bn RCE sworn states.

I have been Spr Todhunter CSM for four months now during that time any duties I had for him to perform were carried out to the best of his ability without any trouble whatsoever. He has given me no trouble as far as discipline is concerned. In my opinion he is one of the best soldiers we have.

No Cross-examination

RP §3(4) complied with.

Lieut P. J. McNulty, 2 Bn RCE sworn states

For about 18 mos. prior to 2 Bn leaving Eng land for the continent I was FE for this unit. My duties included being i/c any unit the unit was on works. Spr Todhunter worked for me because he is the Bn Surveyor. This work often meant long irregular hours. Spr Todhunter always put forth a sincere effort and carried out my orders to the letter. I know that the other men on my enjoyed working for him. He was never absent or drunk while working for me nor have I seen any signs of drinking by him.

No Cross-examination

RP §3(6) complied with.

E-3. Defending Officer in Mitigation

Due to circumstances of this case it is hoped that the Court appreciates the disadvantage the defence accepted by his plea of guilty. He was scheduled for leave to the UK. in three days. I ask the court to be lenient with this type for his lapse.

G. Jeans 1st Capt
J.A.

EXHIBIT 'A' Page 1.

Summary of Evidence in
the case of B-22802 Spr
Todhunter J. R. HQ Coy.
2 Bn. R.C.E. Canadian Army
Overseas.

By direction of the Commanding Officer
the evidence is taken on oath.

First Witness: B28464 Cpl. Fleishman, G.E. of
HQ Coy 2 Bn RCE sworn states:

I am B28464 Cpl. Fleishman GE HQ Coy 2 Bn
RCE. On April 8th 1945 I was guard commander
& around 22 30 hrs I went to Spr. Todhunters
sleeping quarters as he was on guard at 2300 hrs.
He was not there. I asked
Spr Killen where Todhunter had gone. He said
that Todhunter had gone out & McMillen
would be taking his place. McMillen showed
up & did the guard. I did not see Spr Todhunter
until the afternoon of the 13 of April.
The accused declines to cross examine this
witness.

Cpl G.E. Fleishman.

Second witness: B-39599 Spr Hillier H.M. of HQ Coy
2 Bn RCE sworn states

I am B 39599 Spr Hillier H.M. of HQ Coy 2 Bn. R.C.E. At about 18.30 hrs on the 8th of April Spr Todhunter arranged with me to take his guard or find someone else to take it and he would take it for us at a later date, because he wanted to go out. I got Spr McMillan to take Todhunters guard.

The accused declines to cross-examine this witness

H.M. Hillier

Third witness: B-39681 C.S.M. LaBrash, S.R. of HQ Coy.
2 Bn. R.C.E. sworn states:

I am B 39681 C.S.M. LaBrash S.R. of HQ Coy 2 Bn R.C.E. I am C.S.M. of HQ Coy. Spr Todhunter is ~~----~~ in HQ Coy. At about 1900 hrs 9th of April I was asked by Lt. Brokenshire to locate Spr. Todhunter & warn him for duty at 0800 hrs 10th of April. I checked his billets & the surrounding camp area & could not locate him On making further enquiries I learned that he was away. I checked with Lt Brokenshire & found that he had not been detailed for any work away from camp. I then checked with Cpl Illingman & found that he had not been on guard the previous night. McMillan had substituted for Todhunter on guard

without my knowledge. The last time I saw Sgt Toddhunter was on the afternoon of Sun the 8th & I did not see him again until he reported to me at 1330 hrs the thirteenth of April. I placed him under open arrest & told him to report to Lt Goldman for a room.

The accused declines to cross-examine this witness

J.R. Toddhunter

The accused was cautioned as follows:-

Question: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so. but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer. I do not wish to make any statement or give evidence on oath.

J.R. Toddhunter.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that R.P. 4(C) (D) (E) and (F) have been complied with.

R.L. Davis Capt
HQ Coy 2 Bn R(E
(Officer detailed to take the Summary)

LIST OF WITNESSES IN THE CASE

OF

B22802 Spr TODHUNTER, J.R.

2 Battalion, Royal Cdn Engrs.

WITNESSES FOR THE PROSECUTION

B28469	Cpl Fleishman, G.E.	- HQ Coy 2 Bn RCE
B39599	Spr Hillier, H.M.	- HQ Coy 2 Bn RCE
B39681	CSM LaBrash, S.R.	- HQ Coy 2 Bn RCE

WITNESSES FOR THE DEFENCE

NIL.

REQUEST FOR DEFENDING OFFICER

I, B22802 Spr Todhunter, J.R., request Lt P.J. McNulty of B Coy 2 Bn RCE to defend me at my Court Martial.

B22802 Spr Todhunter, J.R.

EXHIBIT B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B22602	SPR	TODHUNTER J.R.	2 BN. R.C.E.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. 10 times.

For A.A. HQ - CAUSING A DISTURBANCE 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 30 APR 42

Date of last entry in Field Conduct Sheet 1 OCT 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for ..... (NIL)~~
~~beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 14 days in military custody, *i.e.*, 14 days in open arrest, 0 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 25 yrs 1 mos

6. The date of his attestation ~~calling up for military service~~ is 3 JUL 41

7. The service which the accused is allowed to reckon is 3 yrs 1 mos

8. The accused is in possession of‡ CVSM + CLASP

‡State the military decoration (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27633) W1.24939/3404 24,000 7/44 A. & E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26th day of April 45

Lieut Reg Capt

EXHIBIT "C"

MFM 6 (AFB 1822)

No B22802 Name Toshunter JR | Sqn, Battery or Company | Corps RCE | Date of enlistment 31 July 41 | Badges | Service or Proficiency Pay | Character

Company Conduct Sheet Date of last entry in 16 Nov 43 | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	Nature of offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CARO Original destroyed 31 June 42					
Petawa	30 Apr 42	Spr		AA15(1) AWL from 0200 hrs 30 Apr 42 till 1000 hrs 30 Apr 42 (8hrs)	Cpl Teed Sjt Assleton	7 days CB	30 Apr 42	Major RL Junkin	1 days pay FRI149(1)(a)
Field	30 Jul 43	L/Cpl		AA40 Conduct etc. causing a disturbance in the Sjts Mess	Sjt Rigby Sjt Pike	Reduced to Spr	31 Jul 43	Major HB Stuart	
Field	4 Oct 43	Spr		AA15(1) AWL from 0200 hrs 4 Oct 43 to 1730 hrs 6 Oct 43 (absent 2 days 15 hrs 30 min)	Cpl Gibson L/Cpl Munro	21 days pay	7 Oct 43	Major HB Stuart	3 days pay FRI 149(1)(a)
Field	12 Nov 43	Spr		AA15(1) AWL from 2359 hrs 12 Nov 43 to 2215 hrs 14 Nov 43 (absent 1 day 22 hrs 16 min)	Sgt Rigby	Admonished	16 Nov 43	Major HB Stuart	2 days pay FRI 149(1)(a)
Field	19 Dec 43	Spr		AA15(1) AWL 2200 hrs 19 Dec 43 to 1620 hrs 21 Dec 43 (absent 1 day 18 hrs 20 mins)	Cpl Gibson Sjt Thomas	8 days pay FRI 149(2)	22 Dec 43	Major HB Stuart	2 days pay FRI 149(1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Jan 44	Spr		AA15(1) AWL from 0900 hrs 27 Jan 44 to 1300 hrs 31 Jan 44(absent 4 days 4 hrs)	Sjt S.J. Dunning Doc.	10 days FP Forf 10 days pay FRI 149 (1)(b)	1 Feb 44	Major HF Mclachlin	Forf 5 days pay FRI 149(1)(a)
				Awarded CVSM & Clasp wef 15 Jan 44					
Field	7 May 44	Spr		AA15(1) AWL 2245 hrs 7 May 44 to 0730 hrs 8 May 44(8 hrs 45 mins)	L/Cpl Mills Cpl Pitt	Forf 4 ays pay FRI 149(2)	8 May 44	Major AA Ayer	Forf 1 days pay FRI 149(1)(a)
Field	14 May 44	Spr		AA15(1) AWL 1600 hrs 14 May 44 to 0700 hrs 15 May 44(15 hrs)	Cpl Jones	7 days pay FRI 149(2)	15 May44	Lt-Col WA Capelle	Forf 1 days pay FRI 149(1)(a)
Field	11 June44	Spr		AA15(1) AWL 1700 hrs 11 Jun 44 to 2330 hrs 11 Jun 44(6 hrs 30 mins)	L/Cpl HP Montgomery Cpl Pitt	14 days pay FRI 149(2) 10 days CB	13 Jun44 28 Jun44	Lt-Col WA Capelle Major AA Ayer	Forf 1 days pay FRI 149(1)(a)
Field	27 Jun 44	Spr		AA15(1) AWL 45 mins	SjtFlemming	14 days CB 21 days pay FRI 149(2)	9 Oct 44	Major AA Ayer	Forf 1 days pay FRI 149(1)(a)
Field	8 Oct 44	Spr		AA15(1) AWL 8 hrs					

This is a certified true copy of document held in my custody ... . to Major ROE

CHARGE SHEET

FIRST CHARGE
A.A. Sec 15(1)

The accused, B22802 Spr John Richard TODHUNTER, of 2 Battalion, RCE, a soldier of the Canadian Army Overseas is charged with:

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the Field, absented himself without leave from 2230 hrs 8 Apr 45 till 1330 hrs 13 Apr 45.

Absent 4 days 15 hrs.

A L Macdonald

(G.L. MACDONALD) Lt Col RCE
Commanding Officer
2 Battalion, RCE

Field
17 Apr 45.

Summary of Evidence in the case of

B22802 Spr Toshunter J.R. HQ Coy

2 Bn RCE Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on Oath.

FIRST WITNESS

B28469 Cpl Fleishman GE of HQ Coy 2 Bn RCE, sworn states:-

I am B28469 Cpl Fleishman GE HQ Coy 2 Bn RCE. On 8 Apr 1945 I was Guard Commander and around 2230 hrs I went to Spr Toshunters sleeping quarters as he was on guard at 2300 hrs. He was not there. I asked Spr Hillier where Toshunter had gone. He said that Toshunter had gone out and McMillan would be taking his place. McMillan showed up and did the guard. I did not see Spr Toshunter until the afternoon of the 13th of April.

The accused declines to cross-examine this witness.

Signed. GE Fleishman Cpl

SECOND WITNESS

B39599 Spr Hillier HM of HQ Coy 2 Bn RCE sworn states:-

I am B39599 Spr Hillier HM of HQ Coy 2 Bn RCE. At about 1830 hrs on the 8th of April Spr Toshunter arranged with me to take his guard or find someone else to take it and he would take it for us at a later date because he wanted to go out. I got Spr McMillan to take Toshunters guard.

The accused declines to cross-examine this witness.

Signed. HM Hillier Spr.

THIRD WITNESS

B39681 CSM LaBrash SR of HQ Coy 2 Bn RCE sworn states:-

I am B39681 CSM LaBrash SR of HQ Coy 2 Bn RCE. I am CSM of HQ Coy. Spr Toshunter is in HQ Coy. At about 1900 hrs 9 Apr I was asked by Lt Brockenshire to locate Spr Toshunter and warn him for duty at 0800 hrs 10 Apr. I checked his billets and the surrounding camp area and could not locate him. On making further inquiries I learned that he was away. I checked with Lt Brockenshire and found that he had not been detailed for any work away from camp. I then checked with Cpl Fleishman and found that he had not been on guard the previous night. McMillan had substituted for Toshunter on guard without my knowledge. The last time I saw Spr Toshunter was on the afternoon of Sunday the 8th and I did not see

him again until he reported to me at 1330 hrs the thirteenth of April. I placed him under open arrest and told him to report to Cpl Yetman for a room.

The accused declines to cross-examine this witness.

Signed. SR LaBrash CSM

The accused was cautioned as follows:-

QUESTION

Do you wish to make any statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER

I do not wish to make any statement or give evidence on oath.

Signed. J R Toshunter Spr

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence of the accused and that RP 4(c)(d)(e) and (f) have been complied with.

(R C Paris) Capt
HQ Coy 2 Battalion RCE
(Officer detailed to take the Summary)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans..... Do you intend to call witnesses on your behalf?

Ans..... Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found ~~Guilty on one or~~ more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1).

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[illegible] as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet[illegible](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier[illegible] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement[illegible] and Conduct Sheet[illegible], and in mitigation of punishment?(1) Ans. yes sir by my defending officer.....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 69(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-22802 Spr Todhunter, J.R. 2 Bde RCE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.) 14 days open arrest

Sentence Awarded by the Court:

To suffer field punishment for 60 days and to forfeit all ordinary pay for a period of 60 days.

(Sgd) Gordon N Fennyn — Judge-Advocate, if any. Capt — 26 Jan 45 — Date awarded. — (Sgd) [illegible] Lt Col — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

------CONFIRMED------

~~I direct that the accused be not committed to prison or detained therein until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brigadier

Date 28 Apr 45 — (JRR Gough)

Commanding A Tps Area, First Cdn Army.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B22802 Spr Todhunter J R	2 May 45	[signature] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SH-18

Gen. Taffick, G.L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H.14401 Gnr. George Lawrence TOFFICK

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753; and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which None days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer full punishment for 70 days and to forfeit 70 days pay

(Sgd) ..... Judge-Advocate, if any. 2 April 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court.

~~I direct that the accused be~~ not committed to prison or detention barracks until further orders.(1)

(1. ~~AA 57A. Delete if not used.~~)

Date 4 PM 45 (Sgd) ..... Commanding 3 C.B.R.Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H14401 Gnr George Lawrence TOFFICK, 9 CBR Bn	APR 05 1945	3 C.B.R.GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 as 5H-18

FIELD GENERAL COURT-MARTIAL

CF/AB/150 (to 31st Dec 45) 40-P & S/1888 (10/45)

4/388

RECEIVED 15 MAY 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brigadier J.S.H. Lind Comd 3 C.B.R.G. dated 31 Mar 45

ACCUSED.

(Where there is a trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Permt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-14401	Gnr	George Lawrence	TOFFICK	9 CBRBn

PROCEEDINGS REVIEWED 16 May 45

~~Interpreter~~ PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held at (or in) (country) Belgium on (date) 2 April 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ..... ~~as shorthand writer?~~ Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.R. Osler	RCA 9 CBR Bn
Member	Captain	G.M. Avery	RCA 9 CBR Bn
Member	Lieut	G.R. Stirling	RCA 9 CBR Bn
Judge-Advocate			
Prosecutor	Captain	D.L. McJannet	RCASC 9 CBR Bn
Defending Offr	Lieut	A.F. McIntosh	RHLI 9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~of the Court~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1] and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans No .....[5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex C , initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use record alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.[3]

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans Yes .....[2]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any.~~[2]

(1. When several accused tried separately see RP 77 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 110, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-14401 Gunner George, Lawrence, TOFFICK, on strength of 60 Coy 9 CBR Bn 2 C.B.R.G., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0800 hours 2 Mar 45 until apprehended at 0245 hrs 10 Mar 45.

(Total days absent: 7 days 18 hours 45 minutes)

(H.W. Rick) Lt.-Col,
Commanding,
9 CBR Bn. 2 C.B.R.G.

In the Field.
22 March 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
31 Mar 45.

(J.S.M. Lind) Brig,
Comd
3 Cdn Base Sub Gp.

Lawrence Toffick
Accused.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.14401	Gnr		George Lawrence	TOFFICK	9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 31 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder:~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	C.R. Osler	X-4 List	RCA 9 CBRBn
(Rank.)	*(Must be named. RP 106.)*		*(Unit.)*

MEMBERS.

Captain	G.M. Avery	X-4 List	RCA 9 CBRBn
Lieut	G.R. Stirling	X-4 List	RCA 9 CBRBn
(Rank.)	*(Named or detailed. RP 106.)*		*(Unit.)*

WAITING MEMBER.

Captain	R.J. Mutcheson	X-4 List	RCA 9 CBRBn
(Rank.)	*(Named or detailed, if any. RP 106.)*		*(Unit.)*

~~JUDGE-ADVOCATE.~~

(Rank.)	*(Must be named, if any. RP 106.)*	*(Unit.)*

On Active Service in the Fd

in BELGIUM *(Country.)* *(Signed personally. RP 105 fn 2.)* Brig *(Rank.)*

Dat 31 Mar 45 Commanding (J.A.G. Line) 3 Cdn Base Rft Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Lieu of AFA 3) 40/P & S/1097 (6143) *(See overleaf for oaths and notes for use on trial.)*

AA

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 567)
CMHQ CL 173

I certify that I have this day examined H 144401
(Number)

Gnr. Tofflick O.L. and in my opinion he is
(Rank) (Name)

fit ~~unfit~~ to undergo trial by Court Martial

Station Aulos (Medical Officer, R.C.A.M.C.)

Date 2.4.45. (Unit)

Exc F

Plea of Mitigation.

H 14401 Gnr George Lawrence Toffick

This man enlisted Sept 43 as an artillery reinforcement and arrived in England 6 May 44 He was posted to France 18 Jul 44 and served with 12 Fd Regt RCA from 13 Aug till he was hospitalized the end of Sep. He was reposted to the 14 Fd Regt & served with them till he was wounded with shrapnel 30 Oct 44. He was in hospital from 31 Oct 44 till 9 Feb 45 and was posted from convalescent depot to CBRE 28 Feb 45

This was his first night out after his long session in hospital and con depot & the local liquor and new found liberty were too much for him. Before passing sentence I ask the court to consider MMM Ch V Para 76 (a)(iii) and as this mans absence was of comperatively short duration ask that the minimum sentence be inflicted. He has already spent 25 days in custody awaiting trial.

[signature] Lt
OBaCORps

[signature]

2 'C'

SUMMARY OF EVIDENCE

in the case of

H-14401 Gnr Toffick, G.L., on strength of 60 Coy 9 Bn. 2 C.B.R.G., Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

The certified true copy of RCA Fd (X-4 List) Casualty Return dated 20 Mar 45, is submitted herewith as documentary evidence, read over to the accused, marked Exhibit "A", signed by me and attached hereto.

A.H. Ralfs Lieut.
(A.H. Ralfs) Lieut.
Officer detailed to take the Summary of Evidence.

SECOND WITNESS

The Certificate of apprehension in accordance with Army Act Section 163 (i)(j), is submitted herewith as documentary evidence, read over to the accused, marked Exhibit "B", signed by me and attached hereto.

A.H. Ralfs Lieut.
(A.H. Ralfs) Lieut.
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement.

The accused declines to call any witnesses.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(c),(d),(e), and (f) have been complied with.

A.H. Ralfs Lieut.
(A.H. Ralfs) Lieut.
officer detailed to take the Summary of Evidence.

In the Field.
22 March 1945.

(Margin for filing purposes) Certified true copy EXHIBIT Army Form W.3011C.

'RCA FD X-4 LIST 60 Coy 9 CBR Bn

Serial No. 47.

Number of sheets to this return

CASUALTIES DUE TO BATTLE—OTHER RANKS.

ARMY No.	RANK	NAME AND INITIALS	CORPS OR REGT.	CASUALTY Nature of Casualty	CASUALTY Date	REMARKS Any available information for communication to relatives should be stated
		ABSENT WITHOUT LEAVE				
H14401	GNR	TOFFICK GL.	FD	AWL. From 0800 hrs. 2 MAR 45 Still AWL. 0800 hrs 3 MAR 45 (24 hrs).		
H14401	GNR	TOFFICK GL	FD	CEASES To Be AWL. AT 0245 hrs 10 MAR 45		

Date 20 MAR 45 194 .

"HKD Hemming Capt
(Signature and appointment of Officer).
OC. 60 Coy 9 CBR Bn.

60 Coy 9 CBR Bn (Unit)
9 CBR
(Bde., Divn., Area, etc., with which unit is serving)

This is Exhibit "A" referred to in the case of
H 14401 Gnr. TOFFICK G.L. taken before me on the
twentieth day of March 1945

A.D. Ralfs Lieut.
OFFICER TAKING SUMMARY

EXHIBIT B

CERTIFICATE UNDER ARMY ACT, SECTION 162 (1) (i)

Certified that No. H.14401 Rank Gnr Name Tomflick, G.L. A.103180

of the 60 Coy 9 Bn 2 CBRG Regt, was apprehended by 2 Can L of C Provost Coy

Rank L/Cpl Name Hanley, W.F. of the Detachment at Ghent at 0245 hrs, on the 10 th

day of March as an absentee without leave.

He was wearing Military Uniform at the time of his arrest.

Place Ghent Belgium

Date 10 March 45

(C. Wood) Capt DAPM 2 CBRG
Canadian Provost Corps.

This is Exhibit 'B' referred to in the case of
H.1H.H.91 Gnr. TOFFICK. G.L., taken down
before me on this twentieth day of March 1945.

A.H.S. Ralfe

OFFICER TAKING SUMMARY

'D'

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-14401	Gnr.	Toffick, G.L.	9 CBR Bn 2 C.B.R.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereto stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Original M.F.M. not avail- ..... times.

For able ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ .....

~~beginning on the~~ .....

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 23 days in military custody, *i.e.*, ... days in open arrest, 23 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 22 & 11/12 yrs

6. The date of his ~~enlistment~~ attestation is 21 Sep 43

~~claim to previous service~~

7. The service which the accused is allowed to reckon is 1yr. 6 mos.

8. The accused is in possession of‡ CVSM & CLASP

*Strike out if not applicable.

‡State the military decorations (if any) held by accused.

*9. ~~(If the accused is a warrant officer or N.C.O.). The accused has served continuously~~ without reduction, to the present date— *Date of Promotion.*

In the substantive rank of .....

In the war substantive rank of .....

~~In the acting rank of~~ .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck out.*

[illegible]

27852] W1.24930/3404 24,000 7/44 A.&E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 2nd day of April 1940

(C.L. Nelson) Capt. & Adj.
Officer having custody of the regimental books.

Sc F

3/17 MFM 6
(AFB 122)
40/P&R/136 (5413)

H-14401 TOFFICK, G.L. (TEMPORARY) Sqn, Battery, or Company 60 Coy Corps R.C.A. Date of enlistment 21 Sep 1943 Of Badges Service or Proficiency Pay

No. Name Signature OC Company, etc Character

Date of last entry in Company Conduct Sheet N/A No, and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Sjtd	By whom awarded	Remarks
				T.O.S. 9 Bn 2 C.B.R.G. w.e.f. 1 Mar 1945.					

"Certified True Copy"

(C.L. Nelson) Capt. & Adj
Officer having the custody
of the regimental books.

(PTO)

4N-11

Pte Tolmie J.R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C.5445 Pte John Richard TOLMIE Lake Sup Regt (M)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 6(3)(d)	Not Guilty	Guilty	
2nd AA 19	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ DD (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 43 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo imprisonment with hard labour for a period of two years .

(Sgd) D.G.DEAN Capt — Judge-Advocate, if any. 18 Dec 44 — Date awarded. (Sgd) G.O. CURRIE Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) R.W. MONCEL Brigadier

Date 18 Dec 44 — Commanding 4 Cdn Armd Bde. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C5445 Pte Tolmie J.R.	20 Dec 1944	(Sgd) R.A. Keane Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Lt-Col C.W. SMITH Comd 4 Cdn Armd Bde dated 21 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-5445	Pte	John Richard	TOLMIE	Lake Sup R (M)

Certified true Copy.
C. de Mongrun
ADJ. A. Capt
Cdn. Sec. G.H.Q

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 16 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) DD brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected (to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) DD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to L64747 Pte Vangduwel as interpreter ? Ans DD

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer ? Ans~~ ~~The shorthand writer is sworn.~~(1) DD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	G.O. CURRIE	28 CAR (BCK)
Member	Capt	C.W. CONLON	21 CAR (GGPG)
Member	Capt	R.B. VERNE	22 CAR (GGG)
Judge-Advocate	Capt	D. DEAN	HQ 4 Cdn Div
Prosecutor	Major	H.J.W. CARGO	LSR
Defending Offr	Major	E.J. GRAVELLE	LSR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DL p 3.)

A8. The accused Pte TOLMIE before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) DD arraigned (~~separately~~) DD on all charges in the charge sheet.(1) The accused does (~~do~~) DD not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~ no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Neither. Do you intend to call witnesses on your behalf ?
Ans. No Sir. ~~Are they witnesses as to character only ?~~ Ans. DD
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty~~, and states to the accused that the finding(s) of the Court on the both charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes Sir (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 209, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-5445 Pte Tolmie J.R., A member of the Lake Superior Regiment (Motor) a soldier of the Canadian Army Overseas placed on Active Service is charged with:

First Charge
Sec 6 (3)(d)
ARMY ACT

WHILE ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING

in that he

while on active service when serving in Holland at s'Hertogenbosch, at 1600 hrs 14 Nov 44 assaulted Johann Herdrick Isreal, a civilian of s'Hertogenbosch, an inhabitant of Holland, by striking him with a hatchet.

Second Charge
Sec 19
ARMY ACT

WHILE ON ACTIVE SERVICE DRUNKENNESS

in that he

while on active service in the field was drunk at 1600 hrs 14 Nov 44 at s'Hertogenbosch.

(Signed) R.A. Keane Lt-Col
The Lake Superior Regiment (Motor)

In the Field
4 Dec 44.

To be tried by Field General Court Martial.

Field,
11 Dec 44.

(Signed) E.M. Smith Lt-Col
A/Comd 4 Cdn Armd Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
C5445	Pte		John Richard	TOLMIE	Lake Sup R (M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, EMS being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on EMS (*date*) 11 Dec 44 endorsed by me, (~~as by an offr of my staff for that~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) EMS
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed EMS or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ EMS ~~attached hereto~~. EMS
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~. EMS
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	G.O. CURRIE (Must be named. RP 106.)	28 Cdn Armd Regt (Unit.)

MEMBERS.

Capt (Rank.)	to be appointed by (Named or detailed. RP 106.)	22 Cdn Armd Regt (Unit.)
Capt (Rank.)	to be appointed by (Named or detailed. RP 106.)	21 Cdn Armd Regt (Unit.)

WAITING MEMBER.

Capt (Rank.)	to be appointed by (Named or detailed, if any. RP 106.)	Lake Sup R (M) (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	D.J. DEAN (Must be named, if any. RP 106.)	4 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Holland (Country.)

Date 11 Dec 44.

(Signed) E.M. Smith (Signed personally. RP 105 fn 2.)

Lt-Col. (Rank.)

A/Commanding 4 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

I certify that I have this day examined

C-5445 Pte Tolmie J.R.

and in my opinion he is fit to undergo

trial by FGCM.

16 Dec 44

(Signed) P.T. Ferguson Capt RCAMC
Signature of Medical Officer

FIRST PROSECUTION WITNESS

JOHANN HENDRICK ISREAL, 89 PALMBOOM STRAAT, s'HERTOGENBOSCH
sworn states through the interpreter.

I live in s'Hertogenbosch, Holland.
About five weeks ago about 1500 hrs, two Canadians, one of them the accused came to my house and asked for two glasses. They sat down and started to drink their cognac. He talked for a while and then I played the piano. The accused asked for a photo and we gave it to him with our address. The other boy went to sleep. The accused kept going in and out of the house. The accused eventually went to sleep too. I went to the work room to fix my bicycle. About 15 minutes later the accused came into the room where I was working. He asked me about a chisel I had. Then he took up a hatchet and he hit me on the head with it. I was bleeding, but was not unconscious. I pushed him out of the house. I took the axe from him. Some other Cdns took away the accused, and the other boy.

X examination.

I have had other soldiers in my home including English soldiers. I have never had trouble with other soldiers. I had nothing stolen from my home by the English, when I was away from it during the fighting. When I was in the work room I heard accused and my wife talking but couldn't tell what they said. My wife had told me that the day before the accused had made improper advances to her.
I was standing up when the accused hit me. I was hit on the back of the head (Witness shows court the mark). I didn't strike the accused just took the axe away. When I was hit I shouted for my wife. The soldier was drunk. I had no idea he was going to strike me before he did so. Before I went to the workroom accused took his penis out of his pants, but I told him to put it back and he did so.

RP 83 (B) complied with.

2nd PROSECUTION WITNESS

CATHERINIA LOUISA CREDT, 89 Palmboom Straat, s'Hertogenbosch
sworn, states, through the interpreter -

The day the boys came to the house, they had a bottle of cognac and asked for 2 glasses which we gave them. They started to drink and my husband played the piano. The friend of the accused got drunk and went to sleep on the floor. Accused was also getting drunkr all the time and kept going in and out of the house. Finally he went to sleep on a chair, but just before he did he took out his penis and showed it to me. When he went to sleep my husband went to the back room to work on his bicycle. I then saw the soldier was awake and he asked me to give him a kiss. I said I couldn't as I had a husband in the home. He took his penus out again. I told him my husband would hit him if he saw that. The soldier asked me if my husband had a gun and I said no. The soldier approached me and asked me if my husband was a good husband and I said yes. He then asked me to kiss him and he took his penus out again. I told him to go away out of the house, because I had a husband. He then went into the backroom and a while later I heard my husband cry for me. I went and saw the accused and my husband struggling and ~~xxy~~ my husband's head bleeding. I went and called some Cdns and they parted them and took the accused and my husband to hospital.

X examination

My husband did not see the accused making improper suggestions to me. The soldier and I talked, he in English and I partly in English, partly Dutch. I didn't see accused strike my husband.

(The witness demonstrates that she can speak English so as to make herself understood and can understand some English.

RP 83(B) complied with.

DJ

THIRD PROSECUTION WITNESS -

M.46188 Sgt CARBON E.H. sworn states -

On 14 Nov 44, about 1600 hrs I saw the accused with a civilian. The civilian had a head injury. That is the civilian who gave evidence here today. Accused was drunk.

X examined.

Accused and the civilian were having an argument and a woman was with them. Accused was so drunk we had to guide him by the arm. He came peacefully but needed assistance. He staggered but he could stand up. His speech was not normal. Later that night accused complained of a bruise on the head and showed me some blood. He claimed the civilian had hit him on the head.

I saw no weapon when I found the accused, and saw no struggle.

RP 83 (B) complied with.

FOURTH PROS. WITNESS-

H.46207 Cpl DELORMETT sworn states -

On 14 Nov 44 at about 1600 hrs I saw accused. He was pretty drunk and we took him away. Accused was with a civilian. They weren't fighting. Accused did not resist when we arrested him. He staggered and I smelt liquior on his breath.

No X examin.

RP 83 (B) complied with.

Accused in mitigation

My conduct sheet are all minor offences.
I joined when I was 15 and have been associated with bad characters.

PROSECUTING OFFICERS CLOSING ADDRESS -

The evidence proves the charges as laid.

DEFENDING OFFICERS CLOSING ADDRESS.

The evidence does not show that the civilian did not strike first. If he did the accused is entitled to act in self defence.

JA SUMS UP
Onus of proof, reasonable doubt.
Circumstancial evidence
Credibility for Court
Self Defence.

M.F.B. 358
22M—6-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-5445	Pte	TOLKIE, J.R.	The Lake Superior Regt (L)

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 15(1)	4	times	A AA0	6 times
For AA 40	1	times	AA 15(1)	11 times
For AA 15(3)	1	times	AA 15(2)	1 times
For		times	AA 15(3)	1 times
For		times	AA 19	2 times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused.

If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

The accused at the present time is under sentence for [illegible] beginning on the [illegible] day of [illegible].

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of 31 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years 2 months

6. The date of his attestation specified in his attestation paper is 6 May 41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon [illegible] service for the purpose of determining his pension, &c.

9. The accused is in possession of or entitled to no air force decoration, or air force reward or is in military

possession of or entitled to). State any air force decoration or reward. military C.V.S.M.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the substantive rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
unit
.....dated....., and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, ~~or summary awards under section 47 of the Army~~ LEF Air Force Act, and of cases in which trial has been dispensed with of accused, Number C-3415 Rank Pte

Name T. LMIE of The Lake Superior Regt (M) Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Central Criminal Court, Old Bailey	London, 3 Dec 42	Assault and Robbery	15 Months Imprisonment	Nil
Kingston Borough Petty Sessions	Kingston	Escape and theft	6 months hard labour to run concurrent with 15 mos imp. awarded 3 Dec 42	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Fourth day of December 44

LEF ~~The above statement with the schedule of convictions and of cases in which trial has been dispensed~~

LEF ~~with) is read, marked xxxx

No. C-8445 Name TOLMIE, J.R. Sqn, Battery, or Company — Corps INFANTRY — Date of enlistment 6-8-41 — 'GC' Badges — Service or Proficiency Pay N/A

3/17 MFM 6 (AFB 122) 40/PAY/136 (5413)

Date of last entry in Company Conduct Sheet 5 Mar 42 — No. and date of last drunk — 10-12-41 Period not reckoning towards freedom from extra fine — N/A — Sheet No Two — Signature OC Company, etc Sgd S.S. Parker — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-8-42	Pte		AA 40 Cond etc in that he appeared on guard improperly dressed and boots and rifle in dirty condition.	Cpl Brogan	96 hrs detn	2-8-42	Maj. Northrup	Forf 4 days pay FRI 149 (1)(b)
Field	6-8-42	Pte		Absented himself from parade at 1630 hrs 6-8-42 to 1550 hrs 6-8-42 Total absence 20 mins) AA 15(1)	Sgt Howard	Ordered to for for 2 days pay	7-8-42	Lt-Col Harvey	Forf 2 days pay FRI 149(2)
Field	7-8-42	Pte		Conduct to the prejudice of good order an military discipline in that he acted in an unsoldierly manner while on P.T. parade AA 40	Sgt Howard	Ordered to for 3 days pay	7-8-42	Lt-Col Harvey	Forf 3 days pay FRI 149(2)
Field	7-8-42	Pte		AA 15(1) AWL 2300 hrs 7-8-42 to 1840 hrs 9-8-42 (1 day 19 hrs 40 mins)	Cpl Tait	10 days det	13-8-42	Lt-Col Harvey	Forf 2 days pay
					Documentary	10 days pay			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-8-42	Pte		AA 15 in that he WOAS did absent himself from Bn Guard duties from 1915 hrs to 2145 hrs	L/Cpl Hoxie	Admonished	29-8-42	Col. A.E. Fraser	
			2	AA 19 In that he WOAS on Bn guard was drunk	RSM Mettleton Sgt Lloyd Cpl Davies				
Field	3-12-42	Pte		Having appeared before a civil court at Central Criminal Court Old Bailey, on a charge of assault & robbery was on 3 Dec 42 sentenced to 15 months imprisonment.	Civil conviction	15 months imprisonment	3-12-42		Total forf 485 day pay. Forf 29 days pay while close arrest Forf
Field	28-12-42	Pte		Having appeared before a Kingston Borough Petty sessions court on charges of escape & theft 28 Dec 42 sentenced to 6 mos hard labor, sentence to run concurrent with civil conviction awarded 3 Dec 42.	Civil conviction Metro police report 506/A/d 12 Jan 43	6 months hard labour, to run concurrent with civil conviction 3 Dec 42	28 Dec 42		Forf 184 days pay

No. C-6445 Name TOLMIE J.R. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 6-5-41 — GC Badges — Service or Proficiency Pay N/A

3/17 MFM 6 (AFB 122) 40/FAS/120 (24433)

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No One — Signature OC Company, etc (Sgd) Capt W. Gimell — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				New Sheet 8-7-42 wef 6-11-41 last entry 9/10/41					
Colwood Camp	10-11-41	Pte		Conduct to prej etc. equipment dirty (A.A. Sec 40)	Cpl Vedder	7 days C.B.	10-11-41	E.N. Thorne	Maj
Colwood Cap	27-11-41	Pte		Conduct to prej etc, absenting himself from parade ground AA 40	Cpl JohnsonCR Lt C.C. Jones	14 days detn	29-11-41	Major R.A. Henwood	Forfeits 14 days pay FRI 149(b)
Colwood Cmap	19-12-41	Pte		AWL 2200 hrs 19-12-41 to 1700 hrs 20-12-41 Total absence 19 hrs AA 15 (1)	CSM Cassidy C Cpl Mackenzie J	7 days CB	22-12-41	E.N. Thorne	Forfeits one days pay
Colwood Cap	19-12-41	Pte		Drunkeness at 1700 hrs 20-12-41 on highway at Colwood AA 19	Cpl Mackenzie	Admonished	22-12-41	E.N. Thorne	Major
Colwood Camp	7-1-42	Pte		AWL 2200 hrs 7-1-42 to 1420 hrs 21 Jan 42 (Total absence 328 hrs 20 mins) AA 15(1) Close arrest 1420 hrs 21-1-42 to 1000 hrs 22-1-42	Cpl Johnson	14 days CB	22-1-42	Lt Col	Forf 14 days pay FRI 149(1)A 14 days pay AA 40 (Trio)

Place	Date of offence	Rank	Name	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Colwood Camp	26 Jan 42	Pte		AWL a defaulter breaking out of barracks at 1430 hrs 26 Jan 42 and remaining absent until apprehended at 0020 hrs 27 Jan 42 (9 hrs 50 mins) AA 15(1) Close arrest 0020 hrs 27 Jan 42 till 1000 hrs 28 Jan 42 (Total 33 hrs 40 mins) Expenses $3.84 AA 15(1)	L/Cpl Earle Cpl Hicks J.B. L/Cpl McKenzie	3 days C.B.	27 Jan 42	Lt.-Col Clegg	Forf 1 days pay and cost
Colwood Camp	28 Feb 42	Pte		Absent from place of parade in that he a guard was absent from 1800 hrs 28 Feb 42 till 1130 hrs 1 Mar 42 (Total absence 17 hrs 30 mins) AA 15(2)	Cpl Doncsvitch L/Cpl Hunt T.	7 days C.B.	2 Mar 42	S.M. Thorne	Forf 1 days pay FRI 149(1)(a)
Colwood Camp	5 Mar 42	Pte		Act to the prejudice when a sentry leaving post without being relieved at 0545 hrs AA 40	Cpl Doncsvitch L/Cpl Hunt	14 days detn	5 Mar 42	Lt-Col S. Clegg	Forf 14 days pay and allowances

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Colwood Camp	26 Jan 42	Pte		AWL a defaulter breaking out of barracks at 1430 hrs 26 Jan 42 and remaining absent until apprehended at 0020 hrs 27 Jan 42 (9 hrs 50 mins) AA 15(1) Close arrest 0020 hrs 27 Jan 42 till 1000 hrs 28 Jan 42 (Total 33 hrs 40 mins) Expenses $2.84 AA 15(1)	L/Cpl Earle Cpl Hicks J.B. L/Cpl McKen ie	3 days C.B.	27 Jan 42	Lt.-Col Clegg	Forf 1 days pay and cost
Colwood Camp	28 Feb 42	Pte		Absent from place of parade in that he a guard was absent from 1200 hrs 28 Feb 42 till 1130 hrs 1 Mar 42 (Total absence 17 hrs 30 mins) AA 15(2)	Cpl Donesvitch L/Cpl Hunt T.	7 days C.B.	2 Mar 42	E.N. Thorne	Forf 1 days pay FRI 149(1)(a)
Colwood Camp	5 Mar 42	Pte		Act to the prejudice when a sentry leaving post without being relieved at 0545 hrs AA 40	Cpl Donesvitch L/Cpl Hunt	14 days detn	5 Mar 42	Lt-Col S. Clegg	Forf 14 days p and allowances

3/17 MFM 6
(AFB 122)
40/PAM/126 (5413)

No. C-5445 Name TOLMIE, J.R. Sqn, Battery, or Company — Corps C.I.C. Date of enlistment 6-5-41 GC Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 28-12-42 No. and date of last drunk 29-8-42 Period not reckoning towards freedom from extra line N/A Sheet No Three Signature OC Company, etc (Sgd) W. Simmell Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Sep 42	Pte		AA 15(1) WOAS absenting himself without leave from 2359 hrs 24 Sep 44 until 2230 hrs 3 Nov 42 (Total absence 39 days 22 hrs 31 mins)	Documentary	28 days detn	6 Mar 44	Major J.D. Wilson	Forf 40 days pay FR.1 149 (1)(a) Forf28 days pay W.O.
Field	21 Apr	Pte	1.	AA 15(1) AWL from 2230 hrs 21 Apr to 2330 hrs 21 Apr 44 (1 hrs)	Cpl Rhead	7 days CB	25 Apr 44	Lt.-Col Peffers	
Field			2.	AA 15(3) ~~AWL from Inlying Picquet~~ Out of Bounds without ~~from~~ pass or written leave from his CO	Documentary				
Field	8-7-44	Pte		AA 15(1) AWL from Inlying Picquet from 1400 hrs 8 Jul to 2145 hrs 8 Jul 44 (7 hr 45 mins)	A/CSM Boyd	7 days pay 7 days F.F.	10 Jul 44	Lt-Col Peffers	Forf 1 days pay FR&I 149
Field									
Field	13-Jul 44	Pte		AA Sec 15(1) AWL from fatigue duty from 1900 hrs 13 Jul to 2130 hrs 13 Jul 44 Total absence 2½ hrs)	Fo f 14 days Cpl Krieger	14 Jul 44		Maj F.F. Portsmouth	

(FT107)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Aug 44	Pte		AA Sec 15(1) AWL from 1200 hrs 17 Aug 44 to 1330 hrs 17 Aug 44 Absent 1 hr 30 mins)	Documentary	14 days C.B.	18 Aug 44	Major W.S. Morse	
Field	12 Oct 44	Pte		AA 40 Conduct to the Prejudice etc	Pte Vallis Lt Soudre	5 days forf of pay	13 Oct 44	Capt V.H. Goad	Total forf of 6 days pay.

CERTIFIED TRUE COPY FROM REGIMENTAL RECORDS
HELD IN MY CUSTODY.

(Signed) L.E. Pope Capt & Adj
Lake Sup R (E)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C-8445 Pte Tolmie J.R., "B" Company, Lake Superior Regiment (Motor), CAO, charged with:-Committing an offence against the person of an inhabitant of the country in which he was serving. (AA Sec 6(3)(d).

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS

Johann Hendrick Isreal, 89 Palmboom Straat, s'Hertogenbosch a native of Holland, a resident of s'Hertogenbosch, having been duly sworn states:

At approx 1430 hrs, 14 Nov 44, two boys came to my house to ask for two glasses. They had a bottle of Cognac. We thought, (my wife and I), that the soldiers wished to drink the Cognac in another house, but they took off their coats and asked me it it would be all right to drink the Cognac in my house. I told them, yes. They were sitting drinking and we got along all right and the soldiers gave us cigarettes and we had conversation. I told them of my experience in Germany and they told me about Canada. I played the piano and sang for the boys. The soldier, Tolmie, asked my wife for a photo, and she gave one to him and I wrote my address on the back of the photo. Then an officer came and told the boys that they must come for a parade and they left their coats in the house. The boys returned in ten minutes and Pte Delaney fell asleep in a chair. Pte Tolmie passed in and out of the house several times and finally sat down in a chair. I wished to go into the next room to work on my bicycle but my wife asked me to remain, as she was afraid to be alone with Tolmie, as he was trying to kiss her and was taking his penis out of his trousers. Then he fell asleep, so I went into the other room and told my wife, that when Tolmie awoke, she must call me. A quarter of an hour later, Tolmie came into the room where I was working. At first I thought that he wished to go to the UC, but Tolmie picked up a chisel and asked me what it was for. I told him. At the time I was rather worried that he might be dangerous, with this tool, but I did nothing about it. Then he found the hatchet, and asked me of its use, and then without warning he struck me on the head with the hatchet. I cried to my wife, in the next room, "He is beating me up". I was conscious, I felt my head, it was bleeding, I realized that I must get the hatchet away from the soldier. I pushed him out of the house. We struggled for the hatchet. During this time my wife, was screaming for help, from the other soldiers, and I managed to get the hatchet away from Tolmie. Then two Canadian soldiers arrived, and took him away. They also took Delaney, who was lying on the floor sleeping, during all this.

The accused declines to cross-examine the witness.

(Signed) Johann H Isreal.

SECOND WITNESS

Catherinia Louisa Gredt, 89 Palmboom Strast, s'Hertogenbosch a native of Holland, a resident of s'Hertogenbosch, having been duly sworn states:- through the services of L 64747 Pte Vangeluwe F. "interpreter" who has been duly sworn: On 14 Nov 44 I was at home with my husband. At about 2.30 P.M. 2 soldiers came to our house and had a bottle of cognac under their arms, and asked for two glasses. I gave them the glasses thinking they wanted to drink their cognac elsewhere, but instead they took off their great-coats and seated themselves on two chairs. They then asked if they could drink their cognac here which my husband agreed to. My husband talked to them a little in English and I went on with my work. I asked my husband to play the piano for entertainment as we were pleased to see the Cdn soldiers. My husband played for about fifteen minutes then one of the soldiers became sick through drinking so laid on the floor and went sleep, while the other soldier walked up and down to the back yard, after awhile he came in, sat down and fell asleep also. My husband went out [illegible] backyard to repair his bicycle and I kept on with my household work. At about 4.30 P.M. the soldier that was sleeping on the chair awoke, the other soldier still sleeping on the floor, at that moment I was alone in the room washing dishes - except for the soldiers. The soldier that awoke winked at me and said "Kiss me", I refused. Then he took out his penis. I then called my husband. He asked me if my husband would shoot him; I replied "My husband has no gun". Before my husband came in he tried to put his penis in my hand saying "Kiss it". At that moment I said "Out, get out of my house". He then went out the back door to my husband and I intended to go and tell my husband in Dutch what had happened. When I got to the back yard I heard my husband screaming in Dutch "He is trying to smash my head with the axe". I saw then that my husband was bleeding from his head so I started shouting for help to other soldiers in the area. All I could see was my husband struggling on the ground with the soldier. Two other Cdn soldiers came running up to pull the soldier off my husband - just then my husband took the axe away from him. The two soldiers then took him away. I later saw him on the street. The other sleeping soldier was carried away also.

The accused declines to cross-examine this witness.

(Signed) C.L. Israel-Gredt.
(Catherinia Louisa Gredt) Housewife.

THIRD WITNESS

H-46188 Sgt Carlbom E.H., "B" Coy, Lake Superior Regiment (Motor), having been duly sworn states:-

I am H-46188 Sgt Carlbom E.H. "B" Coy, Lake Superior Regiment (Motor). At approx 1600 hrs 14 Nov 44 I was walking down a back lane between two rows of buildings in our platoon area, in the town of s'Hertogenbosch. My attention was drawn to a distrubance, on investigating I found Pte Tolmie argueing with a civilian. The civilian appeared to have a head injury. I placed Pte Tolmie under close arrest, as in my opinion he was drunk.

The accused declines to cross-examin this witness.

(Signed) E.H. Carlbom

FOURTH WITNESS

H-46207 Cpl Delorme M., "B" Coy, Lake Superior Regiment (Motor), having been duly sworn states:

I am H-46207 Cpl Delorme M., "B" Coy, Lake Superior Regiment (Motor). On the 14 Nov 44 at approx 1600 hrs I was in the company of Sgt Carlbom, when we heard a disturbance in the vicinity of our platoon area, in the town of s'Hertogenbosch. On checking we found Pte Tolmie argueing with a civilian. Sgt Carlbom placed him under close arrest, and we escorted him to our billets. In my opinion Pte Tolmie was drunk.

The accused declines to cross-examine this witness.

(Signed) M. Delorme

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

I want to make a statement, on oath.

The accused, sworn, states:-

I, C-5445 Pte Tolmie J.R., and a friend shd a bottle of cognac. We went to a civilian house and ask him if we could drink it there. They supplied us with glasses and we proceeded to drink. We had a conversation with the people of the house and during that time we finished the bottle. We were called out on parade, later returning to get out coats. We sat around for a while and my friend Pte Delaney, fell asleep, we laid him on the floor. The husband left the room to work on his bicycle in another room, I was left in the room with is wife. I asked her if I could sleep with her, she said "NO", I beleive her husband over heard me. She seemed to be frightened of me and told me to leave the room, which I did. I then went into the workshop where her husband was standing, and in his broken English, he accused me of playing around with his wife. I said, "Get out of my way and let me out of here". He had a chisel in his hand and struck at me, it just touched me, and in the process I ducked down and picked up a hatchet and swung the flat part and he stooped to dodge it. It struck him a glancing blow. We then grappled over the hatchet, by this time we were out in the yard. He was getting the better of me when Sgt Carlbom and a Cpl arrived and dragged him off. They then escorted me to my billets under close arrest.

(Signed) J.R. Tolmie
(C-5445 J.R. Tolmie) Pte.

The accused does not call any witnesses.

I certify that the foregoing Summary Of Evidence, consisting of four pages, was taken down by me in the presence of the accused and that RP 4 (C), (D) (E), and (F) have been complied with.

(Signed) H.J.H. Cargo A/Major
The Lake Superior Regiment (Motor)

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C.5445 Pte John Richard TOLMIE Lake Sup Dept (N)

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 6(3)(a)	Not Guilty	Guilty	
2nd	AA 19	Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for : ~~xxxx

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Plus Any Loose Sheets of Record.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (and (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 93(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ~~No Sir~~ Neither. Do you intend to call witnesses on your behalf ?
Ans No Sir. Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A); see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 7, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty~~, and states to the accused that the finding(s) of the Court on the both charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith~~ and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(5) (6), RP 45, 120(a). 2. AA 54(5), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-8425 Pte Tolnis J.H., a member of the Lake Superior Regiment (Motor) a soldier of the Canadian Army Overseas placed on Active Service is charged with:

First Charge
Sec 6 (x)(d)
ARMY ACT

WHILE ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING

in that he

while on active service when serving in Holland at s'Hertogenbosch, at 1600 hrs 14 Nov 44 assaulted Jchaun Herdrick Isreal, a civilian of s'Hertogenbosch, an inhabitant of Holland, by striking him with a hatchet.

Second Charge
Sec 19
ARMY ACT

WHILE ON ACTIVE SERVICE DRUNKENNESS

in that he

while on active service in the field was drunk at 1600 hrs 14 Nov 44 at s'Hertogenbosch.

(Signed) R.A. Keane Lt-Col
The Lake Superior Regiment (Motor)

In the Field
4 Dec 44.

To be tried by Field General Court Martial.

Field,
11 Dec 44.

(Signed) E.H. Smith Lt-Col
A/Comd 4 Can Armd Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C6445	Pte	John Richard	TOLLIE	Lake Sup R (M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 11 Dec 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	G.O. CURRIE	28 Cdn Armd Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be appointed by	22 Cdn Armd Regt
Capt	to be appointed by	21 Cdn Armd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be appointed by	Lake Sup R (M)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	L.J. DEAN	4 Cdn Armd Div

On Active Service in the Fd

in Holland (Country.)

(Signed) A.H. Smith (Signed personally. RP 105 fn 2.) Lt-Col. (Rank.)

Date 11 Dec 44. A/ Commanding 4 Cdn Armd Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA3) 40-P-A-S/1097 (4931)

I certify that I have this day examined

C-9445 Pte Tolmie J.R.

and in my opinion he is fit to undergo

trial by FGCM.

(signed) P.T. Ferguson Capt RCAMC
Signature of Medical Officer

18 Dec 44

FIRST PROSECUTION WITNESS

JOHANN HENDRICK IJSEAL, 89 PALMBOOM STRAAT, s'HERTOGENBOSCH sworn states through the interpreter.

I live in s'Hertogenbosch, Holland.
About five weeks ago about 1600 hrs, two Canadians, one of them the accused came to my house and asked for two glasses. They sat down and started to drink their cognac. He talked for a while and then I played the piano. The accused asked for a photo and we gave it to him with our address. The other boy went to sleep. The accused kept going in and out of the house. The accused eventually went to sleep too. I went to the work room to fix my bicycle. About 15 minutes later the accused came into the room where I was working. He asked me about a chisel I had. Then he took up a hatchet and he hit me on the head with it. I was bleeding, but was not unconscious. I pushed him out of the house. I took the axe from him. Some other Cdns took away the accused, and the other boy.

X examination.

I have had other soldiers in my home including English soldiers. I have never had trouble with other soldiers. I had nothing stolen from my home by the English, when I was away from it during the fighting. When I was in the work room I heard accused and my wife talking but couldn't tell what they said. My wife had told me that the day before the accused had made improper advances to her.
I was standing up when the accused hit me. I was hit on the back of the head (Witness shows court the mark). I didn't strike the accused just took the axe away. When I was hit I shouted for my wife. The soldier was drunk. I had no idea he was going to strike me before he did so. Before I went to the workroom accused took his penis out of his pants, but I told him to put it back and he did so.

RP 93 (B) complied with.

2nd PROSECUTION WITNESS

CATHERINIA LOUISA GREDT, 89 Palmboom Straat, s'Hertogenbosch sworn, states, through the interpreter -

The day the boys came to the house, they had a bottle of cognac and asked for 2 glasses which we gave them. They started to drink and my husband played the piano. The friend of the accused got drunk and went to sleep on the floor. Accused was also getting drunk all the time and kept going in and out of the house. Finally he went to sleep on a chair, but just before he did he took out his penis and showed it to me. When he went to sleep my husband went to the back room to work on his bicycle. I then saw the soldier was awake and he asked me to give him a kiss. I said I couldn't as I had a husband in the home. He took his penus out again. I told him my husband would hit him if he saw that. The soldier asked me if my husband had a gun and I said no. The soldier approached me and asked me if my husband was a good husband and I said yes. He then asked me to kiss him and he took his penus out again. I told him to go away out of the house, because I had a husband. He then went into the backroom and a while later I heard my husband cry for me. I went and saw the accused and my husband struggling and saw my husband's head bleeding. I went and called some Cdns and they parted them and took the accused and my husband to hospital.

X examination

My husband did not see the accused making improper suggestions to me. The soldier and I talked, he in English and I partly in English, partly Dutch. I didn't see accused strike my husband.

(The witness demonstrates that she can speak English so as to make herself understood and can understand some English.

RP 83(B) complied with. DS

THIRD PROSECUTION WITNESS -

M.40186 Sgt CARDEN E.H. sworn states -

On 14 Nov 44, about 1600 hrs I saw the accused with a civilian. The civilian had a head injury. That is the civilian who gave evidence here today. Accused was drunk.

X examined.

Accused and the civilian were having an argument and a woman was with them. Accused was so drunk we had to guide him by the arm. He came peacefully but needed assistance. He staggered but he could stand up. His speech was not normal. Later that night accused complained of a bruise on the head and showed me some blood. He claimed the civilian had hit him on the head.

I saw no weapon when I found the accused, and saw no struggle.

RP 83 (B) complied with.

FOURTH PROS. WITNESS-

M.46207 Cpl DELSEMIT sworn states -

On 14 Nov 44 at about 1600 hrs I saw accused. He was pretty drunk and we took him away. Accused was with a civilian. They weren't fighting. Accused did not resist when we arrested him. He staggered and I smelt liquor on his breath.

No X examin.

RP 83 (B) complied with.

Accused in mitigation

My conduct sheet are all minor offences.
I joined when I was 18 and have been associated with bad characters.

PROSECUTING OFFICERS CLOSING ADDRESS -

The evidence proves the charges as laid.

DEFENDING OFFICERS CLOSING ADDRESS.

The evidence does not show that the civilian did not strike first. If he did the accused is entitled to act in self defence.

JA SUMS UP
Onus of proof, reasonable doubt.
Circumstancial evidence
Credibility for Court
Self Defence.

M.F.B. 388

22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-6446	Pte	TOLMIE, J.E.	The Lake Superior Regt (M)

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA 15(1)	4	times	A.A.40	5 times
For AA 40	[illegible]	times	A.A. 15(1)	11 times
For AA 15(3)	1	times	AA 15(2)	1 times
For		times	AA 15(3)	1 times
			AA 19	2 times

Number of instances of gallantry or distinguished conduct:

There are no entries in the conduct sheets of the accused.

Note: If the charge is for drunkenness, the entries for drunkenness must be stated separately.

The accused has not been previously convicted

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

The accused is not under sentence at the present time.

The accused at the present time is under sentence for [illegible] beginning on the [illegible] day of [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 31 days in military custody, making a total of 31 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 years 2 months

6. The date of his enlistment specified in his attestation paper is 6 May 41

[illegible]

8. [illegible]

9. The accused is in possession of [illegible] State any military decoration or reward. C.V.S.M.

[illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ..... , and in his regiment (or corps), the rank of ..... dated ..... .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

L&P L&P Air Force

Of convictions by a court-martial or civil court of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number G-5615 Rank Pte

Name L&P of The Lake Superior Regt (M) Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Central Criminal Court, Old Bailey	London, 5 Dec 42	Assault and Robbert	18 Months Imprisonment	Nil
Kingston Borough Petty Sessions	Kingston	Escape and theft	6 months hard labour to run concurrent with 18 mos imp. awarded 5 Dec 42	Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Fourth day of December 44

L&P ~~The above statement (with the schedule of convictions and of cases in which trial has been dispensed~~

L&P ~~with) is read, marked~~ ~~signed by the president, and annexed to the~~

L&P ~~proceedings.~~

(Signed) L.E. Pope Capt & Adj
Lake Sup R (M)

No C-5445 Name TOLLIS, J.E. Sqn, Battery, or Company — Corps C.I.C. Date of enlistment C-5-11 GC Badges — Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/FA&I/136 (5413)

Date of last entry in Company Conduct Sheet 28-12-42 No. and date of last drunk 29-8-42 Period not reckoning towards freedom from extra fine N/A Sheet No Three Signature OC Company, etc (Sgd) W.O.Simall Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Sep 42	Pte		AO 15(1) WCAS absenting himself without leave from 2359 hrs 24 Sep 44 until 2330 hrs 3 Nov 42 (Total absence 30 days 22 hrs 31 mins)	Documentary	28 days detn	6 Nov 44	Major J.D. Wilson	Forf 40 days pay PAI 149 (1)(a) Forf28 days pay
Field	21 Apr	Pte	1.	AO 15(1) AWL from 2330 hrs 21 Apr to 2330 hrs 21 Apr 44 (1 hrs)	Cpl Rhead Documentary	7 days CB	28 Apr 44	Lt.-Col Peffers	C.
Field			2.	AO 15(3) ~~AWL from Relying Picquet~~ Out of Bounds without from pass or written leave from his CO					
Field	8-7-44	Pte		AO 15(1) AWL from Relying Picquet from 1400 hrs 8 Jul to 2145 hrs 8 Jul 44 (7 hr 45 mins)	A/Cpl Boyd	7 days pay 7 days F.P.	10 Jul 44	Lt.-Col Peffers	Forf 1 days pay PAI 149
Field									
Field	13-Jul 44	Pte		AO Sec 15(1) AWL from fatigue duty ~~from 1900 hrs 13 Jul to 2130 hrs~~ 15 Jul 44 Total absence 2½ hrs	Fo f 14 days Cpl Krieger	14 Jul 44	Maj F.F. Portsmouth		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Aug 44	Pte		AA Sec 15(1) AWL from 1200 hrs 17 Aug 44 to 1330 hrs 17 Aug 44 Absent 1 hr 30 mins)	Documentary	14 days C.B.	18 Aug 44	Major R.S. Morse	
Field	12 Oct 44	Pte		AA 40 Conduct to the Prejudice etc	Pte Wallis Lt Woudre	5 days forf of pay	13 Oct 44	Capt V.H. Dowd	Total forf of 5 days pay.

CERTIFIED TRUE COPY FROM REGIMENTAL RECORDS
HELD IN MY CUSTODY.

(Signed) L.R. Pope Capt & Adj
Lake Sup R (A)

No. C-6445 Name TOLME J.R. Sqn, Battery, or Company

Corps C.I.C.

Date of enlistment 8-6-41 GC Badges

Service or Proficiency Pay N/A

3/17 MFM 6 (AFB 122) 40/PAB/126 (5418)

Date of last entry in Company Conduct Sheet N/A

No. and date of last drunk N/A

Period not reckoning towards freedom from extra line N/A

Sheet No One

Signature OC Company, etc (Sgd) Capt R. Girall

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Colwood Camp	10-11-41	Pte		New Sheet 8-6-42 wef 6-11-41 last entry 9/10/41					
Colwood Camp	10-11-41	Pte		Conduct to prej etc. equipment dirty (A.A. Sec 40)	Cpl Tedder	7 days C.B.	10-11 41	R.E. Thorne Maj	
Colwood Cap Co	27-11-41	Pte		Conduct to prej etc, absenting himself from parade ground AA 40	Cpl Johnson Lt C.S. Jones	14 days detn	29-11-41	Major R.A. Henwood	Forfeits 14 days pay SRI 149(b)
Colwood Camp	19-12-41	Pte		AWL 2200 hrs 19-12-41 to 1700 hrs 20-12-41 Total absence 19 hrs AA 15 (1)	CSM Cassidy C Cpl Mackenzie J	7 days CB	22-12-41	R.E. Thorne	Forfeits one days pay
Colwood Camp	7-1-42	Pte		Drunkeness at 1700 hrs 20-12-41 on highway at Colwood AA 19 AWL 2200 hrs 7-1-42 to 1420 hrs 21 Jan 42 (Total absence 520 hrs 20 mins) AA 15(1) Close arrest 1420 hrs 21-1-42 to 1000 hrs 22-1-42	Cpl Mackenzie Cpl Johnson	Admonished 14 days CB	22-12-41 22-1-42	R.E. Thorne Major Lt Col	Forf 14 days pay SRI 149(1)(a) 14 days pay AA 40

(PTO)

Place	Date of offence	Rank	Cases of dismissal	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Colwood Camp	26 Jan 42	Pte		AWL a defaulter breaking out of barracks at 1430 hrs 26 Jan 42 and remaining absent until apprehended at 0020 hrs 27 Jan 42 (9 hrs 50 mins) AA 15(1) Close arrest 0020 hrs 27 Jan 42 till 1000 hrs 28 Jan 42 (Total 33 hrs 40 mins) Expenses $3.84 AA 15(1)	L/Cpl Earle Cpl Hicks J.E. L/Cpl McKenzie	3 days C.B.	27 Jan 42	Lt.-Col Clegg	Forf 1 days pay and costs
Colwood Camp	28 Feb 42	Pte		Absent from place of parade in that he a guard was absent from 1800 hrs 28 Feb 42 till 1130 hrs 1 Mar 42 (Total absence 17 hrs 30 mins) AA 15(2)	Cpl Donoavitch L/Cpl Hunt T.	7 days C.B.	2 Mar 42	M.M. Thorne	Forf 1 days pay MI 149(1)(a)
Colwood Camp	5 Mar 42	Pte		Act to the prejudice when a sentry leaving post without being relieved at 0545 hrs AA 40	Cpl Donoavitch L/Cpl Hunt	14 days detn	6 Mar 42	Lt-Col C. Clegg	Forf 14 days pay and allowances

3/17 MFM 6
(AFB 122)
40/PAM/136 (b418)

No. C-6446 Name TOLLIS, J.R. Sqn, Battery, or Company Corps INFANTRY Date of enlistment 6-6-41 GC Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 5 Mar 42 No. and date of last drunk 10-12-41 Period not reckoning towards freedom from fine N/A Sheet No Two Signature OC Company, etc Sgd S.S. Parker Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-6-42	Pte		AA 40 Cond etc in that he appeared on guard improperly dressed and boots and rifle in dirty condition. Absented himself from parade at 1530 hrs 6-6-42 to 1550 hrs 6-6-42 Total absence 20 mins) AA 15(1) Conduct to the prejudice of good order an military discipline in that he acted in an unsoldierly manner while on P.T. parade AA 40 AA 15(1) AAL 2300 hrs 7-6-42 to 1040 hrs 8-6-42 (1 day 19 hrs 40 mins)	Cpl Brogan	96 hrs deta	2-6-42	Maj. Northrup	Forf 4 days pay FRI 149 (1)(b)
Field	8-6-42	Pte			Sgt Howard	Ordered to for for 2 days pay	7-6-42	Lt-Col Harvey	Forf 2 days pay FRI 149(2)
Field	7-6-42	Pte			Sgt Howard	Ordered to for 3 days pay	7-6-42	Lt-Col Harvey	Forf 3 days pay FRI 149(2)
Field	7-6-42	Pte			Cpl Tait	10 days det	13-6-42	Lt-Col Harvey	Forf 2 days pay
					Documentary	10 days pay			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under dispensing with Field	By whom awarded	Remarks
Field	29-8-42	Pte		AA 15 in that he [illegible] did absent himself from Bn Guard duties from 1915 hrs to 2145 hrs	L/Cpl Moxie	Admonished	29-8-42	Col. D.H. Fraser	
			2	AA 19 In that he [illegible] on Bn guard was drunk	RSM Nettleton Sgt Lloyd Cpl Davies				
Field	3-12-42	Pte		Having appeared before a civil court at Central Criminal Court Old Bailey, on a charge of assault & robbery was on 3 Dec 42 sentenced to 18 months imprisonment.	Civil conviction	18 months imprisonment	3-12-42		Total forf 438 day pay. Forf 29 days pay while close arrest Forf
Field	28-12-42	Pte		Having appeared before a Kingston Borough Petty sessions court on 28 Dec 42 sentenced to 6 mos hard labor, sentence to run concurrent with civil conviction awarded 3 Dec 42.	Civil conviction Metro police report 506/A/d 12 Jan43	6 months hard labour, to run concurrent with civil conviction 3 Dec 42	28 Dec 42		Forf 134 days pay
	charges of escape thereof								

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C-5415 Pte Tolmie J.R., "B" Company, Lake Superior Regiment (Motor), CAO, charged with:-Committing an offence against the person of an inhabitant of the country in which he was serving. (AA Sec 6(3)(d).

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS

Johann Hendrick Isreal, 89 Palsboom Street, s'Hertogenbosch a native of Holland, a resident of s'Hertogenbosch, having been duly sworn states:

At approx 1430 hrs, 14 Nov 44, two boys came to my house to ask for two glasses. They had a bottle of Cognac. We thought, (my wife and I), that the soldiers wished to drink the Cognac in another house, but they took off their coats and asked me if it would be all right to drink the Cognac in my house. I told them, yes. They were sitting drinking and we got along all right and the soldiers gave us cigarettes and we had conversation. I told them of my experience in Germany and they told me about Canada. I played the piano and sang for the boys. The soldier, Tolmie, asked my wife for a photo, and she gave one to him and I wrote my address on the back of the photo. Then an officer came and told the boys that they must come for a parade and they left their coats in the house. The boys returned in ten minutes and Pte Delaney fell asleep in a chair. Pte Tolmie passed in and out of the house several times and finally sat down in a chair. I wished to go into the next room to work on my bicycle but my wife asked me to remain, as she was afraid to be alone with Tolmie, as he was trying to kiss her and was taking his penis out of his trousers. Then he fell asleep, so I went into the other room and told my wife, that when Tolmie awoke, she must call me. A quarter of an hour later, Tolmie came into the room where I was working. At first I thought that he wished to go to the UC, but Tolmie picked up a chisel and asked me what it was for. I told him. At the time I was rather worried that he might be dangerous, with this tool, but I did nothing about it. Then he found the hatchet, and asked me of its use, and then without warning he struck me on the head with the hatchet. I cried to my wife, in the next room, "He is beating me up". I was conscious, I felt my head, it was bleeding, I realized that I must get the hatchet away from the soldier. I pushed him out of the house. We struggled for the hatchet. During this time my wife, was screaming for help, from the other soldiers, and I managed to get the hatchet away from Tolmie. Then two Canadian soldiers arrived, and took him away. They also took Delaney, who was lying on the floor sleeping, during all this.

The accused declines to cross-examine the witness.

(Signed) Johann H Isreal.

SECOND WITNESS

Catherinia Louisa Gredt, 30 Palmboom Straak, s'Hertogenbosch a native of Holland, a resident of s'Hertogenbosch, having been duly sworn states:- through the services of L 64747 Pte Vangeluwe F. "interpreter" who has been duly sworn:
On 14 Nov 44 I was at home with my husband. At about 2.30 P.M. 2 soldiers came to our house and had a bottle of cognac under their arms, and asked for two glasses. I gave them the glasses thinking they wanted to drink their cognac elsewhere, but instead they took off their great-coats and seated themselves on two chairs. They then asked if they could drink their cognac here which my husband agreed to. My husband talked to them a little in English and I went on with my work. I asked my husband to play the piano for entertainment as we were pleased to see the Cdn soldiers. My husband played for about fifteen minutes then one of the soldiers became sick through drinking so laid on the floor and went sleep, while the other soldier walked up and down to the back yard, after awhile he came in, sat down and fell asleep also. My husband went out to the backyard to repair his bicycle and I went on with my household work. [illegible] P.M. the soldier that was sleeping on the chair awoke, the other soldier still sleeping on the floor, at that moment I was alone in the room washing dishes - except for the soldiers. The soldier that awoke winked at me and said "Kiss me", I refused. Then he took out his penis. I then called my husband. He asked me if my husband would shoot him; I replied "My husband has no gun". Before my husband came in he tried to put his penis in my hand saying "Kiss it". At that moment I said "Out, get out of my house". He then went out the back door to my husband and I intended to go and tell my husband in Dutch what had happened. When I got to the back yard I heard my husband screaming in Dutch "He is trying to smash my head with the axe". I saw then that my husband was bleeding from his head so I started shouting for help to other soldiers in the area. All I could see was my husband struggling on the ground with the soldier. Two other Cdn soldiers came running up to pull the soldier off my husband - just then my husband took the axe away from him. The two soldiers then took him away. I later saw him on the street. The other sleeping soldier was carried away also.

The accused declines to cross-examine this witness.

(Signed) C.L. Israel-Gredt.
(Catherinia Louisa Gredt) Housewife.

THIRD WITNESS H-16188 Sgt Carlbom E.E., "B" Coy, Lake Superior Regiment (Motor), having been duly sworn states:-

I am H-16188 Sgt Carlbom E.E. "B" Coy, Lake Superior Regiment (Motor). At approx 1600 hrs 14 Nov 44 I was walking down a back lane between two rows of buildings in our platoon area, in the town of s'Hertogenbosch. My attention was drawn to a distrubance, on investigating I found Pte Tolmie arguing with a civilian. The civilian appeared to have a head injury. I placed Pte Tolmie under close arrest, as in my opinion he was drunk.

The accused declines to cross-examin this witness.

(Signed) E.E. Carlbom

FOURTH WITNESS H-40207 Cpl Delorme M., "B" Coy, Lake Superior Regiment (Motor), having been duly sworn states:

I am H-40207 Cpl Delorme M., "B" Coy, Lake Superior Regiment (Motor). On the 14 Nov 44 at approx 1600 hrs I was in the company of Sgt Carlbom, when we heard a disturbance in the vicinity of our platoon area, in the town of s'Hertogenbosch. On checking we found Pte Tolmie arguing with a civilian. Sgt Carlbom placed him under close arrest, and we escorted him to our billets. In my opinion Pte Tolmie was drunk.

The accused declines to cross-examine this witness.

(Signed) M. Delorme

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

I want to make a statement, on oath.

The accused, sworn, states:-

I, C-5445 Pte Tolmie J.R., and a friend ahd a bottle of cognac. We went to a civilian house and ask him if we could drink it there. They supplied us with glasses and we proceeded to drink. We had a conversation with the people of the house and during that time we finished the bottle. We were called out on parade, later returning to get out coats. We sat around for a while and my friend Pte Delaney, fell asleep, we laid him on the floor. The husband left the room to work on his bicycle in another room, I was left in the room with is wife. I asked her if I could sleep with her, she said "NO", I beleive her husband over heard me. She seemed to be frightened of me and told me to leave the room, which I did. I then went into the workshop where her husband was standing, and in his broken English, he accused me of playing around with his wife. I said, "Get out of my way and let me out of here". He had a chisel in his hand and struck at me, it just brushed me, and in the process I ducked down and picked up a hatchet and swung the flat part and he stooped to dodge it. It struck him a glancing blow. He then grappled over the hatchet, by this time we were out in the yard. He was getting the better of me when Sgt Carlbom and a Cpl arrived and dragged him off. They then escorted me to my billets under close arrest.

(Signed) J.R. Tolmie
(C-5445 J.R. Tolmie) Pte.

The accused does not call any witnesses.

I certify that the foregoing "Summary Of Evidence, consisting of four pages, was taken down by me in the presence of the accused and that AF ~~(C), (E)~~ (E), and (F) have been complied with.

(Signed) H.J.W. Cargo A/Major
The Lake Superior Regiment (Motor)

47-65

Ynr. Toma Jr.

RECORDED AT CMHQ IN A2 160 42-65

FIELD GENERAL COURT-MARTIAL

CPA66 (to 1st or AFA) 40/P.R./1068 (A1)
4/388

Convened by Order of Brig C M Drury Comd CRA 4 Cdn Armd Div dated 11 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, or Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 35844	(a) Gnr (b)	Michael Th	TOMA	15 Cdn fd Regt RCA

PROCEEDINGS REVIEWED

Maj D Forward Major

REVIEWING OFFR, JAG'S BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 12 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~is~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	R J Hegan	8 Cdn Lt AA Regt RCA
Member	Capt	K W Heans	23 Cdn fd Regt (SP) RCA
Member	Capt	D A Forward	5 Cdn ATK Regt RCA
Judge-Advocate	—	—	—
Prosecutor	Capt	F G Stanley	15 Cdn fd Regt RCA
Defending Offr	Capt	N W B Laban	15 Cdn fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused Gnr Toma M. before arraignment make(s) (no) ~~a~~ plea (1)

(1. If a special plea is made for seperate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Vol III

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 35844 Gnr. Michael TOMA 15 Cdn fd. Regt RCA

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA. 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 86(3), RP 62(C), and for alternative charges MML p 753 fn 4 para 2. As to special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

60 Days field Punishment and 60 Days forf. pay

(Sgd) ..... Judge-Advocate, if any. 12 Jan 45 Date awarded. (Sgd) R J Hegan maj President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) Bond

(1. AA 57A. Delete if not used.)

Date 14 Jan 45 (Sgd) ..... Commanding R.C.A. 4 Cdn Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M 35844 Gnr TOMA M	17 Jan 45	Capt RCA. Actg Capt & Adjt 15 Can fd Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex **A**, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 50(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 44, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex **B** and Ex **C** respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment ?(1) Ans. Yes by my defending officer .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE

SEC 15 (1) ARMY ACT

The accused, No M.35844 Gunner Michael TOMA, 95 Fd Bty, 15 Fd Regt RCA, a soldier of the Canadian Army Overseas, is charged with :-

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0630 hrs 3 December 1944 until apprehended by 7 Cdn L of C Pro Sec at ANTWERP, BELGIUM, at 1600 hrs 11 December 1944. (Absent 8 days 9 hrs and 30 mins)

Robert H Walker

In the Field
9 Jan 45.

(R H E Walker) Lt-Col RCA
Officer Commanding
15 Fd Regt RCA

To be tried by FGCM.

(C M DRURY) Brig
CRA 4 Cdn Armd Div

In the Fd
11 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 67(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 35844	Gnr		Michael	TOMA	15 Cdn Fd Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior Appellate offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	R J HEGAN	3 Cdn LAA Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	K W MEANS	23 Cdn Fd Regt SP RCA
Capt	D A FORWARD	5 Cdn A Tk Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	L B CRONIN	19 Cdn A Fd Regt RCA

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(C M DRURY) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Dat 11 Jan 45

Commanding CRA 4 Cdn Armd Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

This is to certify that I have today examined M58844 Gnr TOMA, M. and that he is fit / [redacted] to undergo trial by Field General Court Martial.

O.Zale Capt

(O Zale) Capt RCAMC
MO 15 Cdn Fd Regt

In the Field
12 Jan 45

EXHIBIT "E"

Prosecuting Officer:-

Sir, as a member of the 13th Coln Fld Regt RCA. I have known Gnr Toma for almost three years. He is an original member of the regiment. I have worked personally with Gnr Toma for more than a year in the 93rd Battery. During his whole time with the regiment he has been on the M.T. His truck has always been ready to move and there were never any complaints as far as his work was concerned. His conduct sheet is fairly clean for a man who has been on the same job so long. While the regiment was busy he worked very hard. As soon as the regiment became static he became restless and [illegible] He is ready admits his guilt [illegible] the court to take into account his past service and conduct please.

Sentence awarded by Court:

60 Days F.P.
and 60 days Forfeiture of Pay

Exhibit 'A'

SUMMARY OF EVIDENCE

In the case of No M-35844 Gunner TOMA, M, 95 Battery, 15 Canadian Field Regiment RCA, CAO, charged with AWL (AA Sec 15 (1))

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

L-8778 L/Sgt BARNETT A J, 95 Bty, 15 Cdn Fd Regt RCA, sworn states :-

I was on 3 Dec 44 and am still, L/Sgt surveyor of 95 Cdn Fd Bty RCA. I am well acquainted with M-35844 Gnr TOMA M, who has been a member of the 95 Bty since its mobilization. On 3 Dec 44 I was acting in the capacity of 95 Bty orderly sgt. It was one of my duties to check sleeping quarters and lines at reveille, and in doing so found the accused absent. I reported his absence to BSM BERRY. I did not see M.35844 Gnr TOMA, M until after he was apprehended on 11 Dec 44.

The accused declines to cross examine this witness.

A.J. Barnett
(L-8778 L/Sgt Barnett, A J)

Second Witness

H-60701 BSM BERRY, F S, 95 Bty, 15 Cdn Fd Regt RCA, sworn, states :-

On 2 Dec 44 learning of Gnr TOMA's return to our unit, I went to see him at approximately 1400 hrs. I am well acquainted with Gnr TOMA and recognize him as the accused. He asked me what troop he would be allotted to. I informed him I would have to await instructions from the Bty Comd and until such time as he was placed in a troop he would remain in the general quarters of the gun troops. At approx 0700 hrs, 3 Dec 44, L/Sgt BARNETT reported Gnr TOMA's absence from quarters. I instructed him to make a thorough search of our billets and wagon lines. This was done. Gnr TOMA could not be found anywhere within the regt area. I did not see him until 1905 hrs, 16 Dec 44 when RSM Wilson came to my billets and informed me that he had brought Gnr TOMA back to the 95 Bty and that he was under close arrest. I personally made a check later on in the day (3 Dec 44) after the Bty had moved to try and locate Gnr TOMA. He was not to be found.

The accused declines to cross examine this witness.

F.S. Berry
(H-60701 BSM Berry, F.S.)

Third Witness

L 55510 RSM WILSON, R S 15 Fd Regt RCA, sworn, states :-

I am RSM 15 Cdn Fd Regt and as such have knowledge and possession of the following document. I produce in evidence a document (marked Exhibit A) being a certificate in accordance with PC 2797 of 10 Apr 42, relating to the accused.

The accused declines to cross examine this witness.

(L 55510 RSM Wilson, R S)

The accused was cautioned as follows:-

Q. "Do you wish to make any statement or to give evidence on oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A. I do not wish to make a statement at this time.

(M-35844 Gnr Toma, M)

The accused does not call any witnesses.

I certify that the foregoing summary of evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E) and (F) have been complied with.

In the Field
19 Dec 44

(A W Sinclair) Capt RCA
15 Cdn Fd Regt RCA

CERTIFICATE UNDER SECTION 163 (1)(ii) OF THE ARMY ACT.

I certify that No. 39344 Rank Gnr. Name TOMA M. of

15 Fd. Regt. R.C.A. 95 Bty. Regiment was arrested in ANTWERP at 1600

Hrs; Date 11 Sep 44 and at the time of his Arrest he was wearing Military ~~Uniform or Plain Clothes~~.

EXHIBIT "A"

R.T. Evans SGT. 1/C.
7 CDN. L. OF C. PRO. SEC.
2 CDN. L. OF C. PRO. COY.

EX. C

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
M 35844	Gnr	Michael, TOMA	15 Cdn Fd Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AWL	1 times	AWL 3 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct: Nil

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted of

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence of beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 29 days in military custody, making a total of 29 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years 2 months.
attestation paper

6. The date of his ~~enlistment~~ attestation specified in his record of service is 12 Jun 41
attestation paper

7. The term for which the accused is liable to serve dates from

8. The accused is entitled to deferred pay or gratuity in respect of

9. The accused is entitled to reckon service for the purpose of becoming

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of, or entitled to wear the following decoration or award).

11. (If the accused is a warrant officer.) The accused holds the rank of and has been granted the regimental rank of

12.

Wt.8707/3210 2000. 5/44. P. Ltd. T31-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M35044 *Rank* Gnr *Name* TOMA, Michael of 15 Cdn Fd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
County of Sussex Court Bexhill	9 Jun 44	CIVIL CHARGE: Making a false return on AR-E Form	Fined - £3.6.8.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9 day of January 1945

J.H. Greig Capt RCA

(J.H. Greig) Capt RCA

No. M-3564 Name Town, M. Sqn., Battery, or Company EX. B Corps R.C.A. Date of enlistment 12 Jun 41 G.C. Badges Service or Proficiency Pay N/A

M.F.M. 6 A.F.B. 122 (1934—7—41) (1319—2) H.Q. 1773-39-1942

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No. 1 Signature O.C. Company, etc. ??????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				sheet destroyed 15 Dec 41 No entries	????????			Maj M.	2 days ord'pay
Field	31 Dec 41	Gnr		A.A. 15(1) absenting himself without leave 2200 hrs 31 Dec 41 until return 1900 hrs 2 Jan 42 absent 45 hrs.	Bdr Drinnan J	14 days CB	3 Jan 42	Tory	5 days extra pay
Field	25 Apr 42	Gnr		AA 15 (2) failing to appear at the place of parade appointed by his commanding officer.	L/Sgt Chapan	3 days detn	29 Apr 42	P.L. Park Lt-Col	3 days pay
Field	5 Jun 44	Gnr		A.A. Sec 15 (1) AWL 3 hrs 55 mins	BSM Sinclair Bdr Korstad	Aut forf 1 days pay 7 days pay forf	6 Jun 44	Lt-Col R.W. Coristine	
Field	11 Mar 44	Gnr		CIVIL CHARGE: MAKING A FALSE RETURN ON A.M. AR-E FORM.		Fined $3.00	9 Jun 44	County of Sussex Crt Dorchill	
				CERTIFIED TRUE COPY OF REGT DOC IN MY POSSESSION				(J.H. Craig) Capt RCA	

(P.T.O.)

ZZ-120

PTE TOMACHEVSKY JJ

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D126860 Pte Joseph John Tomachevsky #1 CORU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 24(1)	Not guilty.	Not guilty	
2nd	AA 18(4)	Not guilty	Not guilty.	
3rd	AA 40.	Not guilty	Not guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial a total of 57 days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~:

[redacted]

(Sgd) ..... Date awarded. Jan 44. (Sgd) J. D. Tweedie Lt Col President. (RP 45, 50.)

(Closing Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. | Date. | Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ZZ-120

FIELD GENERAL COURT-MARTIAL

CFA96 (To Back of AFA3)
AC.P.A.S. 1608 (2504)

Convened by Order of Col. Louis Keane Comd "Z" Group, dated 10 Jan 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D126860	Pte	Joseph John	TOMACHEVSKY	1 C.O.R.U.

PROCEEDINGS REVIEWED
D. Bowyer Capt
27 Jany 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 10 Jan 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

FDT. A1. The President,–Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

FDT. A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

FDT. A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0 1530 hours trial commences.

FDT. A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

FDT. A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~ ~~The Interpreter is sworn.~~(1) Do you object to Capt McBurnie as shorthand writer? Ans No The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lieut-Colonel	F D Tweedie	HQ C R U
Member	Major	J C Ferguson	#1 C O R U
Member	Captain	J R Henley	30th Recce Regt (Essex Reg)
Judge-Advocate			
Prosecutor	Captain	B E Taylor	#1 C O R U
Defending Offr	Major	E N Miller	#1 C O R U

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea FDT (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 33), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

FDT A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

FDT A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 36(B) by explaining to the accused the nature~~ and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st & 2nd + 3rd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 3rd charge(s), and allowed on the 1st & 2nd charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence [redacted] ...ment or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Give evidence as a witness. Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans — .

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. RP 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(B). As to further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and [redacted] A under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The [redacted] is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), ~~if any~~, of Not Guilty, [redacted] ng(s) of the Court on the ..... charge(s), being subject to confirmation, ~~and~~ later.(1) ~~Or, The President announces~~ that the accused is found Not Guilty on all charges, and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~ (1)

Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C), RP 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ..... (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 50(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 59, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D126860 Joseph John TOMACHEVSKY, Royal Canadian Ordnance Corps, on the strength of No.1 Canadian Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 24(1)
ARMY ACT.

MAKING AWAY WITH BY SELLING HIS CLOTHING

in that he

IN THE FIELD, on or about the 8th of November 1943, sold to Andrew Fry, civilian, for the sum of fifteen shillings, one pair of boots ankle being articles of his clothing and regimental necessaries.

SECOND CHARGE
SECTION 18(4)
ARMY ACT.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

at Moorlands Hotel, Hindhead, (presently occupied by No.2 Convalescent Depot) on or about the 25th November 1943 stole a Waterman's Ideal Pen and Pencil set the property of B135900 Pte Farnworth, W.H., R.C.A.M.C., on the strength of No.2 Convalescent Depot, a person subject to Military Law.

THIRD CHARGE
(ALTERNATIVE)
SECTION 40
ARMY ACT

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

IN THE FIELD, on or about the 29th of November 1943 was improperly in possession of a Waterman's Pen and Pencil set, the property of B135900 Pte Farnworth, W.H., R.C.A.M.C. on the strength of No.2 Convalescent Depot.

Aldershot, Hants.,
30th December, 1943

(Harold M. Bailey) Colonel,
Commanding Officer,
No.1 Cdn. Ord. Rft. Unit.

To be tried by Field General Court Martial

Bordon, Hants
10 Jan 1944

(LOUIS IRENE) Colonel
Commander
[illegible] Group, C.R.U.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAM/1697 (1868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D126860	Pte	Joseph John	TOMACHEVSKY	1 C.C.R.U.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 10 Jan 1944 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint: (a) three Offrs to form the Court, (b) a qualified Offr as President, for the reasons I have attached hereto.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col.	F.D. Tweedie	H.Q., C.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Major	from	1 C.C.R.U.
A Captain	from	30 Recce Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Wm Greene Colonel
(Signed personally. RP 105 fn 2.) (Rank.)

Date 10 Jan 1944

Commanding "F" Group, C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

NO.1 CANADIAN ORDNANCE REINFORCEMENT UNIT 1CORU/5-2

MEDICAL CERTIFICATE

I certify that D/126840 Pte. Jarvis, R.J. has been examined by me this morning and is fit to undergo trial by Court Martial.

Date 19-1-44

J.P. Robertson Capt.
Medical Officer,
No.1 Cdn. Ordnance Reinf.Unit.

Field General Court Martial of
D126860 Pte Joseph John Timachevsky,
ROOC, #1 CORU, held on 10 Jan 44.

OPENING ADDRESS BY PROSECUTION:

I have nothing other than to proceed with the prosecution by calling of witnesses.

FIRST WITNESS:

Mr Andrew Fry, gardener, Elmtrees, Green Cross, Churt, employed at "Bluehills" Hindhead having been duly sworn states:

Q1 Do you recognize the accused?

A1 Yes I do (looking at accused).

Q2 Will state just what you had to do with accused?

A2 He came over with some boots and I looked at them and saw no mark on them. There was no government mark. I looked at the top, there was no mark and inside there was a civilian mark, that of a Canadian civilian bootmark. I also asked if they were his own and he said yes. I took it for granted they were his own, and bought them.

Q3 You remember having asked him if they were his own?

A3 I stated that in my first statement.

Q4 Would you recognize as an exhibit, the boots, if you saw them again?

A4 (Shown a pair of boots) "Those are now the boots, sir." On further examination of boots Mr Fry states that they are the boots.

Q5 I understand that there was a sale as far as the boots were concerned. What value did you give for the boots?

A5 I gave 15 shillings to the accused for the boots.

CROSS EXAMINATION:

Q6 Did you wear the boots that you bought?

A6 No, I took them home and put them away and never looked at them till I gave them to the police.

BY THE COURT:

Q7 What day?

A7 I believe that it was 8th November 1943.

Q8 Where did the transaction take place?

A8 In the garden where I work.

Q9 Where is that?

A9 "Bluehills", Hindhead.

701.

CROSS EXAMINATION CONTINUED:

Q10 Was that the same day the police came?

A10 No. It was a week or two after.

Boots marked 'A' for identification.

In the opinion of the court it is unnecessary that RP 83B be complied with.

SECOND WITNESS:

C70621 Tpr Cooper, J L, #1 CACRU, having been duly sworn states:

Q11 Do you recognise the accused?

A11 Yes, sir (looking at accused).

Q12 Would you tell the court just what association you had with accused?

A12 It was on or about 8 - 9 November 1943 at the Beacon Hotel, Hindhead, approximately 1500 hrs when this soldier approached me and asked where he could sell his boots; whereupon I introduced him to Mr Fry.

Q13 Did you see any transaction take place?

A13 Yes, sir.

Q14 Could you give us some particulars?

A14 He went over to Mr Fry at the green house and I went into the green house and called Mr Fry. The soldier here asked him to buy boots; whereupon he sold them to Mr Fry.

Q15 What did he get for them?

A15 He received 15 shillings.

Q16 Can you identify the boots?

A16 I cannot swear but it was a brand new pair.

(Shown boots marked 'A' for identification). They appear to be the same boots that were sold.

CROSS EXAMINATION:

Q17 The Beacon hotel you referred to is kept by military as a Convalescent hospital?

A17 Yes, sir.

Q18 Did the accused tell you what boots it was he wanted to sell?

A18 No, sir.

Q19 He had them in his possession?

A19 Yes, sir.

Q20 Did he tell Mr Fry when you were there where he got the boots?

A20 I cannot say definitely.

Q21 He did tell Mr Fry something about the boots?

A21 I did not hear what they said.

In the opinion of the court it is unnecessary that RP 83B be complied with.

THIRD WITNESS:

B2/125 Pte Arscott J F, Cdn Provost Corps, on strength of DAPM's office, HQ CRU, having been duly sworn states:

Q22 Do you recognize the accused?

A22 I do, sir (looking at him).

Q23 You have had certain associations with him in the case of the sale of army boots. Will you explain to the court just what these associations were in this case?

A23 During an investigation at #2 Convalescent Depot I had cause to speak to Tomachevsky at the request of the adjutant. Tomachevsky came to me and stated that he knew quite a lote of what was going on in this particular unit re sale of WD property. From information acquired I informed the civilian authorities and accompanied them to Mr Fry's home at Churt and found in his possession a pair of WD boots. I secured them and turned them over to the civilian police. The boots were kept in the custody of the civilian police.

(Shown boots marked 'A' for identification). "Those are the boots taken from Mr Fry's home".

CROSS EXAMINATION: NIL

Boots marked 'A' for identification offered and received in evidence and marked exhibit "X".

In the opinion of the court it is unnecessary that RP 83B be complied with.

FOURTH WITNESS:

B135900, Pte Farnworth, W H, RCAMC, on strength 2 Cdn Convalescent Depot, having been duly sworn states:

Q24 Do you recognize the accused?

A24 Yes, sir (looking at the accused).

Q25 Where did you see accused?

A25 At 2 Convalescent Depot on the switchboard in the orderly room.

Q26 (Shown pen and pencil set). Do you recognize either of these articles?

A26 Yes, I recognize them.

Q27 Can you state anything with respect to these articles. Who is the owner?

A27 They are my property, I brought them from Canada.

Q28 When did you first lose them?

A28 Around the end of November sometime. About the 25th of November 1943.

Q29 Just what happened. How did you lose them?

A29 To the best of my knowledge I left them in the orderly room beside my typewriter and did not miss them till next day. I thought I had left them in my uniform. When I did miss them I informed various people around the orderly room but no one had seen them. The next time I saw them was when Private Arscott showed them to me and I identified them as my property.

Q30 You have left your pen and pencil in the orderly room before and always had them again when needed?

A30 Yes, sir. I have never had any trouble with anything going missing in the orderly room.

CROSS EXAMINATION:

Q31 When did you go to this Convalescent Depot?

A31 On the 18th of November 1943.

Q32 How long have you been working in the orderly room?

A32 One week.

Q33 You say Tomachevsky was working on the switchboard?

A33 Yes, sir.

Q34 Did you ask him if he had the pen and pencil set?

A34 No, sir. At the time I missed them I informed various people in the orderly room but Tomachevsky was not there.

In the opinion of the court is is unnecessary that RP 83B be complied with.

B25125 Pte ARSCOTT J F RE-CALLED:

Q35 (Shown set - pen and pencil). Do you recognize these exhibits?

A35 Yes, sir.

Q36 Tell the court how you came by the pen and pencil?

A36 During the course of questioning Tomachevsky I asked him if he had anything else on his person that did not belong to him and he produced the pen and pencil saying that he had picked them up in the orderly room of the

#2 Cdn Convalescent Depot where he was employedas telephone operator at the switchboard.

CROSS EXAMINATION:

Q37 Did the accused not tell you that he had found these articles in the orderly room?

A37 That is what I stated.

Q38 He produced them himself?

A38 Yes, sir.

Q39 You asked him what he had done about finding the owner?

A39 Yes, sir.

Q40 He told you that he had not had time to make inquiries?

A40 Yes, sir.

In the opinion of the court it is unnecessary that RP 83B be complied with.

BY THE COURT:

Q41 Where did he have them?

A41 In an inside pocket. He had a greatcoat on at the time.

Q42 Were you inquiring particularly abou the pen and pencil set at the time?

A42 No, sir, it was incidental.

Pen offered and received in evidence and marked exhibit 'Y'.

Pencil offered and received in evidence and marked exhibit 'Z'.

DEFENDING OFFICER: The accused is charged with selling boots. I will admit that these are public property, but there is no evidence to show that these are regimental necessaries of the accused or articles which were issued to him in the meaning of the section. The court will observe that it is essential that the articles should be issued to him for his military use. The charge is not a charge of selling military property. I can produce evidence that the accused has all articles issued to him as regimental necessaries and which are on charge to him. It may be that it is an offence to sell government property. With regard to the second charge. The evidence of the prosecution negatizes stealing or intent to steal. The accused when asked about another matter did produce these articles and stated that he had found them and had not had time to find the owner. He said that he was working in this orderly room but had not been there when the mention of the loss was made. That would negatize his idea of stealing.

PROSECUTION: In the case of the pen and pencil set. I definitely stated that one might pick up a pen to write with it,

but one does not take the complete set. Farnworth is a tradesman, a clerk, and is entitled to leave his tools as any tradesman is in his place of work. He has to have the protection of the people in charge of his place of work to see that his tools remain there. I grant you one might mistakenly take up one article but one does not take up two articles to use and to walk away with.

1st Witness for Defence

The accused D126860 Pte J J Tomachevsky, having been duly sworn states:

I found the pen and pencil set on the switchboard desk.

Q43 What were you doing on the switchboard?

A43 I was runner and switchboard operator at the same time.

Q44 Why did you not report you had these articles?

A44 The adjutant called me one morning and asked me to call the DJA's office which is Aldershot 380, Extension 0453 and I used the pencil which was on the switchboard to take down the number. I also used it to take down outside calls and register them in the book. Then as usual I put the pencil back in my pocket. Then I was called out on a message. I went to the Beacon Hotel.

Q45 Is that another building?

A45 It is about a mile away. At the same time I took up the pencil which I thought belonged to Morrison. I did not have time to see Morrison because he was always away.

Q46 Who was Morrison?

A46 He was the other operator. I kept the pen and pencil in my possession and forgot all about them. One eveing I went to Hazelmere to the cinema. While there I met two friends and we went to the YMCA after the movie. There I discovered I had the pen and pencil in my possession. Then I told them I could get a pound for this set and one of the chaps offered me a pound spot cash right there. I told him that the set did not belong to me.

Q47 Who was this man?

A47 I do not remember his name. His friend was Hardman.

Q48 Who were they?

A48 One was from the Convalescent Depot; one was on leave.

Q49 Do you know where they are now?

A49 I could not say.

Q50 Then when was it that Pte Arscott spoke to you about the boots?

A50 A few days after Pte Arscott spoke to me about the boots and while taking me down to Farnham he talked with me. I then recalled I had the pen and pencil. I told him that I was talking on the subject with a lad and that he offered me a pound.

Q51 You did state that you gave him a pen and pencil enroute to Farnham?

A51 Yes, sir.

Q52 You understand that what I am asking you is that you gave him the pen and pencil while in a car travelling to Farnham, in which car I presume he was questioning you?

A52 Yes, sir. I told him then and there that I could have sold pen and pencil long ago.

Q53 That was on the trip to Farnham?

A53 Yes, sir.

Q54 Is there any reason why you actually needed the two articles to do work rather than one article?

A54 I have never seen the set - pen and pencil - in the orderly room because I used to borrow pencils from Sgt Creighton and other fellows in the orderly room and that is the first time I had seen that set.

Q55 Was there any reason why you needed a pen and pencil to carry out your work to take down telephone numbers which came in?

A55 I needed the pencil but [redacted] the pen. I took the pen so that I would not be accused of stealing the pencil and having sold it.

Q56 You had fear in your mind that you might be accused of stealing.

A56 I thought that if I was found with one in my possession and not the other they would accuse me of stealing it.

BY THE COURT:

Q57 How long had you had pen and pencil before giving it up.

A57 About 3 or 4 days.

Q58 Do you know the day on which you gave it up?

A58 I do not remember. It is on the pen 29 November but it could not be as I was discharged on the 30th November 1943.

Q59 What unit were you on strength of when this happened?

A59 I was on strength of the Ordnance Corps.

In the opinion of the court it is unnecessary that RP 838 be complied with.

PRIVATE ARSCOTT RE-CALLED:

Q60 Where was the pen and pencil actually produced by the accused and taken over by you? Will you definitely identify the place?

A60 It was given to me in the HQ CRU in our hut there.

We have a little room alongside of HQ CRU. It was in that billet supplied by DAPM for us. We go over there when there are too many personnel in the DAPM's office.

Q61 You are quite definite that it was in a proper room and that it was during the investigation that these articles were turned over.

A61 Yes, sir.

In the opinion of the court it is unnecessary that RP 83B be complied with.

CROSS EXAMINATION:

Q62 Had there been any mention of the pen and pencil set till you reached this room?

A62 Nothing at all.

In the opinion of the court it is unnecessary that RP 83B be complied with.

PROSECUTION:

The prosecutor submits to the court that the accused was improperly in possession of Waterman's pen and pencil set, the property of B135900, Pte Farnworth, W.H., RCAMC, on strength of #2 Cdn Convalescent Depot, and that the accused did not explain why two articles were taken rather than one except that he was afraid that if he was found in the possession of one and not the other it would be assumed that he had sold one.

The accused is not s[redacted] fact when he states that he voluntarily [redacted]e up the pen and pencil to an investigator in a place other than where he knew he would be subject to search. I ask that the court take this point into consideration and at their discretion deal with it.

In the opinion of the court it is unnecessary that RP 83B be complied with.

DEFENDING OFFICER:

The only point for the court to consider is that are they satisfied with the accused not reporting the possession of these two articles before he did.

In the opinion of the court it is unnecessary that RP 83B be complied with.

BY THE COURT:

Found not guilty on all charges and released forthwith.

The exhibits will remain with the court and the owner will apply to the convening officer to release them.

The prosecutor states that the boots being exhibit 'X' are required for use on a case before the civil court and boots are accordingly released to the prosecutor.

I hereby request that the Convening Officer appoint Major E.M. Miller to represent me at my forthcoming Court Martial.

J. J. Tomaschesky
.....
(Accused)

Aldershot, Hants.
3 Jan. 1944.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Aldershot preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

J. J. Tomaschesky
.....
(Accused)

Aldershot, Hants.
3 Jan. 1944.

LIST OF WITNESSES

In the case of D126860 Pte John Joseph TOMACHEVSKY, R.C.O.C., on strength of No.5 Coy., No.1 C.O.R.U.

(For the Prosecution)

1.	C70621 Tpr Cooper, J.L.	No.1 CAORU
2.	Mr. Andrew Fry, civilian	Elmtrees, Green Cross, Churt.
3.	B25125 Pte Arscott, J.F.	Cdn Provost Corps c/o DAPM's Office, H.Q., CRU.
4.	B125900 Pte Farnworth, W.H.	RCAMC., #2 Convalescent Depot.

(For the Defence)

Nil

LIST OF EXHIBITS

In the case of D126860 Pte John Joseph TOMACHEVSKY, R.C.O.C., on strength of No.5 Coy., 1 C.O.R.U.

"A" - Waterman's "Ideal" fountain pen

"B" - " " pencil

"C" - One pair of Army Boots, ankle size 6.

"D" - Reports dated 26th and 30th Nov 43 made by B25125 Pte Arscott,J.F.

(For the Defence)

Nil

Aldershot, Hants.,
30 Dec 43

(Harold M. Bailey) Colonel,
Commanding Officer,
No.1 Cdn. Ord. Rft. Unit.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. D-126860 Private Tomachevsky Joseph John of No. 1 C.O.R.U. on strength of No. 5 Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution

Mr. Andrew Fry, gardiner, living at Elmtrees, Green Cross, Churt and employed at "Bluehills" Hindhead having been duly sworn states:
I recognize the accused as Pte. Tomachevsky, who is present, as the soldier who sold me a pair of Army boots size six at Bluehills, Hindhead on or about the 8th of November 1943 for the sum of fifteen shillings. I had asked him if they were his boots and he had replied,"Yes".

The accused declines to cross examine this witness.

J.J. Tomachevsky ..... Andrew Fry .....
signature of witness.

SECOND WITNESS for the Prosecution

No. C-70621 Tpr. Cooper J.L.,No. 1 C.A.C.R.U. on the strength of No. 1 C.A.C.Reinforcement Unit, a soldier of the Canadian Arm y Overseas having been duly sworn states:
At the Beacon Hotel, Hindhead on or about 8th of November 1943, Pte. Tomachevsky, whom I recognize, approached me and asked where he could sell his boots, whereupon I took him over to Mr. Andrew Fry at Bluehills, Hindhead. I was present when he sold Mr. Fry his pair of Army boots for fifteen shillings.

The accused declines to cross examine this witness.

J.J. Tomachevsky ..... [redacted] .....
signature of witness.

THIRD WITNESS for the Prosecution

No. B-25125 Pte. Arscott J.F. of the Canadian Provost Corps on the strength of the D.A.P.M's office, H.Q.,C.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states:
As the Investigator in the case of the sale of W.D. boots by No. D-126860 Pte. Tomachevsky Joseph John, I submit as my evidence the reports made by me to the D.A.P.M. at H.Q., C.R.U. dated the 26th and 30th November 1943 and marked Exhibit "D". The Army boots, in question, will be available as an Exhibit when required, being now in the possession of the Civil police as an Exhibit in Civil Court Proceedings.

The accused declines to cross examine this witness.

J.J. Tomachevsky ..... B.25125 Pte Arscott J.F. .....
signature of witness.

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement an d reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d),(e),and(f) have been complied with.

Aldershot, Hants.
30th December 1943.

(signature).....
Officer detailed to take the Summary of Evidence.

FIRST ADDITIONAL SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. D-126860 Private Tomachevsky Joseph John of No. 1 C.O.R.U. on the strength of No. 5 Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

No. B-135900 Pte. Farnworth W.H., R.C.A.M.C. on the strength of No. 2 Convalescent Depot, a soldier of the Canadian Army Overseas, having been duly sworn states:
At the Moorlands Hotel, Hindhead on the afternoon of the 25th November 1943 I left my Waterman's Ideal pen and pencil set on my desk and became aware of the loss of same on the following morning. I duly notified verbally the Orderly Room staff of the loss. Subsequently I identified my pen and pencil set to the satisfaction of B-25125 Pte. Arscott, an investigator with the D.A.P.M's office, H.Q.,C.R.U. who was in possession of same. I identify Exhibit "A" (pen) and Exhibit "B" (pencil) as my property and left at the Moorlands Hotel by me.

The witness was cross examined by the accused:
Question 1. (Pte. Tomachevsky)
The witness mentions that he notified the Orderly Room Staff of the loss of his pen and pencil set. Did he he notify any of the convalescent patients working in the Orderly Room?
Answer 1. (Pte. Farnworth)
When I notified the Orderly Room Staff of the loss there were no convalescents on duty. I remember distinctly that Pte. Tomachevsky was not on duty in the Orderly Room when I notified the staff of the loss.

J.J. Tomachevsky ..... B-135900 Pte. Farnworth W.H.
signature of witness.

SECOND WITNESS for the prosecution

No. B-25125 Pte. Arscott J.F. [redacted] adian Provost Corps on the strength of D.A.P.M's offi[redacted].,C.R.U., a soldier of the Canadian Army Overseas, having [redacted]en duly sworn states:
At the D.A.P.M's office, H.Q., C.R.U. on approximately the 29th November 1943 while questioning No. D-126860 Pte. Tomachevsky Joseph John regarding the sale of W.D. boots, it was found that he had in his possession one Waterman's pen and pencil set which he stated did not belong to him, having found same in the Orderly Room at the Moorlands Hotel (No. 2 Convalescent Depot) while on duty at the switch board a few days previous. When asked if he knew to whom they belonged he stated that he did not know. When asked why he had not made enquiries regarding ownership he stated that he had not had time. I identify Exhibit "A" (pen) an d Exhibit "B" (pencil) as the same pen and pencil taken from the accused Pte. Tomachevsky.

The accused declines to cross examine this witness.

J.J. Tomachevsky ..... B-25125 Pte. Arscott J.F.
signature of witness.

The accused was cautioned as follows:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d),(e),and(f) have been complied with.

Aldershot, Hants.
30th December 1943.

(signature).....
Officer detailed to take the Summary of Evidence.

DDE-23

GAR TOMKINSON D.E.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	noted R H Keefler maj
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) Judge-Advocate, if any. Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 31(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B6915 Gnr Tomkinson D. E.	8 Jan 44	S M Welch Lt Adjutant 4th Fd. Regt. R.C.A., C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

10 A D 23

(FAAG (4th Rev) of AFA81)
40 D A S 1868 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of R H Keefler Comd CRA 2 Cdn Inf Div Dated 6 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B6915	Gnr		David Eric	Tomkinson	4 Cdn Fd Regt.

PROCEEDINGS REVIEWED
J K Hughes-Hallett, Capt.
2 Cdn Inf Div
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS REVIEWED
Date 27 FEB 44
FOR CHIEF OF THE GENERAL STAFF

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 7 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~The Court is sworn. Do you~~ as interpreter ? Ans. ~~The Interpreter is sworn (1). Do you~~ as shorthand writer ? Ans. ~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	C J. Willis	3 L A A Regt.
Member	Capt.	R C Newman	5 Cdn Fd Regt.
Member	Lieut.	R S Cowell	2 A/T. Regt.
Judge-Advocate	Capt.	E G McDougall	2 Cdn Inf. Div.
Prosecutor	Capt.	R B Smith	4 Cdn Fd Regt.
Defending Offr	Lieut Capt.	S G M Grange	4 Cdn Fd Regt

Questions by President : Is the Prosecutor a lawyer ? Ans. NO Is the Defending Offr a lawyer ? Ans. NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(1)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) Table part 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No. (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes [illegible] (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Wish to give evidence. Do you intend to call witnesses on your behalf? Ans. Yes. Are they witnesses as to character only? Ans. No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, ~~and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MML p 54 para 47. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 96(f). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets in which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 86-90, 69, 118, 119(A), KR Can 308, 330, 563-565, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

B. Williams PRESIDENT

The accused, B.6915 Gnr David Fredie Tomkinson, 2 Cdn Fd Bty, 4 Cdn Fd Regt R.C.A., a soldier of the Canadian Army Overseas, on active service, is charged with:

FIRST CHARGE
Sec 18(5)
Army Act

/ DISGRACEFUL CONDUCT OF AN UNNATURAL KIND

in that he

In the Field, on the 26 Jan 44, at approximately 2100 hrs did attempt to have sexual relations with a cow owned by Mr. H.F. Carter of Oak House, Monk's Gate.

In the Field

6 day of February 1944.

William R Fleury

(W.R. Fleury) Lt-Col
Comd, 4 Cdn Fd Regt R.C.A

In the Field

6 day of February 1944.

To be tried by F.G.C.M.

B.M. Chefs

.....Brigadier
C.R.A., 2 CDN. DIV.

"X" C Willis Maj. PRESIDENT.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAS/1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 320, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B6915	Gnr		David Eric	THOMKINSON	4 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 6 Feb 44 endorsed by me, ~~(or by an offr of my staff or me)~~, "To be tried by Field General Court Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint as the Officer to be President, for the reasons I have stated hereon~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	C.J Willis (*Must be named. RP 106.*)	3 Cdn LAA Regt (*Unit.*)

MEMBERS.

Capt	W C Newman	5 Cdn Fd Regt
Lieut (*Rank.*)	R S Cornell (*Named or detailed. RP 106.*)	2 Cdn A tk Regt (*Unit.*)

WAITING MEMBER.

Lieut (*Rank.*)	R T James (*Named or detailed, if any. RP 106.*)	6 Cdn Fd Regt (*Unit.*)

JUDGE-ADVOCATE.

Capt (*Rank.*)	E K McDougall (*Must be named, if any. RP 106.*)	HQ 2 Cdn Inf Div (*Unit.*)

On Active Service in the Fd

in England (*Country.*)

(Signed personally RP 105 fn 2.) Brigadier (*Rank.*)

Date 6 Feb 44

Commanding CRA 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL CERTIFICATE (K.R.(Can) 557)

I certify that I have this morning examined No. H.6415 Gnr Tomlinson D.E. of 4 Cdn Fd Regt R C A and, that in my opinion he is ~~unfit~~ fit to undergo trial by Court-Martial.

Station Field

Date 7 Feb 44

C.O. Anderson Maj.
Medical Officer

...ute relative to the gun, incorporating correction of the moment.

The artillery observer points out targets in the zone to the commander of the flash spotting post and, provided that the targets are visible to both posts, the switch from ... time, angle of sight, and range can be predicted in about ? minutes.

The total time to set up a double post ... brigade an artillery O.P., fire the two groups of air bursts, make the necessary calculations, and be ready to observe targets, is approximately half an hour.

2. The method does not claim ... direct range gun data to ensure a hit with the first round. Its ... is rather to avoid waste of ammunition, by ensuring that the ... round of a shoot is close enough to the target to make sure of its being observed and to enable fire to be corrected quickly on to the target.

In unmapped country, or in a country where observation is particularly difficult, the method should save both time and ammunition in addition to

1st Pros. Wit: Pte. H. F. Carter, Onte House, Reeves

Onte, having been duly sworn is examined.

I recognise Acc. On 11 Jan about 630 A.M. I found a milk pail, left close overnight, badly bent and covered with cow manure. It looked to me as tho' someone had been standing on it. Enters that morning I found this hat. (Hat produced as Exh A) On 16 Jan I found a milking stool in some state. On 28 Jan towards 730 PM a soldier came to the door of the barn. Said he was lost. Played with me till I finished milking and carried a pail of milk with me up to the dairy. Him soldier was the Accused. About 815 I left him at the dairy. I told him his quickest way was to go by the road but he said he'd take the track way to avoid the guard as he had no pass with him. I followed him down in about 5 minutes. I went quietly to the cow shed door. I shined my torch in & saw him standing on a white pail. He got off the pail and his clothes were undone in front. The pail was in the drain immediately behind the cow. I spoke to him & he buttoned up his fly while I stood there. His fly was open. He stood facing me

(Pros. warned re leading questions)

He buttoned up his fly & got the pail out of the drain & left the shed with me. He apologised and said he would come back and apologise again the next day. He offered no reason for his conduct.

On 30 Jan I saw the same man there again at the same stall. The same cow was in the same stall. I recognised the Acc. by shining my torch on him. He said nothing. He had behind his coat. I hit him with

a groom as he came out. A stud was dirty. On the 16 I saw some stones on the floor.

Passing my house would not be a short cut for the Acc. on his way to camp. The fields there are muddy [redacted] followed Acc. as I was suspicious of him. What he made was first.

[redacted] Before X Ex Def M. objects to the evidence put forward on other occasions than the date forming the subject of the charge. Asks it be struck out

Prosecutor replies he thought this evidence as it is relevant and shows why he followed him to town.

The Court is closed to consider the objection.

The objection is allowed.

The Judge Advocate advises the Court that all evidence relating to events other than the event occurring on the 26th June 44, are to be entirely disregarded and are not to influence the Court in any way.

The trial proceeds.

Cross Ex — It was about 7.30. If a man was going from the pub to one of the near huts of the camp it is possible that passing the house might be a short cut. Within the last month I had a new calf born. I pointed it out to the Acc. I don't know if Acc. ever saw the calf.

Re Ex I left things where I knew where they were. I advised police.

By Court I was at an identification on 16 July. About 70 to 80 men were there. The Acc. was one of them.

identified him very easily. I had no other visitors from the 44th Fd Regt.

2nd Pros Wit C 18691 RSM. Hanks, A.C. 44th Co Rd Regt duly sworn is examined.

On 31 Jan 44 on information received I got together six men for identification parade. Formed into line. All dressed alike. Mr. Carter came & identified the Accused.

Acc's clothing was brought to Office. I found three hairs on the front of the trousers. These three hairs are similar. To the best of my knowledge these are the same hairs ~~Produced as Exh B~~

(The Court refuses to accept these hairs as Exhibits)

(RP 836 complied with)

3rd Pros Wit. C 18607 BSM Blodgett, E.H. 44 Co Rd Regt duly sworn is examined:

I recognize Acc. On 26 Jan Acc was in Comp. Lot absent, not on pass. He is allowed outside pass ~~from~~ to camp station.

Defence

1st Wit. The Acc being duly sworn is examined by Def Co.

On 26 Jan I went to canteen. Went to have drink at Dun horse. Got about half way & changed my mind I took short cut through the field. Saw a light on & wanted to ask way tho' I really knew it ~~wanted~~ in a vague way. Very murky evening. Mr. Carter came to the door of the barn and told me to stick by the ~~boards~~ post boards to mend the mud. Told me to

go thro wire, I talked to him. I noticed a newly born calf. He milked a cow. I helped him carry the pail to ~~the~~ a shed about 20 yds from the cow shed. I left him. I came straight back to camp. Arrived in Camp about 8.15 PM Cow lecture was still open. I saw Sgt Dale in the cow lecture.

Cross Ex I didn't lose my hat. I had it when I came back to camp. Mr Carter is a liar. I was near the post office when I changed my mind. There is a good fenced road from post office to the cow lecture. I went dead straight down going straight to cow lecture. I didn't. I thought a gate past the dairy. It a straight line to my hut. I'm sure it's shorter.

Re Ex - Nil

By Court No idea why Carter ~~said~~ makes these statements these charges. Never saw him before. I admit I spoke to Farmer when milking cow. He picked me out at the identification parade. Court see how or why Carter says what he does. I didn't see him before identification parade. But then I mean I saw him on the 20th and didn't know who he was at the ident parade. I had forgotten him. I took a short cut. At 1600 hours
Court adjourns to visit the farm and to ascertain if the Acc took a short cut or not. The Accused also proceeds to the Farm.

at 1615 hours the Court reassembles present the same members as when adjourned.

Examination continues

I have been to this Camp since Oct May. I never had used the short cut before. Very dark that night. The boards were about 10" wide & 2" thick

Carter must have made up the whole story
prior after when I left him at the dairy. I don't know
why he says it.

RP 85b complied with

2nd Def Ext C - 19544 Exs. Dale, WA. & Ed Reg sworn

I know Acc. I saw Acc in Carter. Cant
remember exact date. Was around the 28 Jan. Cant
be sure of date. Was about 2000 hours. He had not
been in very long.

No Cross Exam

RP 85b complied with.

Def Mr's Closing Address

~~Improbable to~~ Evidence give against the other.
Carter arrived about disrupt & crushed. He was
suspicious + Acc was just soldier who happened
along. He invented this monstrous story of 28 Jan
No corroboration. Ask Court to find not guilty.
Stigma will stay prior Charge not proven.

Pros Closing Address

only point out that the charge ~~have~~ has been proved.

No reasonable explanation for the presence of knife. It was not a short cut. No real defence.

J.A. Sums Up – Serious charge. Can convict on uncorroborated testimony of one witness. There are statutory exceptions to this but the case is not one of them. Court warned on dangers of convicting on such evidence nevertheless. Must be corroborated.

Explains credibility of witnesses
Burden of proof on prosecution
All doubt must be given to Accd
Reasonable doubt defined and the doctrine explained

Innocent until proved to be guilty. Repeated warning that statement of Accused Carter must be very carefully dealt with.

Prosecutor wishes no further advice
Defence wishes no further advice

SUMMARY OF EVIDENCE IN THE CASE OF B.6915 Gunner David Eric Tomkinson, 2 Cdn Fd Bty, 4 Cdn Fd Regt RCA, a soldier of the Canadian Army Overseas.

The Accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION Capt A.B. Smith, Adjt, 4 Cdn Fd Regt RCA sworn states:

I present:
Cap F.S. purporting to have been found by Mr Carter. (Exhibit A).
Identity bracelet the property of the accused (Exhibit B).
Hairs found on the trousers of the accused purporting to be cow-hairs (Exhibit C).

On 1 Feb I held an identity parade which included the accused. Mr Carter identified the accused instantly as the man he had seen in his stable on the nights of 26 and 30 Jan. The accused denied this until the summary of evidence was taken.

I examined the clothing of the accused on 3 Feb 44 and found 3 coarse white hairs on the front on the trousers. This clothing had been hanging by the kit of the accused.

Accused declines to cross-examine.

A.B. Smith

(A.B. Smith) Capt, Adjt
4 Cdn Fd Regt R C A

SECOND WITNESS FOR THE PROSECUTION Statement of Mr H.F. Carter, Oak House, Monk's Gate:

I recognize the accused.

On 11 Jan 44 at 0600 hrs I found a milk pail had been bent and the bottom dented in. The pail was covered with cow manure. On 11 Jan I found a soldier's hat with an artillery badge, under one of the cows (Exhibit A). On the 16 Jan 44 I found a milking stool with cow manure on it as if someone had been standing on it. Both had been clean the previous nights. On 26 Jan 44 at about 1930 hrs I was milking when the accused came in and said he had lost his way. He stayed and talked to me for about three quarters of an hour. During the conversation he mentioned that he drove a truck, that he had been married about seven months ago and that his wife was living at Bromley. He said that he had been to Bromley for New Years and was going back about 16 Feb on leave. He said that he belonged to 4 Fd Regt and had been out in the nearby field with guns. He was about 5'9", fair hair and a fair, curly moustache, fairly well built, about 24 or 25 yrs old. He wore an identity bracelet on his left wrist on a fine chain. After I finished milking we both went to the dairy where I left him. He returned to the cow stall so I followed him down. I opened the door and saw him standing on a pail at the rear of a cow. He stepped down and I noticed that his fly was unbuttoned. I gave him a good sound talking to. He broke down and said he'd come back and apologize, and went away. On the 30 Jan at 2315 hrs I was passing the cow stall and heard a fork knocked over. I looked in and shone my flashlight. I saw the same man standing just behind a cow. He had his tunic collar pulled up, but I recognized him by his moustache. I picked up a broom and hit him across the head. He ran out the door and across the meadow.

On 1 Feb 44 I was present at an identification parade of eight men of the 4 Fd Regt, and recognized the accused as the man I had talked to on the night of 26 Jan.

Cross-examined by the Accused

Q 1 You say that on the 30 Jan you saw me at 2315 hrs and you swear that it was the same man as on the 26 Jan?
A 1 Yes.

Q 2 Was I drunk or was I sober?
A 2 I should think you were sober.

Q 3 How far away was I when you hit me?
A 3 About two paces.

Q 4 Do you think you would have done me some damage?
A 4 I might or might not have.

Q 5 How did you identify me?
A 5 By your moustache, your hair, and your whole face.

Q 6 Where did you see me, in the dark?
A 6 I saw you in the cow stall with the lantern and in the dairy with the torch.

(Sgd) H.F. Carter

~~Signed before me 31 Jan 44.~~

~~(Sgd) A.B. Smith, Capt.~~

THIRD WITNESS FOR THE PROSECUTION C.18607 BSM Blodgett, E.H., 4 Cdn Fd Regt RCA, sworn states:

"The accused is a member of 2nd Bty, of which I am BSM. He was on a 36 hr pass over New Years, but the pass stubs do not state his destination. The accused is next due for privilege leave approximately the 16th Feb. The accused was given a warrant for Southport on his last leave. The accused was employed as a driver until Dec 1st when he was made a gun number, and spare driver. On 1[illegible] Jan the accused dismounted regt guard at approximately 1630 hrs.

On 25 and 26 Jan the accused was not on pass nor was he reported absent. On 30 Jan the accused was in the kitchen until after the evening meal. He was not reported absent at tattoo."

The accused declines to cross-examine. E. Blodgett

(Sgd) E. Blodgett

FOURTH WITNESS FOR THE PROSECUTION C.18502 BQMS Duncan, A.B., 4 Cdn Fd Regt RCA, sworn states:

"I am BQMS of the 2nd Bty. The accused, whom I recognise, last drew a cap F.S. from bty stores between 20 and 27 Jan 44. I think that the reason he gave was that he had lost his cap. The cap exhibited is an ordinary Canadian issue. These hats vary in size from that stamped in them. This hat would fit the accused in my estimation.

Cross-examined by the Accused.

Q 1 Is it possible that I came in previous to that to try and get a hat and there was none in my size?
A 1 Yes.

(Sgd) A.B. Duncan

The accused, having been duly cautioned in accordance with RP 4(M) says:

"On the 30 Jan I was out with Gnrs Pope and Vardy. I met them in a pub in Horsham about 8 o'clock. We made the rounds and got feeling pretty good. When the place was about to close we went outside. In the dark we got separated and I stayed with Pope. We walked to try and catch the bus and met a 15-cwt from the regt driven by Gnr Sanders. He brought us back to camp and Pope and I went to the kitchen to get a cup of tea. I went back to my hut and Pope went to his. I went to bed just before roll call at 2300 hrs. I went outside once to go to the latrine and was gone about five minutes. I had no clothes on except my underwear and my rubber boots. On my New Year leave I was in Bromley and spent the weekend with friends.

On the evening of the 26 I was going down to the Dun Horse pub, and about half way down I figured it wasn't worth the walk for a couple of drinks so I turned around and came back. I was making a short cut past the farm and saw a light in the barn and knocked on the door. I asked the man who came to the door how to get out of there and he showed me the short cut and said the mud was terrible. He said I could go out the front way. Then we got talking and went back into the barn. We talked for about ten minutes while he was milking. He had three pails and I helped him carry one up to the house. I talked to him while he strained the milk and then left. I went back past the barn to get out into the field. I did not go into the barn. I didn't see anybody around the barn. I went home across the field and stopped at the washroom, washed the muck off my boots and went over to the canteen."

(Sgd) D.E. Tomkinson

FIRST WITNESS FOR THE DEFENCE B.9101 Gnr Vardy, A., 4 Cdn Fd Regt RCA, states:

"I met the accused on Sunday night (30 Jan) in a pub in Horsham about 1930 hrs. I was with him until the pub closed. When we left the accused walked and talked alright, and seemed alright to me. We had about six or seven pints of bitter during the evening. I left the accused and Gnr Pope and came home on the bus."

Cross-examined by the Accused

Q 1 Did I lose my hat that night?
A 1 I don't think you had your hat in the last pub we were in.

(Sgd) A. Vardy

SECOND WITNESS FOR THE DEFENCE B.9184 Gnr Pope, R.M., 4 Cdn Fd Regt RCA, sworn states:

"On the night of Sunday the 30th I was with Gnr Vardy in Horsham, and met the accused in a pub. We drank beer till the pub closed and then we came home in one of our own trucks, I imagine it was the duty vehicle. It would be about 2230 hrs when we got here. We went to the kitchen and then I went to bed about 2300 hrs."

Cross-examined by the Accused

Q 1 In what condition were we when we got in?
A 1 We drank considerable beer and were feeling pretty happy. The accused was walking O.K. and seemed to be alright.

(Sgd) R.M. Pope

THIRD WITNESS FOR THE DEFENCE K.91874 Gnr Walkden, W., 4 Cdn Fd Regt RCA, sworn states:

"On Sunday night the 30 Jan the accused came into our hut between 2230 and 2315 hrs. I think it was before roll call. I asked him for a light, smoked a cigarette and then went to sleep."

Cross-examined by the accused

Q 1 What time did you go to sleep?
A 1 About 10 or 15 minutes after I asked you for a light.

Q 2 Was I in bed then?
A 2 Yes.

W. Walkden
(Sgd) W. Walkden

Certified that R.P. 4 Complied with.

In the Field
3 Feb 44

A.B. Smith
(Sgd) A.B. Smith, Capt
Officer detailed to take the Summary.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

52-146 Pte. Hamlin J. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 164455 Pte TOMLIN J.A. 6 Cdn F.D.S.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. 41	Not guilty	Not guilty	
2nd	A.A. 40.	Not guilty	Not guilty	
3rd	A.A. 40 (alt)	Not guilty	Not guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1) RSP

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Acquittal

(Sgd) A.M. Ecclestone Major — Judge-Advocate, ~~if any~~. 17 Apr 46 — Date Awarded. (Sgd) R.G.L. Parker Lt Col — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Noted

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 23 April 46 (Sgd) J.T. Rutherford Brig — Commanding Dep Comd CFN — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT SHOWN IN AB 103 PAGE 52-144

CPAgo (In lieu of AFA81) 40/P & B/1098 (1443) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig T.J. Rutherford CBE / Comd C.F.N. dated 12th Apr 46.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 164455	Pte	JOHN ARTHUR	TOMLIN	6 Cdn F.D.S.

PROCEEDINGS REVIEWED
4 May 46 C.H. Tait Maj.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 16-17 April 1946. RSP

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed. RSP

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) RSP The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) RSP

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1025 hours trial commences. RSP

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) RSP ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) RSP

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to D 76592 Sgt MARCIL, G. as interpreter? Ans No Sir. RSP

The Interpreter is sworn.(1) ~~Do you object to ..... as shorthand writer? Ans .....~~ RSP
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2) RSP

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and ~~Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: RSP

President	LT COL	R.G.L. PARKER, O.B.E., E.D. QOR	3 Cdn Transit Camp.
Member	LT COL	A. DODDS E.D. RCA	3 Cdn Transit Camp.
Member	LT COL	E.L. de Pencier E.D. RCA	3 Cdn Transit Camp.
Judge-Advocate	MAJOR	A.M. Ecclestone C.I.C.	3 Cdn Transit Camp.
Prosecutor	MAJOR	E.C. PECKHAM C.I.C.	3 Cdn Transit Camp
Defending Offr	CAPT	F. PRITCHARD R.C.A.P.C.	3 Cdn Transit Camp

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B 164455 Pte TOMLIN J.A. before arraignment make(s) (no) ~~a~~ plea RSP (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. RSP

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AP6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D. RSP

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

3 Cdn Transit Camp
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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Locat...

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st, 2nd 3rd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the 1st, 2nd 3rd charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3099 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

R&P

CHARGE SHEET

The accused, B.164455 Pte John Arthur TOMLIN, Royal Canadian Army Service Corps, on strength 6 Canadian Field Dressing Station, RCAMC and attached to Canadian Military Staff (Paris) (CACF), a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, WHILST IN A PLACE NOT WITHIN HIS MAJESTY'S DOMINIONS, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MANSLAUGHTER

in that he

in the Field, in Brussels, Belgium on 18 October 1945 unlawfully killed Raymond SMIT, a civilian

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Brussels, Belgium on the 18 October 1945 when in charge of a military vehicle CA 4244336 improperly became involved in an accident thereby occasioning damage to the said vehicle in the amount of ten pounds five shillings (£10.5.0).

THIRD CHARGE
(Alternative)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field on 18 October 1945 when in charge of military vehicle CA 4244336 improperly failed to take said vehicle to an authorized car park resulting in the said vehicle becoming involved in an accident, thereby causing damage to the said vehicle to the extent of ten pounds five shillings (£10.5.0).

Paris, France
21 March 46

(N. F. Dean) Major
DAA & QMG
CDN ARMY STAFF PARIS (CACF)

To be tried by Field General Court Martial

In the Field
12 April 1946.

(T. [illegible]) Brigadier
Deputy Comdr, CMH

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B164455	Pte	John Arthur	TOMLIN	6 Cdn F.D.S.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 12 April 46 endorsed by me, (~~or by an offr of my staff I or us~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Lt.Col.	R.G.L. Parker, O.B.E., E.D.	CIC	3 Cdn Transit Camp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Lt.Col.	A. Dodds, E.D.	RCA	3 Cdn Transit Camp
Lt.Col.	E.L. de Pencier, E.D.	RCA	3 Cdn Transit Camp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	A.M. Ecclestone	3 Cdn Transit Camp

On Active Service in the Fd

in Holland (Country.)

T.J. Rutherford (Signed personally. RP 105 (n 2.)) Brigadier (Rank.)

Date 12 April 1946

(T.J.Rutherford)
Deputy Comdr, CFN
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA86 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

R.S.P.

17 Apr. 46.

This is to certify that I have, to-day, examined B164455 Pte. TOMLIN, J.A., and find him medically fit to undergo Trial by Court-Martial.

[illegible]
Captain (R.C.A.M.C.)

R.S.M.P.

16 Apr. 46.

This is to certify that I have, to-day, examined B164455 Pte. TOMLIN, J.A., and find him medically fit to undergo Trial by Court-Martial.

G. Chalstead
Captain (R.C.A.M.C.)

Comments of the Convening Authority.

1. After consideration of the proceedings of the case against Pte Tomlin in the light of the court's remarks, and after investigation, the following facts become apparent:-

(a) There appears to have been a miscarriage of justice against the accused in that he was held an inordinately long time (6 months) without being brought to trial.

(b) Preliminary investigation tends to show that the case was turned over for summary in the middle of January and the summary was taken 2 days later. By this time the two Provost witnesses who were essential to the case had already been repatriated.

(c) An advice was given at this time by Capt P.T.H. O'Neill to Lt-Col Payan, AA & QMG Cdn Army Staff Brussels, that if the witnesses were not returned here to establish the fact as to Tomlin being thedriver of the Veh in question, there was no case against the accused.

(d) This report was fwd to CAOF for their decision as Tomlin was a CAOF soldier. After a considerable period of time this was returned from CAOF for the taking of an additional summary without the two witnesses. At this time Cdn Army Staff Brussels was in the process of liquidation so the accused together with the docs were forwarded either to Nijmegen or CAOF. The accused was then after a few days returned to Cdn Army Staff Paris for their disposition.

(e) Lt Abbey, finally, was despatched from 3 Transit Camp Alverna, to take the additional summary after which the accused was returned to Paris to await trial.

(f) Two officers in this theatre appear to have some knowledge of these facts:-

Capt M.A. Cardinal, Cdn Army Staff Paris.

Capt P.T.H. O'Neill, Inquiry Sec HQ CFN

2. Recommendation. That a central convening authority be set up in North West Europe with power to delegate, and that all Units and Provost Detachments and Establishments having men in custody awaiting trial, summary of evidence or Court Martial be required to report weekly to such authority, all men in the above categories giving date of apprehension, reason for any delays and probable date of trial. If this is not possible due to conflicting Commands a similar return could well go to CMHQ, thus avoiding long delays due to change of venue, etc.

(T.J. Rutherford) Brig
Deputy Commander
Adm Sec HQ CFN

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B 164455 Pte TOMLIN J.A. 10 FDS (RCAMC) (RCASC) attached Cdn Army Staff Brussels, a soldier of the Cdn Army Overseas.

FIRST WITNESS: KLEYNHAERT Joseph, 21 Rue des Bognards, Brussels, having been duly sworn states:-

"I am Joseph KLEYNHAERT. We were coming back from the pictures with my brother-in-law, sister and wife. Arriving on Rue des Lombards, we saw an ambulance pass. We heard a noise like a bomb. As I thought there would be wounded inside I hurried to the place. I arrived at the car. I tried to talk to the Driver, but he seemed dazed, having not reply I went to the back of the ambulance. I opened the door and saw 3 or 4 women and some soldiers. Then my wife & brother-in-law and sister had arrived at the place. My wife shouted to me "Joseph, come here, there is a person squashed in front of the car." I went to the front and tried to pull him out. He was bleeding. I worked for 20 mins. to free him and the Belgian Police arrived and we were able to pull him out. We put him in a Belgian ambulance and he was taken away. I did not notice anything about the ambulance when it passed us. I did not recognise the chauffeur. He was a young man dressed in Khaki. There was no one else hurt that I saw near the ambulance except the youth. An American soldier helped me open the door of the ambulance. There might have been a woman with him."I swear that I saw 3 or 4 women in the ambulance."

(SGD) J. KLEYNHAERT.

SECOND WITNESS: DELETTREZ Aline, 66 Avenue Milcamps, Brussels, Belgium, having been duly sworn states:-

"I am Madame DELETTREZ. I went to eat in Anderlecht with my friends and we were going towards the Bourse to the "Enfer" on the rue de Midi and it is at that moment that the accident happened. The car was going zig-zag on the road and then went on the side walk against the wall. I was beside the car between the wall and the car. I swear I never was in the car."

Q. Did you see, after the accident, the driver of the car?

A. No.

(SGD) DELETTREZ

THIRD WITNESS: DELOIE Marguerite, 30 Rue Van Artevelde, Brussels, having been duly sworn states:-

"I am Madame DELOIE. I went to Anderlecht with two of my friends, in the latter half of the year, it is not long ago I was wounded. We went back to my place to eat and from there we went to a Cafe in the Rue des Marche aux

Herbes, "L'Enfer". We drank till 2200 -2215 hrs. We went out towards the rue de Midi and when on it about 2230 hrs a car came behind us. I was thrown over and had a cut on my head. I was unconscious and do not know whether it was a civilian or military car. I was drunk too. The car came from behind. I did not see the driver or anyone else struck by the car. I was never in the car."

(SGD) DELOIE Marguerite

FOURTH WITNESS: VAN KOETSEM, 34 Rue d'Andenne, St. Gilles, Brussels, having been duly sworn states:-

"I am VAN KOETSEM, Julien. At 2230 hrs about 2 months ago we were called to the Rue de Midi for an accident. Arriving there I saw a military ambulance on the side-walk against the wall and that there was a boy squashed between the wall and the car. We tried to take the boy but it was impossible. While the M.P.'s were trying to get the boy, I picked up a woman with two fractured bones. While I was putting the woman in the ambulance the other people got the boy free. We put the boy on the stretcher and brought him to the St. Pierre Hospital. He was alive, as he was breathing. I took him into the receiving froom where he was put on another stretcher. I did not see the driver. I saw a soldier leaning against the car."

(SGD) VAN KOETSEM

FIFTH WITNESS: B 157242 Driver MILKS R.C. 2 MAC (RCASC) CAOF, having been duly sworn states:-

"I am B 157242 Drv MILKS R.C. I was in Bruges on an authorised trip in an ambulance. The last three numbers I believe were CA...336, in company of Pte TOMLIN, who was spare driver. At approx 1600 hrs, 18th Oct 45 we arrived in Brussels. I dropped off a Capt and the transmission broke on the way in so I went to a REME Wasp to get a minor repair done. Some of the boys of my section had given me some belgian francs to get gifts so I stopped off at the shop. The accused was with me. We had supper. It was about 2000 hrs. We looked for a place to sleep as my lights were bad. An English soldier was going to take me to his barracks. He was to come back to the Cafe to get me. We went into the Cafe after demobilising the ambulance. I asked Pte TOMLIN to take the vehicle to a car park and that I would meet him at 0800 hrs. He was on leave so he could rest next morning. Pte TOMLIN was in full charge of the vehicle when I left. I mobilised the vehicle when I left. I was not in the ambulance or saw it after that that night. I left him approx 2200 hrs. I was sitting at a different table in the Cafe but he appeared sober when I left. The accused left the Cafe with me and when I mobilised he got in, as I walked away.

(SGD) R.C. MILKS.

SIXTH WITNESS: JADOUL Yvette, 11 Rue de L'Ecluse1er, Cogghe, Brussels, having been duly sworn states:-

"I am Yvette JADOUL. We went to Anderlecht to a family reunion. We left about 1900 hrs and went to a Cafe l"Enfer" where my other friend was. We went to supper at my friend's. We went for another friend and went through the Rue de Midi to take her home. I was in the middle of my two friends, one of them said "watch, there is a car coming". The car came from behind and my friend was thrown against the wall. I was thrown on the ground and had six fractured bones. I was unconscious so I do not know what happened afterwards until I was on a stretcher and taken in ambulance. I was never in the military car. I did not see the car coming. It was my companion who warned me about it."

(SGD) Yvette JADOUL

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give vidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to say anything now.

I certify that the foregoing Summary of Evidence consisting of 3 pages was taken before me in the presence of the accused and that R.P.4. (c), (d), (e) (f) and (g) have been complied with.

(SGD) P.T.H. O'NEILL Capt.
Legal Officer

SUPPLEMENTARY SUMMARY OF EVIDENCE

Supplementary Summary of Evidence in the case of B 104455 Pte John Arthur Tomlin, Royal Canadian Army Service Corps, attached to Canadian Military Staff Paris, a soldier of the Cdn Army Overseas.

Remanded on charge: AA Sec 40. Driving a vehicle under the influence of alcohol.
AA Sec 40. Negligent operation to become involved in an accident.

By direction of DAA & QMG, Paris, this Summary of Evidence is taken on oath.

Fifth one [redacted] WITNESS:- (Cont'd on

B 187242 Dvr. Milks, R.C., 2 MAC (RCASC), attached to 6 Cdn FDS, CAOF, having been duly sworn, states:-

"I am B 187242, Driver Milks, R.C., 2 MAC (RCASC), attached 6 FDS. On 17 Oct 45 I was despatched with my vehicle CA4244326 to Bruges. I was given a work ticket which I now submit as Exhibit "A" for the Prosecution and initialled by me for identification. Pte. Tomlin, whom I now recognize, was assigned as spare driver to Bruges and Brussels. At approximately 1600 hrs 18 Oct 45 we arrived in Brussels after getting repairs to the vehicle and having supper I started to look for a place to sleep. I had a conversation with an English soldier and as a result assumed that I could sleep at his barracks. I arranged to meet him at the cafe. Tomlin and I went into the cafe, but first I demobbed the vehicle. At about 2200 hrs the English soldier came in and we left the cafe. In Tomlin's company I went to the vehicle and placed in the high-tension lead and Tomlin started to get in the vehicle. As he was getting in I walked off."

The accused declines to cross-examine the witness.

(Sgd) Ralph E. Milks.

First one [redacted] WITNESS: (Cont'd on

KLEYNAERT, Joseph, 21 rue des Boguerds, Brussels, having been duly sworn, states:-

"I am Joseph KLEYNAERT. We were coming back from the pictures with my brother-in-law, sister, and wife. Arriving on rue des Lombards, we saw an ambulance pass. We heard a noise like a bomb. As I thought there would be wounded inside, I hurried to the place. I arrived at the car. I tried to talk to the driver, but he seemed dazed, and when he made no reply I went to the back of the ambulance. I opened the door and saw three or four women and some soldiers. Then my wife, brother-in-law, and sister had arrived at the place. My wife shouted and I went to the front of the vehicle and tried to pull a boy out from in the front of the vehicle. I worked for 20 minutes and finally the Belgian Police came and we freed him. We placed him in a Belgian ambulance and he was taken away. I did not notice anything about the ambulance when it passed us. I did not recognize the driver. I saw no other injured people near the ambulance."

The accused does not desire to cross-examine the witness.

(Sgd) Joseph Kleynnaert

Fourth ~~THIRD~~ (Cont'd) WITNESS: Julien Van ROSTEM, 34 Rue d'Andenne, St Gilles, Brussels.

A statement of the evidence of this witness purported to be signed by him has been read to the accused and is included in this Summary of Evidence. Owing to the expense and loss of time involved, the attendance of this witness at this Summary of Evidence is not, in my opinion, readily procurable.

The accused does not demand the attendance of this witness for cross-examination.

(Sgd) D.R. Abbey Lt
Officer detailed to take
Summary of Evidence.

Seventh ~~FOURTH~~ WITNESS: Dr Francois Howett, 66 Rue de la Source, St Gilles, Brussels.

A statement of the evidence of this witness purported to be signed by him has been read to the Accused and is included in this Summary of Evidence. Owing to the expense and loss of time involved, the attendance of this witness at this Summary of Evidence is not, in my opinion, readily procurable.

The accused does not demand the attendance of this witness for cross-examination.

(Sgd) D.R. Abbey Lt
Officer detailed to take
Summary of Evidence.

The accused was cautioned as follows:

"Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

I CERTIFY THAT the foregoing Summary of Evidence, consisting of four pages, was taken down by me in writing, in the hearing and presence of the Accused, and that RP 4(C),(D),(E),(F) and (G) have been complied with.

TAKEN by me on the 6th, 8th and 11th days of March, 1946.

(Sgd) D.R. Abbey Lt
Officer detailed to take
Summary of Evidence.

"I am, Julien VAN KOETSEM. At 2230 hrs 18 Oct 45, we were called to the Rue de Midi for an accident. Arriving there I saw a military ambulance on the sidewalk against the wall and there was a boy squashed between the wall and the car. We tried to get out the boy but it was impossible. While the M.Ps were trying to get the boy, I picked up a woman with two fractured bones. While I was putting the woman in the ambulance the other people got the boy free. We put the boy on the stretcher and brought him to the St Pierre Hospital. He was alive, as he was breathing. I took him into the receiving room where he was put on another stretcher. I did not see the driver. I saw a soldier leaning against the car.

(Sgd) Van Koetsem

Statement of Evidence of Julien Van Koetsem mentioned in the Summary.

(Sgd) D.R. Abbey Lt

NOTICE UNDER RP 75

Be hereby warned that the prosecution intends to call the following witnesses at your forthcoming court-martial. Their names and abstracts of their evidence are as follows:-

August SMIT, 16 rue de Belliart, Brussels, who will state that on a date after 18 Oct 45 he became aware of the accident involving his son and that he identified the body of his son Raymond SMIT.

Major H.P. RANDALL, Officer Commanding, 4 GTW, REME, BAOR, who will state that his unit performed repairs to CA244336 to the extent of £10-5-0.

Mr. Pierre CAUSSAIN, Vill "De-Mi-Sol", Coxyde, Belgium, who will state that on 18 Oct 45 at 2237 hrs he left Caserne de Bruxelles, pl du Jeu de Balle, 52, with a recovery squad and that at the front of 62 rue de Midi he saw a vehicle bearing the number CA244336.

Notice served by me this 12 day of March 1946.

(D.R. Abbey) Lieut.

Certified that I have received the above notice.

(J.A. Tomlin)

Hopital Saint-Pierre
322, r. Haute
BRUXELLES

I, the undersigned, Dr. Howet, Francois, 66 rue de la Source, Bruxelles, certify that Mr. RAYMOND [illegible] who was admitted to the hospital at 2245 hrs 16 Oct 1945, died the same date at 2200 hrs.

(signed) F. Howet
Bruxelles, 8 Mar 1946

Translation

Certified true translation of the original.

S. Garnier

LIST OF WITNESSES

in the case of B.164455 Pte. J.A. Tomlin

1. Joseph KLEYNHANS, 21 rue des Bogards, Brussels.
2. Alice DELMOTTE, 66 Avenue Milcamps, Brussels.
3. Marguerite DELOIE, 30 rue van Artevelde, Brussels.
4. Julien Van HOUTTEN, 34 rue d'Andenne, St. Gilles, Brussels.
5. B.197868, Pvr. HILKS, H.C., 2 MAC (RCASC) att 6 FDS, CAOF.
6. Yvette JADOT, 11 rue de l'Eclusier, Cogghe, Brussels.
7. Dr. Francois Howett, 66 rue de la Source, St. Gilles, Brussels.
8. Dr. Smit, 16 rue de Belfort, Brussels.

LIST OF EXHIBITS

in the case of B.164455 Pte. J.A. Tomlin

(for the Prosecution)

(a) A Transport Work Ticket issued by No. 2 MAC (RCASC) to cover C/4264336 during the month of October 45.

(for the Defense)

NONE

CERTIFICATE OF ACCUSED

I, B.164455, Pte. J.A. Tomlin, hereby acknowledge that I have received free of charge a copy of the Summary of Evidence and the Supplementary Summary of Evidence with a charge sheet therein.

I also request that Major F.A. WILLIAMSON, if he is available, be appointed to act as Defending Officer at my forthcoming court-martial.

J.A. Tomlin

(B.164455, Pte. Tomlin, J.A.)

F. G. C. M.

B16455 Pte. John Arthur Towlson 16 April 46

Pleas. (1) Not Guilty
(2) Not Guilty
(3) Not Guilty.

Prosecution

1st Witness

M. Joseph Klaymaert 21 Rue aux Boyaudes Brussels, having been duly sworn states;

I was coming back from the cinema one evening with my wife, my brother in law and myself. When we arrived at Longue St. we saw on our left from the Croix Rouge, shortly after the patrol passed us we heard a disque noise of the lorry coming into a buisson at 2 Rue au Marais. As I reached it was a Red cross I turned to help in a course At that I turned to the owners wife, I wanted to speak to the owner but he could not answer, I then thought he was unconscious. Again I was not getting any answer I went to the back and opened the door and the help of a canadian Engish or American. As I opened the door I then saw some women with nurses, they as I entered my car, I did not realise how many there were

During this time as I was looking at the boat my wife and brother-in-law had reached the car and they found a man who was caught between the wall and the mechanism. He was caught between the rubber and the [illegible] opening, his two legs were caught between the motor and mudguard and he had fainted back.

My wife then called me and asked me to come and help get this man. It was about 15 - 20 minutes to get the man out of the position upon the Belgian police arrived on the spot. Whilst the help of the Belgian Police was necessary to get him out. The Belgian Red Cross came along with the police and put him on the Red Cross car. That is all I can say.

I say this during (remainder the evidence) because I have seen how some persons he was then to my home & [illegible] I received will know.

Cross Examination

The accident happened around 10 pm at night. Before the car there were lights but now it is rather broken

I could see by the light in the back of the ambulance.

The driver was at the wheel. I thought he had fainted

It was perhaps a minute or less until I reached the accident [illegible] the crash, it happened 100 meters away from me

The coroner came to my home twice on visit the Murray Tubbs
it come to my mind and I thought to my self it must be the coroner.
Apart from my conversation with the M.P.
I wondered not this he was the coroner - he was too serious to pay any attention to wife woes of the subject.

It was a very large audience. I did not try it was a Canada Red Cross car but found out later it was Con. I wondered not know the ~~difference~~ between Con. Coroner Explain.

Someway, the Police came it was a Con Con and a Con Champion. The one enemy one Con. M.P. come visit the Burgeon Police and he treat me it was a Con. Inquiry measure.

Mr Ra Inquiry.

J.D. I had the trust of the crown. It was about 5 months ago. I could find out if we not remember the point of the gun. It was ~~remember~~ before) Mrs Jones I never pay attention to wife.
The first time I meet the Coroner was the night wife of Rose ~~and~~ Mrs Jones going to manor Hope and Mrs I and not the coroner, I know the name. The Coroner was on the pavement or roadside. We had to push back. The ambulance to get out the body. The ambulance pass against the wall of a large house

Brick walls of the front of the house were damaged. There was a hole on the right hand and left wall and the front wall was also damaged.

It was going at a normal speed perhaps 30 kilometres an hour.

By the Court

They took me over to the Police, the Police Burgo and Com Police. As I was making my movement these women came in the police took me by which the three guns in the ammunitions, They had been to the hospital

I kept the bread which I was working as my wife ordered me to help at the front. I do not know what happened to the people in the road.

The road is straight at that point.

R.P. 83 (13) Compared with

Seven Witness.

Julien Van Kerkem 34 Rue d'Ardenne St. Gilles Brussels Driving Ambulance

I am a driver and person for Brussels I was not a witness to the accident I was called with my ambulance to get the person who had the accident. On I arrived on the spot I observed there was no accident on any vehicle.

There was a vehicle on the pavement against the wall There was a fighting was caught between the vehicle and

The wound. We came to get the young man out but I was very surprised to see a wound on the back of a girl who had been hurt

As I was looking after a girl who had been hurt the Burmese police were looking after the wounded. We got the two wounded in the ~~transport~~ one proceeded to St Peters Hospital. As I enquired at St Peters Hospital the night staff took over both victims.

I do not see any way I can help the right of the accused.

Cross Examination

The young man was put in the ambulance was alive when was put him in the ambulance

Judge observation

I took two person in the ambulance. One of them was the young man who called the other was the young lady whose name Jone, the young lady is now staying me in the house today.

The young man I took to the hospital is the one from the front of the vehicle we had the aggressive with.

It was in action on the 18th at 22.30 hrs.

The ambulance was along the wagon the front of the ambulance was against the wagon.

I received not know at only what I know
one part of the notice was on the pavement.
The pavement is where proper work. It is
appox making two metres wide.
I do not time but I believe the pavement
was dry that night.
It was dark at the scene of the accident.
The road is straight.

By the Court.
It was an ambulance machine. On
making enquiries. I did not pay attention
to the county of the ambulance.
I found the gun in the boot of the
ambulance.

R.P.S.3(B) complied with.

Third Witness.
Dr. Francois Hamelet 65 Rue de la
Source ST. Fils 13 Jours having
been duly sworn States;
I am a practising doctor in Avignon.
My own records are taken regular
All I remark is from what I was
from the ground. It is in relation to
a man who was a few months ago
Common. It was Avignon. I could
look at my records. There is no
case history of the accident.

No Cross Examination

George Edwards
I am a orderly from St Pauls
Hospital. The hospital has records of the
powers received.
The orderly ~~[illegible]~~ stamps the powers
but ~~[illegible]~~ of the powers arrive. There is
only a report made that the man has
made this requisition but a report may
be made out a few days. I know the
record about 2 months ago. All these
men is on record of an man brought
in at 11.15 one was at 1110 approx.
Court Appeal ~~to answer questions~~ to give the
~~[illegible]~~. I do not know his name.

By the Court.
I know the number of the man
who arrived. I do not know the exact.
There is a post mortem examination of
the genital normally but I do not know
if one was done in this case. We have
an man for an autopsy on the room
then the body ships in case unclaimed
one examines responsibility.

R.P.83 (a) complied with.

Louis Wiener
Mr. Joseph Smit is Rue Bellevue Brussels.
having had any known claims.
I do not know anything about the document
he was here after the departure of the

Longford, he was dead. It was St Peters Longford.

Court Martial - cont

J. A. - He was going to be 18 on 15th Jan. 46. It was 19 August he saw him about one o'clock in the following day. He was in proper health before the accident. He was in proper health after the accident. I saw him the same evening. I was present when he was buried. His name was Raymond Smit.

R.P. 83(D) Complaint sent.

7th Marines

Mrs Margaret Davis 30 Rue Van Ouwaine Brussels, having been duly sworn states,

she went to Antwerp to visit some friends of mine. It was a Tuesday. We drank and had a good time. Slept on the divan. Then I went to my home with my two friends and took something to eat. When we finished our meal we went out again to another cafe on Rue de Moulin Quy Herbes. The "Trois". From there we left about 10.30 and were walking along Rue de Midi when the accident occurred. I was then hit by a car and thrown against the wall when it hit my head and was put unconscious. That is all I

Con ny. I do not know if it was
or nothing for or Counsel for.
I saw at the hospital or Doctor
Ouo or Dorcas. I answered not
recognise the Dorcas

No Cross Examination.

Judge Ochocinco.
I have not called anything for
the accused. I am not working as a
Cord sworn and the accused, my husband
is supporting me.

By the Court
I do not know the date, I
know only that it was the last 7
last year. The accused testified
on Tues or Wed.
My name is Mwenya and
I was working on the payment I
was in my car that evening.

R.P. 88 (B) Complete until
Left Witness
Milley write Jerome. Ran as to Felonies
Burnes, having been duly sworn stated;
We went to Ouchenell we plan
until we had some drinks, My
the come told us the home to
have something to eat. Then we
went to a cafe called Hope to
pick up chicken things my friend had

kept behind. Then the three of us left together. We walked along Rue des Saints Pères looking for another place to eat but not sure where.

As I was walking I felt something coming from behind. I do not know what it was, it could [illegible] but, my hand was at my side.

We were there on the sidewalk walking together, my friend near me to be certain that is something coming. When he got back my senses it was already too late. One thing one was gone I believe it happened for a second I regained consciousness after words open I was a little drain from where the accident took place. I was on a stretcher. I remember not know the street the station was near the bar where the accident took place on the sidewalk.

Concierge name was Mary Louise known as Maggie, the other was Odette I know the waiter were work upon. I remember not know the word.

No Cross Examination

J.R. Maguire Direct The girl was was in this room before me was with me one another friend girl was there

By the Court:

I was taken to the hospital

but was not used to stop. The ambulance took me to the hospital. I went to the hospital where on the other two ~~beds~~ were gone. They took my name at the hospital. In the ambulance went was The Padre in a white cap who had been at the scene of the accident R.T.S.(C) Corporal unit

At 1630 hrs 16 April 46 Court adjourns until 1000 hrs 17 April 46.

At 1030 hrs 17 April 46 Court reopens. Same members and J.A. present
Prosecution presents a revised charge sheet showing accused fit to undergo trial.

Aenrich Witness
B 157 242 Dr. Mikes R.C. L.M.A.C. R.C.A.S
having been duly sworn states;

On a certain day in October of last year I forget the date I was detailed from Chapman camp in Germany to go to Bruges with Burnes with The Women on your charges. I recognize the accused as The Women when we arrived in Bruges I dropped off a Captain at the officers club took certain exhibits filed on my charges and had supper and after supper was procured to find a place to sleep. I met up with an Englishman who took me and I came to stay at ST. Johns Barracks

Ord he wounded could for me at this cafe on
Hill which Hotel, I observed the vehicle
by having the high tension wire cut over which
which Pte Tomkins, an Irish Englishman
returned over passed me up. He went
out of the cafe with Pte Tomkins part the
high tension wire took in when we were
the cafe I ordered Pte Tomkins to
take the Vehicle to the vehicle park
could be found be wounded. After I
moved the vehicle and as Pte Tomkin
was getting in I walked away.
I left Pte Tomkin at appro at 10.00 pm.
Pte Tomkin was in charge of the vehicle

Prosecution presents a wire Hotel which
Witness recognises as wire Hotel for
the vehicle. Exhibit "A"

Mc Cann Prosecution.

J.A.

I saw the vehicle a week after
it was in an Egypt Area. Witness
They wanted me to see the
vehicle I could not see anything
wrong with the vehicle. It was in
the same condition as when I left
it. I did not see the front of it.
It was a Ford Ambulance.

By the Court.

It was possibly a week later
I saw the vehicle. It was 40 miles

Pte Tomlin next morning. Pte Tomlin was not there at OP. 30 he reported until 0400 hrs. he went to the Provost. Hqs. & stayed in Bunnies for approx 14 days. When he went to Provost Hqs a enquiry Pte Tomlin was under close arrest.

he might row Pte Tomlin from on the day's ~~eyes~~ the right he was taken away escort because my work team was not needed out with Bunnies. Pte Tomlin was under arrest in a car.

he was taking a message ~~note~~ to Burgomaster ~~or~~ received ~~from~~ to Bunnies. We had a few arguments on the way down. We ate again in Burgos We had nothing now than eggs. Often witnessing the received ~~from~~ is ~~unused~~ to have a good night rest and ~~and~~ ~~from~~ the following day.

We were told there was a vehicle park and where it was. he was to meet Pte Tomlin there the following morning.

he had not been in Bunnies before he didn't remember whether the streets were dry or slippery. Pte Tomlin was going to go some place else. The ~~arguments~~ was a ~~brothel~~ type Ford ~~arguments~~ he didn't know the name of the cafe or the street.

R.P 83 (B) compiled unit.

Prosecution is closed. Defense does not
require other witnesses in summary.

Defense submits That no prima facie
case has been made out on all charges.

Argument of Defending Officer Appt I

Prosecution does not oppose.

A. M. Emerson Major.

SUBMISSION

at close of case for the Prosecution

Pte. Temlin J.A.

Sir: It is respectfully submitted that the evidence which has been produced to the Court is not sufficient to establish a prima facie case on any of the charges against the accused.

The only evidence before the Court that the accused had any dealings with any ambulance on the night of 18 Oct 45 is that of the witness, Dvr. Milks. His evidence is merely to the effect that the accused agreed to take an ambulance to the car park. There is no evidence whatsoever, as to what happened to that particular vehicle after Dvr. Milks left the accused.

With respect to the first charge the evidence is to the effect that an ambulance had an accident and that a young man was injured. There is no evidence as to who this man was and there is no evidence as to whether or not he died as a result of being struck by the ambulance. When he was placed in a Belgian vehicle to be taken to the hospital he was alive. Further there is no evidence to establish the identity of the vehicle which was involved and not one witness called by the prosecution could assist in any way to establish the identity of the driver.

The second and third charges have not been established as no evidence has been produced to indicate that the ambulance which the accused was to take to a car park, did not in fact reach a car park, but was involved in an accident. There is no evidence whatsoever that the vehicle, numbered as in the charge sheet, sustained any damage.

For these reasons, Gentlemen, I submit that the charges fail and the accused must be found Not Guilty on all charges.

[signature] Capt.

Army Form G 3518 (Revised 1942)

TRANSPORT WORK TICKET

TO BE COMPLETED IN INK WHENEVER PRACTICABLE

Exhibit "A" to Enclosure No. 4 "A" RSCD

Smith 1 ANo 9336

MAKE OF VEHICLE: FORD | YEAR: AMB | UNIT: H&S MAC R.C.A.S.C. | SECTION: F | DRIVER'S NAME: Pte Milks, RC | CA43-41,336 | MONTH & YEAR: Oct 45

DATE	FOR WHOM JOURNEY IS PERFORMED	DETAILS OF LOAD	ROUTE From	ROUTE To	ROUTE Via	SIGNATURE OF PERSON AUTHORIZING JOURNEY	LUBRICATING OILS Type	LUBRICATING OILS Pints	FUEL GALLONS At start	FUEL GALLONS Drawn At	FUEL GALLONS Total	FUEL GALLONS Used	TIME Out	TIME In	SPEEDOMETER In	SPEEDOMETER Run	SPEEDOMETER Day
			Brought forward from Work Ticket No.												720		
7	2 MAC	Ops	Coy Lines	Aurich	Leer			6	24	24	24	26	1800	0345	865	145	145
8	2 MAC	Ops	Coy Lines	Cloppenburg	Oldenburg			1 pt	24	4½	24	4½	1300	1420	877	29	29
9	10 F.D.S.	Patients	Cloppenburg	[illegible]	Return			1 pt	24	18	24	18	1010	1600	909	115	115
10	Unit	Patients	Cloppenburg	Aurich	Return			1 pt	24	7½	24	7½	1300	1630	930	21	21
12	2 MAC.	O.P.S.	10 F.D.S.	7 C.B.H.	RETURN			1 pt	24	18	24	18	0645	1700	148	118	118
14	2 MAC.	O.P.S.	10 F.D.S.	Air Ort	Return				24			Cancelled					
14	10 F.D.S.	Patients	Cloppenburg	Air Port	Return			1	24	4½	18	18	0630	1900	169	21	21
15	10 F.D.S.	W/Ship	10 FDS	Oldenburg	Return			3	18	12	14	16	0920	1900	326	158	158
~~16~~	~~10 F.D.S.~~	~~Cloppenburg~~	~~10 F.D.S.~~														
16	10 F.D.S.	O.P.S.	10 F.D.S.	Cloppenburg	Return			1	14	10	24	—	1020	1115	328	2	2

M.P.G. for week ..... or total carried over .....

DATE	JOB NUMBER OR NATURE OF SERVICE PERFORMED	DETAILS OF LOAD	ROUTE	SIGNATURE OF PERSON AUTHORIZING TOBACCO	TOBACCO FUND OILS	FUEL GALLONS	TIME	SPEEDOMETER
1964	Ctr's FDS	Patent	Lexington Bourbon Petros	H.P. Wesley & Co		This is exhibit "A" referred to in the Summary of Evidence of Wm Stanley Flake Summary of Evidence		

M.P.H. for week ... of total carried to Work Ticket No. ...

LINE	SPECIAL INSTRUCTIONS TO DRIVER	DATE	DRIVER'S REPORT OF BREAKDOWNS, ACCIDENTS AND DEFECTS	SIGNATURE OF DRIVER	COUNTERSIGNATURE
				R.C. Milk	W Daniels Sgt

Summary of evidence in the case of B164455 Pte Tomlin J. A. 10 FDS (RCAMC) (RCASC) attached Can Army Staff Brussels a soldier of the Can Army overseas.

First Witness — Kleynaert Joseph, Rue des Bogards 21, Brussels, having been duly sworn states:— I am Joseph Kleynaert, We were coming ~~back~~ from the pictures with my brother in ~~law~~, Sister & Wife, ~~Com~~ arrived on Rue des Lombards We saw an ambulance pass we heard a noise like a bomb as I thought there would be wounded inside I hurried to the place. I arrived at the car. I tried to talk to the driver but he seemed dazed, having no reply I went to the back of the amb. I opened the door & saw 3 or four women & some soldiers

Then my wife & brother in law & sister had arrived at the place My wife shouted to me "Joseph come here there is a person squashed in front of the cart" went to the front & tried to pull him out He was bleeding I worked for 20 mins & freed him & the belgian police arrived & we were able to pull him out We put him in Belgian Ambulance & he was taken away I did not notice anything about the ambulance when it passed ~~He~~ us ~~He left~~ the chauffer ~~I did~~ not recognise He was a young man dressed in khaki

There was no one else hurt that I saw near the ambulance except the youth An american soldier helped me open the door of the ambulance there might have been a woman with him

Yours

1.B

I swear that I saw 3 or 4 women in the ambulance.

W Gross

2nd witness – Deletrez, Aline Ave Milamps 66, Brussels Belgium Lawyer
Been duly sworn states,

I am Madame Deletrez, I was sat on Anderlecht with my friends & we were going towards the Bois & the "Cafe" on the Rue de Midi & it is at that moment that the accident happened.
The car was going zig zag on the road & then went on the side walk against the wall. I was beside the car between the wall & the car. I swear I never was the car.

Q1. Did you see after the accident the driver of the car?

A No.

A Deletrez

III

2d witness - DeLoie, Marguerite, Rue Van Artvelde 30, Brussels having been duly sworn states:-

I am Madame Deloie, I went to Andelaect with two of my friends, in the latter half of the year it is not long ago I was wounded, we went back to my place to eat from there we went to a cafe in Rue Des Woodes des Herbes, "L'enfer" we drank ~~the~~ till 2000 - 2215 hrs. we went out towards the Rue de Ukle & when on it about 2230 a car came ~~behind~~ behind us. I was thrown over & had a cut on my head. I was unconscious & do not know whether it was a civilian or military car. I was alone too. The car came from behind. I did not see the driver or anyone else back by the car I was never in the car.

Deloie Marguerite

4th Witness Van Koetsem, 34 Rue D'Andenne, St Gilles Brussels having been duly sworn States.

I am Van Koetsem Julien, at 223 about 2 months ago, We were called to Rue de Waterloo on accident, arriving there I saw a military ambulance, on the side walk against the wall & that there was a boy squashed between the wall & the car. We tried & take the boy but it was impossible while the M. Ps were trying to get the boy I picked up a woman with two fractured bones. While I was putting the woman in the ambulance the other people got the boy free & we put the boy on the stretcher & brought him to the St Pierre hospital, He was alive as he was breathing. I took him into the

receiving room where he was put on another stretcher. I did not see the driver, I saw a soldier leaning against the car.

Rodden Jr

V th Witness — B157242 Dvr Milks, R.C. 2 MAC (R Corps) CAOF. having been duly sworn states:—

I am B157242 Dvr Milks R.C, I was in Bruges on an authorised trip in Ambulance last three no's I believe was CA--- 336 in company with Pte Lomlin, who was spare driver. At approx 1600 hrs 18 Oct 45 we arrived in Brussels I dropped off a Capt. & the transmission broke on the wagon so I went to a R.E.M.E. Wksp. to get it minor repair done. Some of the boys of my section had given me some Belg. Fr. & got pissed & I slept off at the shop the accused was with me. We left supper it was about 2000 hrs

We looked for a place to sleep as my lights were bad. An English Soldier was going to take me to his barrack & he was to come back to the cafe to get me. We went in to the cafe & on coming out the ambulance I asked Pte Lowlin to take the veh to a car park and that I would meet him at 1800 hrs. He was on leave so he could rest next morning. Pte Lowlin was in full charge of the veh when I left. I mobilised the veh when I left. I was not in the amb or saw it after that, that night. I left him approx 2200 hrs. During the I was sitting at a different table in the cafe but he appeared sober when I left. The accused left the cafe with me & when I mobilised he got in, so I walked away.

D Wilks

VII

VI Witness Sadoul, Yvette, 11 Rue de L'Ecluse
Coyghe, Brussel having been duly-sworn
states:

I an Yvette Sadoul, we went to
Anderlaecht to a family reunion we left
about 1900 hrs we went to a cafe "Enfer" to see my
other friend was. We went to supper at
my friends. We went for another friend
I went through the Rue de Made to take
her home. I was in the middle of my
two friends one of them said Watch there
is a car coming. The car came
from behind & my friend was thrown
against the wall. I was thrown on
the ground & had six fractured bones. I
was unconcious so I dont know what
happened afterwards until I was on
a stretcher & taken in ambulance.

VIII

I was near in the military car. I did not see the car coming it was my companion who ~~told~~ warned me about it

yrs Jdane

IX

Usual Caution

No Statement by accused.

No witnesses

I certify that the foregoing Summary of evidence consisting of 9 pages was taken before me in the presence of the accused & that R.R. 4(c)(D)(E)(F) & (G) have been complied with.

R. H. Hallett Capt.

Supplementary Summary of Evidence

In the case of B-164755 Pte John Arthur Tomlin, ~~R Can Mot Ambulance Coy~~ 2nd Royal Canadian Army Service Corps, attached to Canadian Military Staff, Paris, a soldier of the Canadian Army Overseas.

Remanded on charge: AA Sec 40. Driving a vehicle under the influence of alcohol. AA Sec 40 Negligent operation to become involved in an accident.

By Direction of DAAG AMG, Paris, this Summary of Evidence is taken on oath.

Fifth ~~Prosecution~~ Witness 6th ~~Pte~~ (Cpl) attached to 6 Coln FDS, CAOF, having been duly sworn states:

B-157242 Driver Milks, R.C., 2 MAC (RCASC)

I am, B 157242 Driver MILKS, R.C. 2 MAC (RCASC), attached 6 FDS, ~~Bde~~. On the 17 October 45 I was despatched with my vehicle CA 4244336 to Bruges. I was given a work-ticket which I now submit as Exhibit 'A' for the Prosecution and initialled by me for identification. Pte Tomlin, whom I now accuse, was assigned as spare driver to Bruges and Brussels. ~~when~~ At ~~0700~~ approximately 1600 hrs 18 Oct 45 we arrived in Brussels after getting repairs to the vehicle and having supper I started to look for a place to sleep.

I had a conversation with an English soldier and as a result assumed that I could sleep at his barracks. I arranged to meet him at the café. Tomlin and I went into the cafe, but first I demobbed the vehicle. At about 2200 hrs the English soldier came in and we left the cafe. In Tomlins company I went to vehicle and placed in the high-tension lead and Tomlin started to ~~Dr~~.

got in the vehicle boy 2 as he was getting in I walked off

The accused declines to cross-examine the witness.

Joseph C. Milz

First Witness KLEYNAERT Joseph, 24 Rue des Bogards,
Cont'd Brussels, having been duly sworn states:

I am Joseph KLEYNNAERT. We were coming back from the pictures with my brother-in-law, sisters and wife. Arriving Rue des pompards, we saw an ambulance pass. We heard a noise like a bomb. As I thought there would be wounded inside I hurried to the place. I arrived at the cars I tried to talk to the driver, but he seemed dazed, and when he made no reply I went to the back of the ambulance. I opened the door and saw 3 or 4 women and some soldiers. Then my wife, brother-in-law, and sister had arrived at the place. My wife shouted and I went to the front of the vehicle and tried to pull a boy out from in the front of the vehicle. I worked for 20 mins and finally the Belgian Police came and we freed him. We placed him in a Belgian ambulance and he was taken away. I did not notice anything about the ambulance when it passed us. I did not recognize the driver. I saw no other injured people near the ambulance.

The accused does not desire to cross-examine the witness

Kleynaert

Fourth Witness — Julien Van HOETSEM, 34 Rue d'Ardenne
Court'd — St Gilles, Brussells

A statement of the evidence of this witness purpoted to be signed by him has been read to the accused and is included in this Summary of Evidence. Owing to the expense and loss of time involved the attendance of this witness at this Summary of Evidence is not, in my opinion, readily procurable

The accused does not demand the attendance of this witness for cross-examination

D R Abbey Lieut
Offrs detailed to take Summary of Evidence

Seventh Witness — Dr Francois Howett, 66 Rue de la Source, St Gilles Brussels

A statement of the evidence of this witness purported to be signed by him has been read to the accused and is included in this Summary of Evidence. Owing to the expense and loss of time involved the attendance of this witness at this Summary of Evidence is not, in my opinion, readily procurable

The accused does not demand the attendance of this witness for cross-examination.

D R Abbey Lieut
Offrs detailed to take Summary of Evidence

The accused was cautioned as follows:

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in writing in the hearing and presence of the accused and that R.P. 4(c)(d), (e), (f), and (g) have been complied with.

Taken by me on the 6th, 8, and 11th days of March, 1946.

D.R. Abbey
Officer detailed to take
Summary of Evidence.

I am, Julien VAN KOETSEM. At 2230hrs
18 Oct 75 ~~about 4 months ago~~, we were called to the
Rue de Midi for an accident, Arriving there I
saw a military ambulance on the sidewalk against
the wall and there was a boy squashed between
the wall and the car. We tried to get out
the boy but it was impossible. While the M.P.'s
were trying to get the boy, I picked up a woman
with two fractured bones. While I was putting the
woman in the ambulance the other people got the
boy free. We put the boy on the stretcher and
brought him to the St Pierre Hospital.
He was alive, as he was breathing. I took
him into the reciving room where he was put
on an other stretcher. I did not see the lower
X. I saw a soldier leaning against the car.

Van Koetsem J

Statement of Evidence of
Julien Van Koetsem mentioned in the
Annexure

Rabbeyns

Hôpital Saint-Pierre — **Sint-Pieters Hospitaal**

322, r. Haute, BRUXELLES — BRUSSEL, 322, Hoogstraat

SERVICE
DIENST

Consultations Gratuites pour indigents tous les jours de 8 à 9 heures du matin.

Kostelooze Raadpiegingen voor behoeftigen, alle dagen, van 8 tot 9 uur 's morgen.

Je Soussigné Dr Howet François
56, rue de la Source
Bruxelles déclare avoir constaté
le décès de Raymond Smits
le 18-6-1945 à 22.50
lequel a été amené à la
morgue à 22.45.

Bruxelles le 8-3-1946.

Statement of Evidence of
Dr François Howet mentioned in the
Summary
Maddy

Hopital Saint-Pierre
322, r. Haute
BRUXELLES.

I, the under-signed, Dr Howet, Francois, 66 rue de la Source, Bruxelles, certify that Mr RAYMOND SMITS who was admitted to the hospital at 2245 hrs 18 Oct 1943, died the same date at 2350 hrs.

(Signed) F. Howet
Bruxelles, 8 Mar 1946.

Translation

Certified true translation of the original.

S. Garnier.

RHP

NOTICE UNDER RP 76

Be hereby warned that the prosecution intends to call the following witnesses at your forthcoming court-martial. Their names and abstracts of their evidence are as follows:-

August SMIT, 16 rue de Belliart, Brussels, who will state that on a date after 16 Oct 45 he became aware of the accident involving his son and that he identified the body of his son Raymond SMIT.

Major E.P. RANDALL, Officer Commanding, 4 GTW, REME, BAOR, who will state that his unit performed repairs to CA244336 to the extent of £10-8-0.

Mr. Pierre CAUSSAIN, Vill "Do-Mi-Sol", Coxyde, Belgium, who will state that on 16 Oct 45 at 2237 hrs he left Caserne de Bruxelles, pl du Jeu de Balle, 52, with a recovery squad and that at the front of 82 rue de Midi he saw a vehicle bearing the number CA244336.

Notice served by me this 12 day of March 1946.

(D.R. Abbey) Lieut.

Certified that I have received the above notice.

J.A. Tomlin

(J.A. Tomlin)

RSLP

LIST OF WITNESSES

in the case of B.164455 Pte. J.A. Tomlin

1. Joseph KLEYNAERT, 21 rue des Bogards, Brussels.
2. Aline DELLEPTREZ, 66 Avenue Milcamps, Brussels.
3. Marguerite DELOIE, 30 rue van Artwelde, Brussels.
4. Julien Van KOETSEM, 34 rue d'Andenne, St. Gilles, Brussels.
5. B.157348, Dvr. MILNE, R.C., 2 MAC (RCASC) att 6 FDS, CADF.
6. Yvette JADOUL, 11 rue de l'Ecluse1en, Cogghe, Brussels.
7. Dr. Francois Howett, 66 rue de la Source, St. Gilles, Brussels.

LIST OF EXHIBITS

in the case of B.164455 Pte. J.A. Tomlin

(for the Prosecution)

(a) A Transport Work Ticket issued by No. 2 MAC (RCASC) to cover CA4244336 during the month of October 44.

(For the Defense)

none

CERTIFICATE OF ACCUSED

I, B.164455, Pte. J.A. Tomlin, hereby acknowledge that I have received free of charge a copy of the Summary of Evidence and the Supplementary Summary of Evidence with charge sheet therein.

I also request that CAPT PTHOMAS [redacted] if he is available, be appointed to act as Defending Officer at my forthcoming court-martial.

J. A. Tomlin

(B.164455, Pte. Tomlin, J.A.)

To the Convening Officer.

Remarks by the Court.

The case broke down due to insufficient evidence.

Canadian provost and other military personnel who, according to the evidence, were on the scene almost immediately, since that time (6 months ago) have been repatriated, and ~~the~~ it could NOT be established that the accused was driving the veh at the time of the accident nor that the veh mentioned was involved in the accident.

The court notes, with considerable concern, that the accused has spent 6 months in custody.

R S L Parker
Lt Col
President.

17 Apr. 46.

YYY-73

Gen. Tomlin NW.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L 10228 Gnr. Norman William Tomlin

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Guilty	Special finding of being improperly in possession of 1 Pair Trousers, fatigue only being public property.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 40 days, of which 11 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of 60 days.

(Sgd) ~~Judge Advocate, if any~~ 1 Sep 1944 (Sgd) [illegible] Major
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) GWM
(1. AA 57A. Delete if not used.)

(Sgd) G.W.H. Stanley Brig.

Date 4 Sep 44 Commanding COMMANDER 1 CDN BASE SUB-AREA

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L 10228 Gnr. Tomlin N.W.	7 Sept 44	[illegible] Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CF A96 (To Beg of AF A31) 45-P & B-1808 (10000) 4/38B

RECEIVED 6 OCT 1944 JAG BRANCH CMHQ

Convened by Order of S.A.Bde Col ..... Comd 1 Cdn Line of Comm Bde dated 4 Aug 1944

ACCUSED.

(For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 10228	Gnr	Norman William	Tomlin	6 Bn 2 C.B.R.D.

PROCEEDINGS REVIEWED 6 Oct 44 [illegible]
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 1 Sep. 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0955 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R.J.B. Corbett (RCA)	6 Bn 2 C.B.R.D.
Member	Capt.	J.W. Dowle (RCA)	6 Bn 2 C.B.R.D.
Member	Capt	J.L. Beesley (RCA)	6 Bn 2 C.B.R.D.
~~Judge Advocate~~			
Prosecutor	Lieut.	N.P. Forget (RCA)	6 Bn 2 C.B.R.D.
Defending Offr	Lieut.	J.N. Chapman (RCA)	6 Bn 2 C.B.R.D.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. ~~The accused ..... before arraignment, make(s) (no) (a) plea.~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. N.D.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Accused wishes to give evidence as a witness Do you intend to call witnesses on your behalf ? Ans. NO. ~~Are they witnesses as to character only ? Ans.....~~
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AFS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces ~~the finding(s), if any, of Not Guilty, and states~~ to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)~~ Ans. ~~Nil~~
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) (~~nil~~) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(2)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NO.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1d), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, L.10228, Gnr. Norman William TOMLIN, a soldier of the Canadian Army Overseas, on the strength of 6 Canadian Base Reinforcement Battalion, 2 CBRD, is charged with

FIRST CHARGE
A.A. Sec. 40

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field in ITALY, at or about 1045 hrs, 23 July 44, was improperly in possession of

2 Pairs Boots, ankle
1 Pair Shoes, canvas
1 Sweater, pullover
1 Pair Trousers, fatigue

being public property.

In the Field,
1 Aug 44.

[signature] Lt.Col.,
(E.W. Stewart-Jones),
Commanding Officer,
6 Cdn Base Rft Bn - 2 CBRD.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
4 Aug 44

[signature]
DAA & Q.M.G.
(S. A. LEE) Colonel
T/Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L10228	Gnr		Norman William	TOMLIN	6 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Aug 46 endorsed ~~by me, (or~~ by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F J B COMERY (RCA)	6 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 6 Bn 2 CBRD		
" " " " " " " " " "		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 6 Bn 2 CBRD		

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.) (Signed personally, RP 106 (n 2).) Colonel (Rank.)

(D. S. I.G.)

Date 6 Aug 46 A/Commanding 1 Cdn Base Rft Gp = CRE Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAIS (To Ilen of AFA3) 40-7 & 8/1697 (4631)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(K.R. (Can) para 557)

I certify that I have this morning examined L-10228 Gnr. TOMLIN, R.W. D/1 Draft of 6 Cdn Base Rft Bn, 2 CBRD, and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station - Field

Date - 1 Sep 44

(Medical Officer)

First Witness for Prosecution

K 18067 Gnr. Weisbrod A.O. of 6 Bn 2 C.S.R.D. regimental police having been duly sworn states.

I recall on the 3rd July 44 at approximately 1015 hrs, I was patrolling the north end of the camp on the main road by the cinema and I noticed a soldier coming out of the bushes. I recognize the accused as being that soldier. He carried a kit bag on his shoulder and was approximately 200 yards from him behind a hedge. I knew I would not catch him by running across so I called his name and he stopped. I ran to catch him up. He ran approximately only a mile before I caught him. I asked him where he was going and he replied "camp". I made him empty the contents of the kit bag and made note of the articles mentally. I then took him with the articles to the Corporal of the R.P.

~~I identify the articles~~ (illegible) NB

The following articles were produced and identified by the witness:

1 pair shoes, canvas
1 pair, boots, ankle,
1 sweater
1 pair, trousers, fatigue
1 pair, longs, U.D.

The above articles are marked exhibit A ~~for identification~~ to proceedings.

Cross examination

The accused was going away from camp.

R.P. 83(B) Complied with.

Second Witness for Prosecution — F 79780 Gnr. Wrathby W.J. of 6 Bn 2 CBRD

having been duly sworn states that on 23 July 44 I was corporal of the regimental police.

On the 23 July 44 Gnr. Tomlin whom I recognize as the accused was brought to me by Gnr. Weisbrod of the regimental police, who stated (on the person of the accused) that the accused was found outside the camp area with military kit. I took a list of the kit and turned list and kit over to the R.S.M.

(The witness identifies the articles as listed on exhibit A as the ones brought to him by Gnr. Weisbrod.)

No cross-examination

Question by the Court.

I have relinquished the unit of 2 I Bde. since 23 July 44.

R.P. 83(B) Complied with.

Third Witness for Prosecution — Lieut. D.T. Johnstone records officer of 6 Bn 2 CBRD having been duly sworn states

(Battalion O.O. 2 Sept number 84

dated 21 July 44, numbered 1, exhibit B attached to proceedings.)

The accused was taken on strength 6 Bn 2 C B R D 21 July 44. The above order, exhibit A was posted by 1700 hrs 21 July 44. The orders are kept posted for approximately four weeks. Company Offices retain file copies. These orders are posted on notice boards of each company, on Bn notice board, on Mess canteen. Orders are published twice a week. They usually remain on the board.

Examination

Orders come out Tuesdays and Fridays kept for special cases.

R.P. 83(3) Complied with

Second Witness for Prosecution

B/132831 Cpl Marsh A. J. 6 Bn 2 C B R D employed at 30 Coy quarter stores having been duly sworn states that he identifies the articles listed on exhibit A as being W.D. equipment belonging to the accused.

No cross examination.

R.P. 83(3) Complied with

First Witness for Defence

L 10229 Pte Tomlin R.W of 6 Bn 2 C&RD, the accused having been duly sworn states when I came out of hospital 22 July 41 I was taken by ambulance to Cullins where I waited for a truck to bring me to 6 Bn 2 C&RD. I arrived at camp at 1830 hrs & had supper. Then was taken to the Bn. Orderly Room where I was taken on strength 6 Bn 2 C&RD. I then proceeded to 30 Coy quarter store and drew 2 blankets, 1 ground sheet, mess tins, knife, fork and spoon. Then went to my unit & was told to report on Monday morning for M.O.'s inspection.

I had hidden the clothes listed in exhibit A before I went to hospital. At that time there was no order saying that anyone caught outside camp area ~~could~~ which if properly worded be prosecuted.

I did not check the quarter store & put my equipment on the quarter store roll before and took £12.10 worth of equipment which I paid for.

I was leading towards the road going to Ebolí.

If I were to return to camp

First Witness for Defence

L 10228 Fus. Tomlin R. W. of 6 Bn 2 CBRD, the accused having been duly sworn states when I came out of hospital 22 July 41 I was taken by van balance to billets where I waited for a truck to bring me to 6 Bn 2 CBRD. I arrived at camp at 1830 hrs & had supper then was taken to the Bn Orderly Room where I was taken on strength 6 Bn 2 CBRD & then proceeded to Q.M. stores and drew 2 blankets, 1 pound sheet, mess tins, knife, fork and spoon. Then went to my tent & was told to report on Monday morning for M.O.'s inspection.

I had hidden the clothes issued in exhibit A before I went to hospital. At that time there was no order saying that anyone caught outside camp area ~~could~~ which it properly would be prosecuted.

I did not hand the gunner stores & put on equipment on the gunner stores book before and took £12.90 worth of equipment in and I paid for

I was reading Canada the road going to Ebolí.

If I were to return to camp

the same way I went out I would have had to climb the ridge hill so by going at to the road I would meet another road that was going through an Anti aircraft Camps which would go by 2 CBRD

Cross examination:

I turned in the majority of my kit to quarter stores and not the articles on exhibit K.

I did not run away I was walking all the time

Questions by Court.

The articles on exhibit K have not my number on them

I am issued with two pairs of boots ankle, one pair of fatigue trousers.

I was in hospital with D for approximately two weeks.

R.P.83(B) Complied with.

Fourth Witness for Prosecution (Recalled)

D 132834 Pte. Mainka L. of 6 Bn 2 C.B.R.D. employed as 30 Cay. pmaster stores having been duly sworn states:

Question by Court

Who issues clothing to personnel of 30 Cay?

The regimental quartermaster, viz.

~~Publicity book Part III. etc.~~ ~~is made to the accused reference~~

R.P. 83(B) complied with.

Fifth Witness for Prosecution Called by the Court.

Lieut H.L. Brown, R.C.A. of 6 Bn 2 C.B.R.D. the quartermaster of 6 Bn 2 C.B.R.D having been duly sworn states:

All issues of equipment to soldiers in 6 Bn 2 C.B.R.D are entered in Pt. III. paybooks including fatigue dresses.

~~It would not be possible for~~

A soldier should not be in possession of any kit or equipment that is not marked in his paybook Pt. III.

No cross examination

R.P. 83(B) complied with

Exhibit "E"

6 CANADIAN BASE REINFORCEMENT BATTALION - CWRD

Order No. 39 — PART ONE ORDERS — dated 21 Jul 44
by
Paras 482 - 490 — Lt-Col. E.W. Stewart-Jones, RCA, Commanding Officer — last Pt I No. 38 dated 18 Jul 44

482. ROUTINE

WEEK DAYS		SUNDAYS	
Reveille	- 0615 hrs	Reveille	- 0700 hrs
Breakfast	- 0645 hrs	Breakfast	- 0730 hrs
Sick Parade	- 0730 hrs	Sick Parade	- 0900 hrs
Major Dental	- 0900 hrs	Dinner	- 1200 hrs
Squad Parade	- 0745 hrs	Supper	- 1700 hrs
Bty Parade	- 0900 hrs	Tattoo	- 2315 hrs
Dinner	- 1200 hrs	Lights Out	- 2330 hrs
Squad Parade	- 1345 hrs	(ALL RANKS WILL BE IN THEIR TENTS BY 2300 HRS DAILY)	
Bty Parade	- 1400 hrs		
Supper	- 1700 hrs		
Tattoo	- 2315 hrs		
Lights Out	- 2330 hrs		

EDOLI is out-of-bounds to all ranks.

483. DUTIES

Bn Orderly Officer

28 Coy - 22 Jul 44 — 29 Coy - 23 Jul 44 — 30 Coy - 24 Jul 44
26 Coy - 25 Jul 44 — 27 Coy - 26 Jul 44

Bn Orderly Sergeant

C.792[illegible] - L/Sgt. Russell, D.A. - 22 July 44 (28 Coy)
P.3514 - L/Sgt. Wards, F.G. - 23 July 44 (29 Coy)
H.[illegible]240 - L/Sgt. MacDonald, M.M. - 24 July 44 (30 Coy)
H.[illegible]348 - Sgt. Patterson, R. - 25 July 44 (26 Coy)
K.[illegible]26 - Sgt. MacWhinnie, A.D. - 26 July 44 (27 Coy)

Duty Coys

Same as for Bn Orderly Officer.

484. BATTALION LAUNDRY

1. A Battalion Laundry is in operation behind 28 Coy lines on Motion Picture Hill. NO clothing may be taken from the lines except to the Bn Laundry. Prices are reasonable and are prominently posted around the laundry. Payment will be in advance.

2. Laundry will be parcelled and a list of contents attached showing Regtl No., Name, Rank, and Company or owner before handing in.

485. NEXT OF KIN - CHANGE OF OR CHANGE OF ADDRESS OF

(a) Personnel are warned to report promptly to their Bty Orderly Room any change of Next of Kin or change of address of Next of Kin.

(b) An announcement will be made on all Muster Parades explaining the importance of reporting changes promptly.

(c) All outgoing personnel will be checked and Next of Kin verified prior to departure.

(P.T.O.)

486. IDENTITY DISCS

Personnel are warned to report the loss promptly of their identity discs.

487. DRINKING WATER

1. Many instances occur, particularly in the recent water shortage, where personnel have been found drinking water from wells and streams etc. This water in all probability is foul and the men run grave risks of serious illness.

2. The present orders regarding conservation of water must still be enforced, but in future all fatigue parties and personnel engaged in manual labour, will fill their water bottles from ablution benches before 0900 hrs and between 1200 and 1400 hrs daily, to provide drinking water throughout the day. (RATD R.O. 63 d/19 Jul 44).

488. CHURCH SERVICES - Sunday, 23 July 44

1. Protestant - Service for Canadian personnel at 0945 hrs in 2 A.A. Church tent, followed by Communion. Evening service at 1800 hrs.

2. Roman Catholic - Mass in the R.C. marquee near the Sgts Mess as follows:

0900 hrs
1000 hrs
1100 hrs
Evening Devotions - 1830 hrs.

489. PURCHASE OF FRUIT

1. The purchase of fruit from any unauthorized Italian vendors is forbidden. All fruit will be purchased from the Battalion-operated Fruit Shop previously referred to in Orders.

490. WATER CONSERVATION

1. The practice of laundering clothes at the ablution benches under running water will cease forthwith. Tubs or pails will be used for this purpose.

Capt.
for (E.W. Stewart-Jones) Lt.Col.,
C.O.,
6 Cdn Base Rft Bn - 2 CBRD.

Exhibit "C"

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L-10228	GNR.	TOMLIN N.W.	6 Cdn Base Rft Bn - 2 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court-martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with the statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recorded special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	nil. times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Nature of instances of gallantry or distinguished conduct~~

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous conviction of the accused by a court martial or civil court, summary award under section 47 of the Army Act, and dispensations with not under section 76 of the Army Act, or set out in the particulars annexed to this statement are~~

3. The accused is not under sentence at the present time, ~~or the sentence of the present time is under suspension~~ beginning on the ~~[illegible]~~ day of ~~[illegible]~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and forty (40) days in military custody, making a total of forty (40) days, of which seven (7) days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ record of service is 23

6. The date of his ~~[illegible]~~ attestation specified in his record of service is 27 May 40

7. ~~The corps to which the accused is about to proceed towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~

9. ~~The accused is entitled to reckon~~ for pension purposes as deductible from the pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military reward or is in possession of or entitled to~~ (state any military decoration or reward).

11. ~~The above is a correct statement.~~ The accused before he was made a prisoner of war held the regimental rank of

12. ~~In the case of an officer~~ The accused holds in the army the rank of ~~dated~~

and in his regiment (or corps or department) the rank of ~~dated~~

(P18280) W1.11882/141 125,000 8/41 A.&E.W.Ltd. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L-10228 Rank GNR. Name TOMLIN W.W. of 6 Bn 2 CHRD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of July 1944

Capt.
(W.A. Itter) Officer i/c Regt'l Books & Records

17. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of years,

In the rank of years,

(INSTRUCTION.—If any entries in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, care being taken that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph concerned amended accordingly.)

No L-10228 Name TOMLIN N.W. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 27 May 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/156 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
				No Entries					

CERTIFIED TRUE COPY

R.D. Rutsell Capt.
(R.D. Rutsell) Officer i/c
Regt'l Books & Records

Exhibit D

(PTO)

SUMMARY OF EVIDENCE

In thecase of L-10228 - Gnr. TOMLIN N.W., a soldier of the Canadian Army Overseas, on strength of 6 Cdn Base Rft Bn, 2 CBRD.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS

K-18067 - Gnr. WEISBROD A.O., on strength of 6 Cdn Base Rft Bn, 2 CBRD (Regimental Police), Canadian Army Overseas, having been duly sworn, states:

I am K-18067 - Gnr. WEISBROD A.O., of the Regimental Police of 6 Cdn Base Rft Bn, 2 CBRD. On 23 Jul 44, at about 1030 hrs, while patrolling the North end of camp, I noticed a soldier coming out of the bushes with a kit-bag on his shoulder. He was going toward the main road. I ran after him for about ½ mile and caught him, at about 1045 hrs, at the bottom of a hill about 400 yards from the main road to SALERNO. I stopped him and asked him where he was going. He said he was going to "a camp". I asked him what he had in the kit-bag. He replied "Kit". I told him to empty the stuff out, which he did. I counted the articles and he put them back. I brought him into camp and turned him over to the L/Cpl. of the Regimental Police, at about 1115 hrs. The L/Cpl. listed the articles. I see and identify the articles marked "Exhibit "A"" as the articles found on the accused at the time of his arrest.

A.O. Weisbrod

(A.O. Weisbrod)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS

F-79790 - L/Bdr. WEATHERBY W.I., on strength of 6 Cdn Base Rft Bn, 2 CBRD (Regimental Police), Canadian Army Overseas, having been duly sworn, states:

I am F-79790 - L/Bdr. WEATHERBY W.I., of the Regimental Police of 6 Cdn Base Rft Bn 2 CBRD. On 23 Jul 44, at approximately 1145 hrs, Gnr. WEISBROD brought the accused, who I now see and recognize, into the R.P. tent. I certify that the following is a correct list of the W.D. articles in the kit-bag that was brought in with the accused.

2 prs	Boots, ankle
1 pr	Shoes, canvas
1	Sweater, pullover
1 pr	Slacks, Khaki drill
1 pr	Trousers, fatigue
[redacted]	

The above articles are in the kit-bag and marked Exhibit "A"

W.I. Weatherby

(W.I. Weatherby)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

THE ACCUSED DECLINES TO MAKE ANY STATEMENT AND RESERVES HIS DEFENCE.

I hereby certify that the above Summary of Evidence consisting of two (2) pages, was taken before me in the presence and the hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

R Mahaffey Lieut.
(R. Mahaffey) Officer detailed
to take Summary of Evidence.

In the Field
25 Jul 44.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of L-10228 - Gnr. TOMLIN N.W., a soldier on Active Service, on strength of 6 Cdn Base Rft Bn, 2 CBRD, Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

THIRD WITNESS

D-132839 - Bdr. MINSK L., acting as C.Q.M.S. 30 Coy, 6 Cdn Base Rft Bn, 2 CBRD, having been duly sworn, states:

I am D-132839 - Bdr. MINSK L., at present acting as C.Q.M.S., 30 Coy, 6 Cdn Base Rft Bn, 2 CBRD. I identify the articles of clothing in the bag marked Exhibit "A" as W.D. property. On 26 Jul 44, I checked the accused's kit, exclusive of Exhibit "A", and found him deficient of all the articles as per Exhibit "A", with the exception of 1 pr Trousers fatigue, and 1 pr Boots ankle.

L. Minsk

(L. Minsk)

I certify that this supplementary Summary of Evidence was taken by me in the presence and in the hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) & (f) have been complied with.

R. Mahaffey Lieut.

In the Field
26 Jul 44.

(R. Mahaffey) Officer detailed to take Summary of Evidence.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of L.102288, Gnr. Norman William TOMLIN, a soldier of the Canadian Army Overseas, on strength of 6 Cdn Base Rft Bn, 2 CHRD.

By direction of the Commanding Officer, this additional summary is taken on oath.

FIRST WITNESS

Lieut. D. JOHNSTONE, Records Officer, 6 Cdn Base Rft Bn, 2 CHRD, having been duly sworn, states:

"I am Lieut. D. Johnstone, Records Officer, of 6 Cdn Base Rft Bn, 2 CHRD. I produce 6 Bn Part I Orders No. 59, dated 21 July 44 (annexed hereto as Exhibit "E"). The said Part I Orders was posted on Unit notice boards on 21 July 44. The accused was on the strength of 6 Cdn Base Rft Bn on that date."

D. Johnstone Lt
(D. Johnstone) Lieut.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS

K.18067, Gnr. WEISBROD, A.O., on strength of 6 Cdn Base Rft Bn., 2 CHRD (Regimental Police), Canadian Army Overseas, having been duly sworn, states:

"I am K.18067, Gnr. Weisbrod, A.O., of the Regimental Police, of 6 Cdn Base Rft Bn 2 CHRD. On 23 July 44, at about 1045 hrs, I arrested the accused, whom I now see and recognize. He was carrying a kitbag. The circumstances are stated in my previous statement in the summary of evidence. The accused was about 600 yards outside the Unit lines."

A.O Weisbrod
(A.O. Weisbrod) Gnr.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

The accused was cautioned: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make a statement and reserved his defence.

I certify that the foregoing supplementary summary of evidence, consisting of one (1) page, was taken down by me in the presence of the accused and in his hearing, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

In the Field,
2 Aug 44

D.R. Mahaffy
(D.R. Mahaffy) Lieut.
Officer detailed to take summary of evidence.

LIST OF WITNESSES

In the case of M-36998 - Gnr. SEAMAN R.L., a soldier of the Canadian Army Overseas - on strength of 6 Cdn Base Rft Bn, 2 CBRD.

(For the Prosecution)

F-95617 - A/Bdr. SAWLER R.E. - 6 Cdn Base Rft Bn

A-103736- A/Cpl. STILL J.H. - " "

(For the Defence)

NIL

I, L-10228 - Gnr. TOMLIN, H.W., request that my Commanding Officer appoint LT. J.E. MACARTHUR RM to defend me at my forthcoming trial by F.G.C.M.

H.W. Tomlin

(H.W. Tomlin)

325 a A 3284 Pte. Pomlinson M.
N. M. 16th Inf. Holding Unit.

10 - T - 321

325a Regiment

33

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 10th day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[redacted]

President.

Rank.	Name.	Regiment.
Major	D.J. McDougall	No.1 Cdn (M.G.) Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.W. Black	No.1 R.C.A.S.C. Hldg Unit
Lieutenant	C.W. Truscott	No.1 Cdn Arty Hldg Unit
Lieutenant	W.E. MacKay	No.1 Cdn Arty Hldg Unit.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Signed L. F. Page, Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-3284 PTE. TOMLINSON, M. (R C R reinforcement) No.1 Cdn Inf Hldg Unit.	First Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY	
	Second Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY	Confirmed L.F.P.
	Third Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY	
	Fourth Charge A.A. Sec 40 as per charge sheet	GUILTY	GUILTY	TO UNDERGO DETENTION FOR A PERIOD OF EIGHT MONTHS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £2-7-8 IN RESPECT OF COSTS OF APPREHENSION.

The m/n soldier at present has his leg in a cast and has been treated with a fractured leg for a period of thirteen months. In view of this it is recommended that he be rehoused, before being sent to detention.

L.F.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Page, Brigadier — *Commanding* Cdn Base Units, Cdn Army — *Convening Officer (c)*

(Signed) Wm Dougall Major — *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~ Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of April 1941.

Wm Dougall Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to ~~detention barracks~~ until further orders.)

Signed this 14th day of April 1941.

L. F. Page, Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of A-3284 Pte. Tomlinson, M.

(a) (Dated) 19th April 1941 (Signed) L.W.W. Black Lt-Col.
(L.W.W. Black) Cmdg. Officer
No. 1 Cdn. Inf. Holding Unit

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A-3284	First Charge	GUILTY	GUILTY	
PTE. TOMLINSON, M.	A.A. Sec 15 (1) as per charge sheet			
(R C R reinforcement)	Second Charge	GUILTY	GUILTY	
No.1 Cdn Inf Hldg Unit.	A.A. Sec 15 (1) as per charge sheet			Confirmed
	Third Charge	GUILTY	GUILTY	
	A.A. Sec 15 (1) as per charge sheet			
	Fourth Charge	GUILTY	GUILTY	
	A.A. Sec 40 as per charge sheet		TO UNDERGO DETENTION FOR A PERIOD OF EIGHT MONTHS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £2-7-8 IN RESPECT OF COSTS OF APPREHENSION.	

The m/n soldier at present has his leg in a cast and has been treated with a fractured leg for a period of thirteen months. On which it is recommended that he be rehandled before being sent to detention.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) L. F. Page. Brigadier (Signed) [illegible] Major
Commanding Cdn Base Units, Cdn Army / 1st Cdn M.G. Bn
Convening Officer (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~ Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of April 1941.

[illegible] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to ~~[illegible]~~ detention barracks until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14th day of April 1941.

L. F. Page. Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of A-3284 Pte. Tomlinson, M.

(*a*) (Dated) 19th April 1941 (Signed) L.W.W. Black Lt-Col. (L.W.W. Black) Cmdg. Officer No. 1 Cdn. Inf. Holding Unit

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33729) Wt. 40113—983 ... P. St. G. Ltd.

CHARGE-SHEET

The accused, No. A-3284 Pte. Tomlinson, M., (The Royal Canadian Regiment), on the strength of No. 1 Canadian Infantry Holding Unit as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:-

First charge Sec 15(1) Army Act

When on active service, absenting himself without leave--

in that he

at New Martinique Barracks, Bordon, Hants, did absent himself without leave from 2200 hours, 29th November 1940, until apprehended by the Military Police at Oxford at about 2215 hours, 28th December 1940.

Second charge Sec 15(1) Army Act

When on active service, absenting himself without leave--

in that he

at No. 15 Canadian General Hospital, Bramshott, Chase, did absent himself without leave from 1800 hours, 6th February 1941, until his surrender to the Railway Transport Officer at Guildford at about 1600 hours, 12th February 1941.

Third charge Sec 15(1) Army Act

When on active service, absenting himself without leave--

in that he

at No. 1 Convalescent Depot, Brixham, Devon, did absent himself without leave from 2215 hours, 21st February 1941, until apprehended by the Canadian Military Police at Birmingham at 2245 hours, 1st March 1941; thereby incurring expenses to the Public of his apprehension in the amount of £2:7:8.

Fourth charge Sec 40 Army Act

Conduct to the prejudice of good order and military discipline--

in that he

at Birmingham at 2245 hours, 1st March 1941, was in possession of a Royal Air Force Sick Report in the name of "Walmsley" and further that he gave a false name, namely, "B-771423 Pte. J. Smelyn, "B" Company, Royal Canadian Regiment, Reigate Surrey", to one L/Cpl. Johnson, R.S., Canadian Military Police, who was responsible for his apprehension.

To be tried by Field General Court Martial

Bordon, Hants
This 1st day of April 1941

.....Brigadier
Commanding Can Base Units

L.W.W. Slack ..... Lt-Col.
(L.W.W. Slack) Cmdg. Officer
No. 1 Cdn. Inf. Holding Unit.

Witley, Surrey,
1st April 1941.

MEDICAL OFFICER'S CERTIFICATE

I certify that this day I have examined No. A-3284 Pte. Tomlinson, M., , and find him fit to stand trial by Court-Martial.

.....
Medical Officer,
No. 1 Cdn. Inf. Holding Unit

Witley, Surrey,
12th April 1941.

Copy

No. 1 Cdn Inf Holding Unit

15 April 1941

Headquarters,
"A" Group Holding Units,
C.A. (Os)

Medical Report on A-3284 Pte. Tomlinson

This man was examined by Major White, Consultant in Surgery No.15 General Hospital, who did the bone graft on January 21, 1941. It is felt that this man is no way fit to do even light duty in the Canadian Detention Barracks. He should be returned to Brixham for a period of one month to six weeks. Following this he should be fit to do light duty, and could then possibly serve his time in the Canadian Detention Barracks.

signed H.C.Johnston, Captain
R.C.A.M.C.
No.1 Cdn Inf Holding Unit.

A-3284, Pte. Tomlinson, M., No. 1 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 12th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. H.M. Howell
Defending Officer - Lieut. M.H.B. Cockin

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Q7 - Do you wish to make any statement in mitigation of punishment?
A7 - No, sir.
Q8 - Do you wish to give evidence yourself or to call any witnesses as to character?
A8 - Yes, sir, and to call a witness as to character.

A-3284, Pte. Tomlinson, M., No. 1 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q9 - Will you tell the Court when you joined the C.A.S.F.?
A9 - In November, 1939.
Q10 - When did you come to this country?
A10 - December 31, 1939.
Q11 - You came over with your regiment?
A11 - Yes, sir.
Q12 - You were stationed with the field unit here?
A12 - Yes, sir.
Q13 - Can you remember how long you were with the field unit?
A13 - Until March 23rd, 1940.
Q14 - What happened then?
A14 - I fractured my leg and was sent to Cambridge Hospital, Aldershot.
Q15 - In the course of duty?
A15 - Yes, sir.
Q16 - When you were with your regiment how did you get on?
A16 - Fine, sir.

Q17 - You were perfectly contented?
A17 - Yes, sir.
Q18 - When you fractured your leg and went to hospital were you given to understand it was a very serious fracture?
A18 - No, a comparatively simple operation; they told me it was a Potts fracture.
Q19 - Who told you that?
A19 - The officer on duty at the time of my admission.
Q20 - Is the present condition of your foot the result of the accident?
A20 - Yes, sir, it is.
Q21 - You have been like this for a period of thirteen months?
A21 - Yes, sir.
Q22 - Can you remember when it was that you left hospital?
A22 - Towards the end of May.
Q23 - What happened then?
A23 - I was sent to the convalescent camp at Bordon for two weeks or more and then to the convalescent camp at Brixham, Devonshire.
Q24 - What happened then?
A24 - I left towards the end of July and went to No. 1 Cdn. Inf. Holding Unit.
Q25 - When you came back what kind of work did you do?
A25 - Nothing outside of room orderly.
Q26 - Because of the state of your leg, why weren't you reboarded back to Canada?
A26 - I didn't want to go back, sir.
Q27 - I believe you did a previous sentence in detention in October. Before you went there were you medically examined?
A27 - No, sir.
Q28 - When you got there were you medically examined?
A28 - I asked the officer to look at my leg and he refused.
Q29 - What were you made to do?
A29 - I had to comply with regulations, doubling on the square and drilling in quick time.

Cross-examination by the prosecutor.

Q30 - About this leg of yours. What date was it you hurt it originally?
A30 - March 23, 1940.
Q31 - What were you told about the leg at that time?
A31 - I was told I should be back to duty within two months.
Q32 - And you said you went to hospital and then back to the holding unit in July, 1940?
A32 - That is right, sir.
Q33 - Were you given any leave?
A33 - I had seven days, sir.
Q34 - When did you have it?
A34 - I don't know exactly.
Q35 - Would it be about September, 1940?
A35 - Yes, sir, around there.
Q36 - Did you go a.w.l. on the 2nd October, 1940?
A36 - Yes, sir.
Q37 - When did you return?
A37 - On the 19th, sir.
Q38 - What was your punishment?
A38 - Twenty-eight days detention.
Q39 - What was the last opinion you had from the medical officer on this leg?
A39 - I had a bone graft performed in January and he said nothing at the time except the cast would have to remain on for some time, sir.
Q40 - Did any medical officer tell you at any time there was a chance of you becoming category "B"?
A40 - He said there was a chance of a reboard.
Q41 - It was never suggested that you were anything but category "A"?
A41 - No, sir, not in so many words.
Q42 - Was it ever suggested that you might go back to Canada?
A42 - It never was because I didn't want to go back.
Q43 - Did you escape from No. 1 Convalescent Depot, Brixham?
A43 - I didn't escape, I wasn't under arrest.

Re-examination by the defending officer.

Q44 - In the last charge you are charged with being in possession of a R.A.F. sick report in the name of Walmsley. Did you make an attempt to use that pass?
A44 - No, sir.

Re-examination by the prosecutor

Q45 - Were you in possession of that R.A.F. sick report?
A45 - Yes, sir.

Second witness for the defence, P/12966, C.S.M. Fosler, G.M., No. 1 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

Q46 - What is your present position?
A46 - C.S.M. on H.Q. instructional wing.
Q47 - Were you C.S.M. of Headquarters last year?
A47 - From 1st July until about four weeks ago, sir.
Q48 - During that period you had men of H.Q. Company under you?
A48 - Yes, sir.
Q49 - Do you recognize Tomlinson?
A49 - Yes, sir.
Q50 - Can you give the Court an idea of his character?
A50 - To the best of my knowledge he was with me for two months, as near as I can recall. I do recall Tomlinson and he came to me specifically to ask for a job -- something to do with telephone exchange work.
Q51 - At what particular time?
A51 - I couldn't state the time because I had a big company and a terrific lot of work to do and I said I would do my best for him and his name would be kept in mind and it was put on my file but there was nothing I could do. Other jobs I gave him to do, to the best of my knowledge, he did to the best of his ability and, as far as I can recall, he never gave me one bit of trouble.
Q52 - I would like particularly to remember what time Tomlinson volunteered for the job as switchboard operator in London. Was it towards the end of his period with the company?
A52 - That I can't swear to.

Cross-examination by the prosecutor.

Q53 - Do you know anything about the accused apart from the two months he was with you?
A53 - No, sir.
Q54 - Do you know anything about his qualifications as a signaller?
A54 - No, sir.
Q55 - Were you going to train him?
A55 - No, sir, we were going to submit his name if any requests had come from London for telephone operators. Periodically we used to get requests which apparently came from London asking for men of different professions but we couldn't vouch for a man's ability at all.

Lieut. F.S. Weatherston, No. 1 Cdn. Inf. Holding Unit, is duly sworn.
Q56 - Have you any evidence to produce as to the character and particulars of service of the accused?
A56 - A.F.P. 296 and M.F.M. 6, sir.
Q57 - Is the accused the person named in the statement which you have heard read?
A57 - Yes, sir.
Q58 - Have you compared the contents of the above statement with the regimental books?
A58 - Yes, sir.
Q59 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A59 - Yes, sir.

The accused declines to cross-examine.

Q60 - Do you wish to address the Court?
A60 - (Defending Officer) I have been rather tempted when given this case to defend to raise the defence of provocation in behalf of the accused but eventually the accused has decided to go ahead with the plea of guilty and I have raised in this case what I would normally have put forward as provocation sufficient to support a plea of not guilty. I think it has been shown by Sgt.-Major Fosler and the evidence of the accused that he has been of good character as long as he had something to do. He joined up as soon as war broke out and went to the field unit and was getting on quite well and was of good character. Then, in the course of military duty, he broke his leg and was given to understand that he would soon be back with the regiment again on full duty and the leg got worse and the Court is in a position to see his leg at the present time. This was enough to make anybody feel thoroughly disgruntled, particularly in view of what happened when he went into detention. At that particular time the medical authorities failed to examine him and when there they failed to examine him and he was within his rights in asking for it to be done. Both constitute serious breaches of army procedure. It has been brought out that during the time the accused was in his company he volunteered as switchboard operator in London. I should have got him to make a statement in his evidence in support of that. It was actually at the time of the London blitz that he made this application. I feel that as long as this man has something worth while to do he will soldier and behave in a soldierly manner. I would again point out that he has now been in this condition for a year and a month approximately. The accused has spent a total of ninety days in custody with regard to these charges.

The Court is closed for the consideration of the sentence.

SUMMARY OF EVIDENCE

In the case of A-3284 Pte. Tomlinson, M., No. 1 Canadian Infantry Holding Unit.

The Commanding Officer directs that the evidence shall be taken under oath.

1st Witness -- Lieut. David Ivor, Officer i/c Records, No. 1 Canadian Infantry Holding Unit, being duly sworn, states:

I am Officer in charge of Records, No. 1 Canadian Infantry Holding Unit, and as such produce the following documents in evidence:

(A) Army Form B-252 showing the apprehension of No. A-3284 Pte. Tomlinson, M., at Oxford, on the 28th Dec. 40 at 2215 hours, signed by Cpl. Adkins, C.M. Police and L/Cpl. C. Durrant, C.M. Police.

(B) Statement signed by B-93509 Sgt. Langfield, D.F., R.C.A.M.C., as to his picking up the accused at Haslemere Station.

(C) Letter signed by E. Miller, R.S.M., No. 15 Canadian General Hospital, R.C.A.M.C., containing statement by Nursing Sister Ruth MacLean reporting the accused, A-3284 Pte. Tomlinson, M., absent from his ward at 1800 hours, 6th Feb. 41, and statement of B-93509 Sgt. Langfield, D.F., showing the approximate time of apprehension of the accused, A-3284 Pte. Tomlinson, M., on the 12th Feb. 41.

(D) Statement signed by D-71231 C.S.M. Bennett, W.A., showing the going absent without leave of A-3284 Pte. Tomlinson, M., at 2215 hours, 21st Feb. 41, from No. 1 Convalescent Depot; certified true statement by Lt-Col. A.P. Plante, O.C., No. 1 Convalescent Depot.

(E) Statement signed by D-95158 Sgt. A. Pelletier showing the going absent without leave of A-3284 Pte. Tomlinson, M., on the 21st Feb. 41; certified true copy by Lt-Col. A.P. Plante, O.C., No. 1 Convalescent Depot.

(F) Army Form B-252 signed by Capt. V.H. Goad, for A.P.M. Canadians, London Area, and by L/Cpl. Johnson, R.S., and L/Cpl. Willis, A., C.M. Police, showing the apprehension of A-3284 Pte. Tomlinson, M., at Birmingham at about 2245 hours, 1st Mar. 41.

(G) R.A.F. Form 624, Sick Report, in the name of 645530 A.C. Walmsley, and referred to in the evidence of L/Cpl. Johnson, R.S., C.M. Police, on A.F.B. 252 and attached sheet.

(H) Certified statement of expenses of apprehension of the accused, A-3284 Pte. Tomlinson, M., returning him from Birmingham to London, in the amount of £2/7/8, certified by Capt. V.H. Goad for A.P.M. Canadians, London Area.

(I) Confession by the accused, No. A-3284 Pte. Tomlinson, M., dated 1st April 1941.

These documents refer to No. A-3284 Pte. Tomlinson, M., whom I now recognize.

...David Swan... Lieut.

(The accused declines to cross-examine this witness)

Certified that Rules of Procedure No. 4 (c), (d) and (e), have been fully complied with.

.....H.W.Wansell.....Lieut.
Officer taking Summary.

Witley, Surrey,
1st April 1941.

Exhibit "I"

CONFESSION

In the case of A-3284 Pte. Tomlinson, M.,
No. 1 Canadian Infantry Holding Unit.

The Commanding Officer directs that the evidence shall be taken under oath.

No. A-3284 Pte. Tomlinson, M. (The Royal Canadian Regiment), No. 1 Canadian Infantry Holding Unit, having been duly cautioned and sworn, states:

I, A-3284 Pte. Tomlinson, M. (The Royal Canadian Regiment), No. 1 Canadian Infantry Holding Unit, absented myself without leave from New Martinique Barracks, Bordon, Hants, on the 29th November 1940 at 2200 hours and remained so absent until apprehended by the Military Police at Oxford at 2215 hours on the 8th December 1940.

Further, while on active service, I absented myself without leave from No. 15 Canadian General Hospital, Bramshott, Chase, from 1800 hours, 6th February 1941, until I surrendered myself to the Railway Transport Officer at Guildford, Surrey, at about 1600 hours, 12th February 1941.

Further, when on active service, I absented myself without leave from No. 1 Convalescent Depot, Brixham, Devon, from 2215 hours, 21st February 1941, until I was apprehended by the Canadian Military Police at about 2245 hours, 1st March 1941.

Further, when apprehended by the Canadian Military Police at Birmingham at 2245 hours, 1st March 1941, I gave to L/Cpl. Johnson, R.S., of the Canadian Military Police, the name of "B-771423 Pte. J. Smelyn, "B" Company, Royal Canadian Regiment, Reigate, Surrey" and further had in my possession a Royal Air Force Sick Report in the name of "Walmsley", but I did not state that my name was "Walmsley".

At no time during these absences was I in civilian clothes and at no time did I intend to desert His Majesty's service.

M. Tomlinson Pte.

Witley, Surrey,
1st April 1941.

I hereby certify the above confession was made in my presence and was entirely voluntary.

David Lees Lieut.

Witley, Surrey,
1st April 1941.

EXHIBIT A

CHARGE ME/MW/243. Army Form B 252
(See King's Regulations)

1st CANADIAN HOLDING UNIT Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. A/3284 Rank Pte

Name TOMLINSON M.

Place OKEFORD Date of Offence 28.12.40.

OFFENCE ABSENT, (until apprehended by MILITARY POLICE in MARKET ST at about 2215 hrs 28/12/40.

Names of Witnesses :— Sgt. ADKINS A. C.M. Police
Sgt. DURRANT C. C.M. Police

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

I hereby certify that the above witnesses came voluntarily and were duly sworn.

R.P. [illegible]
Lieutenant

On completion return to A.H.Q. S.C. through O.C. Troops.

Q4753 WLW 19015-261 1,000,000 1940 K. & H. Ltd. G60/147 P.T.O.

Statement of **EVIDENCE** in the Case of

No A/3286 Pte TOMLINSON. M.
1st CANADIAN HOLDING UNIT
BORDEN.
HANTS.

Sir.

At OXFORD on 28.12.40 at about 22.15 hrs, I was on duty in MARKET ST. accompanied by Capt DURRANT C.M. Police where I saw the above named soldier. I asked to see his pass and he stated. "I have not got one. I am absent" I arrested and conducted him to COWLEY BKS. and handed him over to the GUARD COMMANDER to be detained

OXFORD.
28.12.40.

A Watkins Capt.
C.M. POLICE.

REMARKS

Sir,

I have read over and corroborate the above statement

OXFORD
28/12/40.

L. Durrant Lt/Cpl.
C.M. POLICE.

EXHIBIT B

SUMMARY OF EVIDENCE

Re - Private Tomlinson, M. - A.3284

This man was reported absent by Nursing Sister in charge of ward on 6 Feb 41 at 1800 hrs. to wardmaster on duty.

Reported in to Orderly Sergeant at 1800 hrs. 12 Feb 41.

(Signed) E.J. Attwood S/Sgt. RCAMC
Wardmaster,
No. 15 General Hospital, RCAMC.

This man reported to the R.T.O. at Guildford, who phoned the hospital and said that the above mentioned would be sent on to Haslemere. He was picked up at Haslemere Station at 1800 hrs. by myself in an ambulance & brought back to the hospital

D. Langfield Sgt.

(Signed) D.F. Langfield Sgt. RCAMC
Orderly Sergeant.
No. 15 General Hospital, RCAMC.

I hereby certify that the above signed witness cannot be readily procured (R.P. 47)

Officer Investigating Summary.

CC

EXHIBIT C

NO. 15 GENERAL HOSPITAL
R.C.A.M.C. C.A.S.F.

14 Mar 41
Bramshott Chase
Hindhead Surrey.

Officer Commanding,
No. 15 General Hospital,
R.C.A.M.C. C.A.S.F.

A.3284 - Pte. Tomlinson.

1. The following are statements of witnesses concerning the Absence without Leave of the marginally noted soldier:

"Major White wanted patient in operating room for application of walking cast, on ward, 1330 hrs. Other patients reported Tomlinson at canteen. Orderly went to canteen but could not find him. Major White waited until 1530 hours. Tomlinson was reported absent to Wardmaster at 1800 hrs. 6 Feb 41." He was in my ward. Rec'd reported him absent at 1800 hrs. 6 Feb 41

.....
Nursing Sister i/c Ward.

"Re marginally noted man. It was reported to me, being Orderly Sergeant on that date, by Major Montgomery, the Registrar, at 1735 hours, 12 Feb 41, that this man was being sent on by the R.T.O. at Guildford and would arrive at Haslemere at 1756 hours. It takes approximately thirty minutes to travel from Guildford to Haslemere, and approx 15 minutes from Haslemere to the hospital by ambulance. I certify that this is a true statement of the facts as they are known by myself."

Sgt Laugfield D.F.
.....
(B35509 Sgt. Laugfield,D.F.)

2. For your information please.

.....
(E.E. Miller, M.M. & Bar)
Regimental Sergeant Major
No. 15 General Hos. RCAMC.

I hereby certify that the Lieut Colonel witness cannot readily proceed from his present duty station

RECD 15 Mar 41
TO C.O. Officer
ANS: BY
B.F.
FILE A3284/393
NO. 1 CDN. INF. NURSING UNIT

CC

EXHIBIT D

No. 1. Convalescent Depot. R.C.A.M.C.
Canadian Army (Overseas)

Dolphin Camp.
BRIXHAM. S.Devon
25 Mar 41.

Statement of evidence of D-71231 CSM. BENNETT W.A.
of No. 1. Convalescent Depot. R.C.A.M.C. C.A.

I D-71231 C.S.M.W.A.Bennett, while on duty as Orderly Officer at No.1. Convalescent Depot, on the 21st February 1941, I found that A-3284 Pte. TOMLINSON M. of "B" Coy. The "R.C.R." C.A.C.S. was absent from his quarters at 2215 hours. Pte. Tomlinson was a patient at this Depot.

D71231 W.A.Bennett C.S.M.

I hereby certify that the London Standard be the newspaper which is readily procured where I am stationed

Certified true statement.

(A.P.Plante.) Lieut-Colonel.
O.C. No.1.Convalescent Depot.

R.P. Plante Lieut-Colonel
Officer taking Summary

EXHIBIT E

No. 1. Convalescent Depot. R.C.A.M.C.
Canadian Army. (Overseas.)

Dolphin Camp.
BRIXHAM. S.Devon.
25 Mar 41.

Statement of evidence of D-95158 Sgt. PELLETIER A.
Provost Sergeant of No.1.Convalescent Depot.
R.C.A.M.C. C.A.

I D-95158 Sgt. PELLETIER A. Provost Sergeant of No.1. Convalescent Depot. R.C.A.M.C. while on duty as Provost Sergeant, at No.1. Convalescent Depot on the 21st February 1941, did accompany the A/Orderly Officer C.S.M.Bennett on his rounds and found A-3284 Pte. TOMLINSON M. of "B" Coy, The "R.C.R." C.A.O.S. absent from his quarters at this hour of 2215 hrs.
Pte. TOMLINSON was a patient at this Depot.

D-95158 Sgt. A. Pelletier
I hereby certify the above to be a true copy of the evidence given by the witness during the proceedings of the Court of Inquiry held at No.1 Convalescent Depot, Brixham, on the 25th March 1941.

Certified true copy.

.....
(A.P.Plante.) Lieut-Colonel.
C.O. No.1.Convalescent Depot.

EXHIBIT F

CHARGE

Army Form B 252
(See Queen's Regulations)

THE ROYAL CANADIAN ..... Regiment
"B" COY. ..... Battery / Squadron / Troop or / Company

CHARGE against No. A. 3284 Rank Pte.

Name TOMLINSON. M.

Place ? Date of Offence ?

OFFENCE WHILST ON ACTIVE SERVICE.

1. Absent from ? until apprehended by the Military Police at the SERVICES CLUB, EASY ROW, BIRMINGHAM, about 22.45 hours 1.3.41.

2. Giving false particulars to a NCO of the Military Police.

MAJOR
A.P.M. CANADIANS
LONDON AREA.

Names of Witnesses:

L/CPL. R. S. JOHNSON. C.M. POLICE.

L/CPL. A. WILLIS. C.M. POLICE.

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

W.L.W.1935-261 7,000,000 7/40 K. & H. Ltd. G657/47

Statement of EVIDENCE in the case of:

No. A. 3284. Pte TOMLINSON. M.,
B. Coy., Royal Canadian Regt.,
REIGATE. Surrey.
c/o 1st Canadian Convalescent Home,
Brixham, Devon.

Sir,

At BIRMINGHAM on 1.3.41. about 22.45 hrs. I was in the SERVICES CLUB, EASY ROW, where I saw the above named soldier. I asked if he was on leave and he said "Yes; I'm on four days leave." I asked to see his Pass and he failed to produce it, saying "I had it stolen with all my other things, last night." I asked his name and he said "Tomlinson" and then produced the attached RAF. Sick Report in the name of "Walmsley," which he said he had had given him. I knew he had slept in the SERVICES CLUB the previous night but could not find any entry in his name in the Register, and he then pointed out an entry in the name "J. Smelyn" which he said was his. I asked why he had given me the name "Tomlinson" as his and he said "I wanted a bed, and thought I would get away with it." I then asked him again for his name and particulars and he said "B. 7714423. Pte. J. Smelyn, B. Company, Royal Canadian Regt., Reigate, Surrey." He stated further that he had just left the Canadian Hospital, Bramshott, Surrey.

I was not satisfied with his statements and conveyed him ~~remarks~~ to the CENTRAL LOCK UP, BIRMINGHAM, to be detained pending enquiries.

Enquiries were then made at the Canadian Hospital, Bramshott, and it was ascertained that no-one of the name "Smelyn" was known there.

Please see attached sheet

No. A. 3284. Pte. Tomlinson. Royal Canadian Regt.

I subsequently saw the soldier at the CENTRAL LOCK UP and questioned him further, and he admitted that he was an absentee, and informed me that his correct name was MELVILLE TOMLINSON, and that he was a Private in B. Company of the Royal Canadian Regt., and that he had absented himself from the Canadian Convalescent Home at Brixham, Devon.

He was detained at the CENTRAL LOCK UP, BIRMINGHAM to await escort.

BIRMINGHAM.
3.3.41.

R. S. Johnson L/CPL:
C.M. POLICE.

Sir,

I have read over and corroborate the above statement.

BIRMINGHAM.
3.3.41.

L/CPL.
C.M. POLICE.

I hereby certify that the herein signed witnesses cannot be readily procured (R.P. 4(g)).

..... Lieut.
Officer taking Summary.

EXHIBIT "G"

EXHIBIT G

CONFIDENTIAL

R.A.F. Form 624.

SICK REPORT

MEDICAL INSPECTION REPORT

Unit R.A.F. Date 28 10 40 19

Station Grangemouth Demm

Official No.	Rank	Name and Initials	Whether a defaulter or if for duty †	Disease	Medical Officer's Remarks	Disposal
66550	AC	Walmsley		[illegible]	[illegible]	[illegible]

* Strike out whichever is not applicable.

† State nature of duty for which warned. In the case of men for medical inspection the reason, such as "joining the station," &c., should be stated against their names.

Orderly N.C.O.'s Signature [illegible] L.A.C.

1/C S.S.P

Medical Officer's Signature [illegible]

Wt. 46709/6751 2,000M 3/40 V.B. 51—6[illegible]

EXHIBIT "H"

Ref:- K.R.& O.(Can.)539

Regt.No:- A-3284

Rank:- Pte.

Name:- Tomlinson, M.

Regiment:- R.C.R. "D" Coy.

Unit:-

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from:- Birmingham to London.

DATE	PARTICULARS	AMOUNT		
4-3-41.	Escort's return fare:		17	
	Prisoner's single fare (full single fare)		17	
	Escort's expenses (Bed breakfast and supper for escort, bus fares for the amount of 13/8 for which receipts were produced.		13	8
	TOTAL:	2	7	8

I hereby certify that the above statement of expenses are true and correct.

MAJOR
A.P.M. CANADIANS
LONDON AREA.

TOTAL

(P.T.O.)

K.R.& O.(Can.) 539

"Where expenses have been incurred for the purpose of effecting the arrest of a soldier who is a deserter or absentee without leave(including any reward payable for such arrest)and for the return of such soldier to his corps,which under the Pay and Allowance Regulations may be awarded by such soldier's commanding officer or in case he is tried by court-martial,or if he is on board one of his Majesty's ships,by the commanding officer of the ship,and which upon such award may be deducted from the ordinary pay of such soldier,the sum required to make good such expenses shall be included in the particulars of the charge of desertion or absentee without leave,as the case may be,on which such soldier is tried."

NOTE:-

The expenses over leaf have been recovered by this unit from Public Funds through the command paymaster,and are to be charged against the soldier through your unit Part 11 Orders.

--------oOo--------

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

No. A-3284 Pte. Tomlinson, M., No.1 Cdn. Infantry Holding Unit

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
Absence without leave	6 times	9 times
Breaking out of barracks	2 times	2 times
Conduct to the prejudice of good order mil. Disc.	1 time	1 time

Number of instances of gallantry or distinguished conduct: Nil.

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court-Martial or a civil court.

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 88 days in military custody, making a total of 88 days in custody, of which 35 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 years.

6. The date of his attestation specified in his attestation paper is 23rd November 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 16 months.

8. The accused is entitled to deferred pay or gratuity in respect of 16 months' service.

9. The accused is entitled to reckon 16 months' service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

Nil.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

...David Ivor, Lieut...
David Ivor, Lieut.,
Officer i/c Records,
No. 1 Cdn. Inf. Hldg. Unit

Witley, Surrey,
~~1st~~ 12th April 1941.

I

M.F.M. 6 (A.F.B. 122)

No. A-3284 Name Tomlinson, M. Sqn., Battery, or Company The Royal Corps Canadian Regt. Date of enlistment Nov. 23/39 G.C. Badges Nil Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. E.Wilson Lt. for OFFICER Commanding R.C.R. Regtl. Depot | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot, Eng.	1-2-40	Pte.	--	When on active service, absent without leave, in that he absented himself without leave from 2200 hrs 1-2-40 until 0630 hrs. 3-2-40 A.A. Sec. 15 (1)	Cpl.W.F.Johns	7 days C.B.	3-2-40	Lieut.G.O. Taschereau	Forfeits 2 days pay. LGBL.
Barrasa Bks. Aldershot Camp England	29-2-40	Pte.	--	When on active service Absent without leave in that he absented himself without leave from 2030 hrs 29 Feb.40 until 2359 hrs 29 Feb.40 (A.A. Sec. 15(1))	Cpl.W.Waudby	7 days C.B.	1-3-40	Capt.W.J. Moogk	LGBL.
Barrosa Bks. Aldershot, Hants, England.	16-3-40	Pte.	--	When on active service Absenting himself without leave in that he did absent himself without leave from 2200 hrs.16 Mar.40 until 1120 hrs.17 Mar.40 (A.A.Sec.15(1))	L/Cpl. Romey				

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barrosa Bks. Aldershot	17-3-40	Pte.	--	2.When on Active service Breaking out of barracks, in that he did break out of barracks at 1600 hrs. 16 Mar.40 (A.A.Sec.10(4)) 3.When on active service Absenting himself without leave in that he did absent himself without leave when under open arrest from 1800 hrs. 17 Mar.40 until 0600 hrs. 19 Mar.40 (A.A. Sec.15 (1)) 4. When on active service Breaking out of barracks, in that he, when under open arrest didbreak out of barracks at 1800 hrs. 17 Mar.40 (A.A. Sec. 10 (4))	Cpl.Johns L/Cpl. Romey				Remanded for the C.O. Forfeits two days pay by F.R.& I.
Bordon	25/4/40	Pte.-		W.O.A.B. being AWL from 1200 hrs 25-7-40 until 2035 hrs 25-7-40 Total absence 10 hrs 35 mins. A.A. Sec. 15.	Documentary Evidence	14 days C.B. Forfeits 2 days pay 7 days C.B.	19-3-40 26-7-40	Lt-Col. V. Hodson Maj.J.C.	L.G.B.L. J.C.D.

M.F.M. 6
(A.F.B. 122)

No. A-3284 Name Tomlinson, M. | Sqn., Battery, or Company | Corps R.C.R. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Hants	Oct. 2/40	Pte.	--	A.W.L. from 1015 hrs 2/10/40 until 2200 hrs 24/10/40 Released from the DETENTION BARRACK Aldershot on 16 NOV 1940 SENTENCE HAVING EXPIRED Remission earned under "Rules for Detention Barracks and Military Prisons" 5 days. COMMANDANTS initials T.C.D. CofC	Cpl. Bassett, W.	Forf 23 days FR&I 149-1 28 days detent 5 days forf. (under close arrest) of pay F.R.& I. 149 1 Day, remitted under Rule 420 Rules for Military Detention Barracks & Military Prisons.	29-10-40	Lt-Col. LWW Black	NK

CERTIFIED TRUE COPY:

Lieut. Col. (P.T.O.)

No. 1 Con Infantry Holding Unit

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Hants	25/7/40	Pte		A.W.L. from 1200 hrs.25-7-40 to 2035 hrs.25-7-40 A.A.Sec.15(1)	Documentary	7 days C.B.	26-7-40	Major Dawson	Forf.2 dys pay F.R.1.

CERTIFIED TRUE COPY:-

.....
David Ivor, Lieut.,
Officer i/c Records,
No.1 Cdn. Inf. Bldg. Unit.

13th March 1941.

11

No. A-3284 Name Tomlinson, M. | Sqn., Battery or Company | Depot Corps R.C.R. | Date of enlistment 23-11-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. & A. (A.F.B. 113) (90M—6-39) (1)(D) H.Q. 1772-43-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. two | Signature O.C. Company, etc. T.R. Gray Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed		23-5-40			
Barossa	16/3/40	Pte		(1) A.W.L. from 2200 hrs.16-3-40 to 1120 hrs.17-3-40 A.A. Sec. 15(1)	L/C.Romey	14 days C.B.	19-3-40	Lt-Col.V. Hodson	Forf. 2 dys.pay F.R.I. 149
				(2) Breaking out of barracks at 1600 hrs. 16-3-40 A.A. Sec. 10(4)					
				(3) A.W.L. from 1800 hrs.17-3-40 to 0600 hrs. 19-3-40 while under open arrest A.A.Sec.15(1)	Cpl.Johns L/C.Romey				
				(4) Breaking out of barracks at 1800 hrs.17-3-40 while under open arrest A.A.Sec.10(4)					

(P.T.O.)

M.F.M. 6
(A.F.B. 133)

No. A-3284 Name Tomlinson M. Sqn., Battery or Company — Corps R.C.E. — Date of enlistment: — G.C. Badge(s): — Service or Proficiency Pay: — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.) Capt. R.Gray

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Hants	Oct 2/40	Pte	--	A.W.L. from 1015 hrs 2/10/40 until 2200 hrs.24/10/40 RELEASED from the DETENTION BARRACK Aldershot on 16 NOV 1940 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 5 days. COMMANDANTS initials "T.E.D.Capt."	Cpl. Bassett, W.	Forf.23 days F.R.& I. 149-1 26 days detent. 5 days forf. (under close arrest) of pay F.R.& I. 149	29/10/40	Lt-Col.	"NK"

1 DAY REMITTED UNDER RULE 420 "RULES FOR MILITARY DETENTION BARRACKS & MILITARY PRISONS"

CERTIFIED TRUE COPY:-

13th March 1941

David Ivor, Lieut.
David Ivor, Lieut.,
Officer i/c Records,
No. 1 Cdn. Inf. Hldg. Unit

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Officer	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
								(A.P.Plante) LieutCol	
Brixham	3-7-40	Pte.		A.W.L. From:- 2230 hrs. 3-7-40 to 2230 hrs. 5-7-40 (A.A.15) Absent 48 Hours	Cpl. ANDREWS, D.H.	14 Days "CB" and Forfeiture of (2) two days Pay	6-7-40		
Brixham	21-2-41	Pte.		A.W.L. From:- 2215 hrs. 21-2-41	Sgt. Pelletier (R.P.)				Apprehended by #1 Inf. H.Unit 4 Mar. 41

CERTIFIED TRUE COPY:-

David Ivor, Lieut.

Witley, Surrey,
31st March, 1941.

David Ivor, Lieut.,
Officer i/c Records,
No. 1 Cdn. Inf. Bldg. Unit.

Supplementary Conduct Sheet

111

No. A-3284 Name TOMLINSON, M. Sqn., Battery, or Company B Coy Corps Royal Cdn. Regt Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 133) 100M—8-39 (17633) H.Q. 1272-43-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. #1 | Signature O.C. Company, etc. D.L. Dauy Capt/Adjt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	12-5-40	Pte.		1. A.W.L. from:- 2200 hrs. to 2400 hrs. 12-5-40 (A.A. 15) 2. Failing to sign out contrary to standing orders. (A.A.40) Absent 2 hours.	Sgt. Keery J.	2 Days "CB"	13-5-40	D.L.D. Adjutant	
Brixham	6-6-40	Pte.		A.W.L. From:-0100 hrs. to 0215 hrs. 6-6-40 (A.A. 15) Absent 1 Hour and 15 Minutes	L/Cpl. Moreton F.E.	7 Days "CB"	6-6-40	D.L.D. Adjutant	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				under open arrest A .A. Sec. 10 (4)		14 days C.B.	19-3-40	Lt. Col. Hodson	Forfs 2 days Pay FRMT
Bordon	12-5-40	Pte.		1) A.W.L. from 2200 hours to 2400 hours 12-5-40 A.A.Sec 15 -1 2) Failing to sign out at the guard room. A.A. Sec 40	Sgt. Keery	2 days C.B.	13-5-40	D.L.B. Adjt.	
Brixham	6-6-40	Pte.		A.W.L. from 0100 hours to 0215 hours 6-6-40 A.A . Sec 15-1)	L/Cpl. Moreton, F.E.	7 days C.B.	8-6-40	D.L.B. Adjt.	
Brixham	3-7-40	Pte.		A.W.L. from 2230 hours 3-7-40 to 2230 hours 5-7-40 A.A. Sec. 15	Cpl. Andrews, D.H.	14 days C.B.	6-7-40	A.P. Plante Lt. Col.	Forf. 2 days

R.C.N.

No. A-3284 Name Tomlinson, M. | Sqn., Battery, or Company | Corps | Date of enlistment 23-11-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.P.B. 133) (W.O. 8.9 (Pub) H.Q. 177.44.18)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.) | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed on completion of six months A.S. on 23-5-40						Necessary entries brought forward.			
Barossa Barracks	16-3-41	Pte.		1) A.W.L. from 2200 hours 16-3-40 until 1120 hours 17-3-40 A.A. Sec. 15-1	L/C Honney				
				2) Breaking out of barracks at 1600 hours 16-3-40 A.A. Sec. 10 (4)	Cpl. Johns L/C. Ronney	D.I.			
				3) A.W.L. from 1800 hour 17-3-40 to 0600 hours 19-3-40 while under open arrest. A.A. Sec. 15 (1)					
				4) Breaking out of barracks at 1800 hours 17- -40 while					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						8 mons. detn.	12-4-41	F.G.C.M.	
Witley	29-11-40	Pte.	-	A.A. Sec. 15-1					
				A.A. Sec. 15-1		Forfs. 41 days pay F.T.&I Sec 149 1 a			
				A.A. Sec. 15~~11~~		Forfs. 91 days pay F.T.&I Sec 149 1 c			
				A.A.Sec. 40		Forfs.244 days pay F.T.&I Sec 149 1 b			
						Total forf. 377 days			
						Finding of the court and sentence were confirmed by the G.O.C. C.B.U.			

No. A -3284 Name Tomlinson, W | Sqn., Battery, or Company | Corps | Date of enlistment 23-11-39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. three | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	25-7-40	Pte.		A.W.L. from 1200 hours 25-7-40 to 2035 hours 25-7-40 A.A.Sec 15=1	Docu	7 days C.B.	26-7-40	Major Dawson	Forfs 2 days pay F.R.1.
Bordon Hants	Oct 2/40			A.W.L. from 1015 hours 2-10-40 until 2200 hours 24-10-40 A.A. Sec. 15-1	Cpl. Bassett,W	28 Days Detn	29-10-40	Lt. Col. Slack	Forfs 23 days pay F.R.1. 1440 1 a Forfs 5 days pay while under close arrest
				Released from the Detention Barracks ALDERSHOT on 16 Nov 1940. Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons"...5 days.		1 day remitted under rule 120, Rules for Military Detn Barracks and Military Prisons.			

(P.T.O.)

YX-79 (Case #2)

GNR TOMLINSON S.E.

See WW-135 for 1st case

XX-79

CPA86 (in lieu of AFA3) 40-0 (S.R.) (1608) (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.C. Stewart Comd "C" Gp - CRU dated 9 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) oppmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
	Proceedings Reviewed			
1-6055	Gnr Ekhurst 24 Dec 43	Stanley Elmer	TOMLINSON	1 CARU
	Reviewing [illegible] (A.C.) CMHQ			

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 10 Dec 43; 13 Dec 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you ~~object to~~ JOT as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt col.	F.D. Smeeden	HQ C.A.C.
Member	Capt	G.S. Thomas	1 C.A.R.U.
Member	Lieut	J.W.E. Blunt	1 C.A.R.U.
Judge-Advocate	N.I.		
Prosecutor	Capt	W. Forte	1 C.A.R.U.
Defending Offr	Capt	G. Darcy	1 C.A.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea.(1) JOT,

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

JOT, A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(the)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

JOT, A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on NOT charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1) See note attached

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

~~B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.,(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. L.6055 Gunner Stanley Elmer TOMLINSON, R.C.A., on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with,

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the field, ~~on 1 Mar 43~~, while under arrest did absent himself without leave from ~~0600~~ 0545 hrs 28 Feb 43 ~~hours 1 Mar 43~~ until apprehended by PONTYPOOL Civil Police at 0600 hours 25 Aug 43.

(Absent: ~~177~~ 178 days ~~1~~ 15 hour)

(W.A.TOWNSLEY) Colonel
Commanding Officer,
No. 1 Cdn Artillery Rft Unit.

Dated at Bordon, Hants,
this 4th day of
December, 1943.

To be tried by Field General Court Martial

Brigadier
Commanding 2nd Gp, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants.

9 Dec 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/PAM/1697 (2468)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate autity, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-6055	Gnr		Stanley Elmer	TOMLINSON	1 CAMU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 9 Dec 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reasons for opinion stated~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court; (b) a Fd Offr as President, for the reasons I have stated in para~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr named hereunder~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	F.D. Tweedie	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain		2 CARU
Lieutenant		2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Date 9 Dec 43

Commanding "C" Gp - Cdn Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No L6055 Gnr Tomlinson W.
(Rank) (name)
of #1 C.A.R.U. and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station Field

Date Dec 13th 1943 Sgd. [signature]
(Medical Officer)

Medical Officers' Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No L6055 Gnr Tomlinson D.E.
(Rank) (name)
of #1 C.A.R.U. and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station

Date Dec 10-12-43 Sgd. [signature]
(Medical Officer)

On the summary of evidence being read it is noted and pointed out by the president that the summary is insufficient in that it shows that the A.W.L. commenced at 0545 hours 28 Feb 43 and not at 0600 hours 1 Mar 43. The Court was adjourned until 1000 hrs. 13 Dec 43. To permit pros. to obtain necessary evidence. In the meantime by arrangement with the convening officer the charge sheet was amended, by the convening officer & initialled by him, to conform with the summary.

The Court reassembled at 1004 hours 13 Dec 43 at the same place with the same Pres. Members. Prosecuting Offrs & Defending Offr present.

The accused is brought before the Court.

The prosecution produces a Medical Certificate that the accused is fit to undergo trial by Court Martial.

The accused is arraigned on the amended charge & pleads guilty.

Rule 35(B) is complied with.

The summary is again read aloud by the President.

Proceedings continued on form E.

F.O.I.

Capt ~~Graham~~

First character witness:

Capt R. H. Craig, CARU sworn states:

During Dec 43 I as pres. of a court of inquiry have been investig-ating a matter which has to do with the escape of a prisoner. During the course of the investigation the accused volunteered information which was most helpful & which has, in my opinion, turned out to be true. He claimed that he gave the information because he had decided to turn over a new leaf.

Rule 83(B) Complied with.

Second Character witness:

Capt. W. F. Graham, CARU sworn states:

I have known the accused since May 41 & was familiar with his duties for about 5 mos commencing Oct 41. During that time he was no trouble & carried out his duties in a soldierly manner. I knew he was in domestic trouble, but was not myself approached by him regarding it.

Rule 83(B) Complied with.

FBI

Third Witness for character.

The accused, sworn, states:

I have read the statement submitted by my defending officer. The things stated therein are about as they happened in my life. I have had domestic trouble & tried to get back & straighten it out. I failed, but now, in this way, I have got what I wanted & have got divorce proceedings started. I now want to settle down & get back instructing as soon as possible

Rule 83 (B) Complied with.

101

Canadian Army, Overseas.

10 Dec 43.

L6055 Gnr TOMLINSON, Stanley Elmer.

PLEA IN MITIGATION of punishment.

As in most such cases a knowledge of the Accused's background and history is essential to intelligently come to a decision as to the most suitable punishment for his crime. As his carreer has been rather involved and cannot be seen in true perspective from a mere study of the various record sheets and statements of particulars, I must ask the Court to bear with a fairly lengthy recounting of his life.

Gnr Tomlinson has been accused of absence without leave and, on his own admission of that actual absence, has been found guilty. I am convinced that he frankly admits his crime in his own mind and stands mentally prepared to accept his punishment, which attitude of mind is in full accord with his early life.

He comes from a home possessing none of those advantages which come with a more ample financial state. His father was a long distance truck driver away from home much of the time and unemployed extensively during the depression years. His mother was, and is, an invalid. Hence it is obvious both that he was subject to little control at home, and that he early fell in with questionable company, which latter is supported by the fact that he was a chronic truant from school which he hated and left at the entrance to Gr VII at fourteen and a half years of age to work for two years on a farm for his board only. He left this in his seventeenth year and soon got in with a gang of hoodlums who ran foul of the police on a car theft incident in which the car was wrecked, and for which all six youths underwent three months imprisonment. His boyhood up until this time appears to have been one round of monthly beatings at school and at home followed by two years of unpaid work living with an Aunt with whom he could not get along.

I submit that such a background where he had clearly not received the interested sympathy that both the school and home should provide was a poor foundation on which to build a life; and that it is greatly to his credit that

- he apparently saw the error of his ways at sixteen years of age;
- and from then on not only possessed a clean record, but kept himself in almost continuous employment until being attested (AF) at the outbreak of war, and during most of which time he turned over half of his earnings to his mother;
- and for the four years prior to the war held continuous employment with a reputable firm,
- during which time he married and set up a home, having now two children;
- and, finally, that he voluntarily enlisted in the NPAM (Arty) in the winter of 34-35 and served faithfully until the outbreak of war at which time he was an NCO.

I further submit that his life in the army (AF) to date has been in a sense a repitition of what might be termed phase one of the above (his civil life). He was attested 7 Sep39 and came overseas with the first contingent in Dec 39. His first trouble came after five months of service when, as a batman, he became involved in a questionable case regarding a respirator, and for which he was awarded twenty-eight days in the Aldershot Military Prison. I submit a written statement from LieutE.W. Goalen regarding this case, and suggest that this constituted a most unhappy beginning. It should be noted, however, that in spite of a definite feeling (either correctly or incorrectly) that if he had not been unjustly treated, he had at least been unnecessarily harshly dealt with, Gnr Tomlinson took his punishment in the spirit in which he had taken his boyhood

threshings, served his term and carried on as a good soldier for almost a full year until, on 25 Nov 40, he was crimed on another charge in connection with which there appears to have been some conflicting evidence and for which he received five days FP and a stoppage of pay of $60.00 (later reduced to $35.00) as payment for the loss of a spare wheel and tyre. Then on Xmas day a month later he committed an offence of using his vehicle for a short unauthorised trip and was justly punished. I would draw the attention of the Court, though, to the laxity that prevailed generally with Units in the field at that period in such matters, and feel that there must exist a strong probability that he was only one of many guilty of such an offence. He appears to have borne no particular malice for any of these punishments and, being employed as a driver when not as a cook, seems to have enjoyed a reputation as an excellent carrier driver and MT man during the ensuing year when he again had a clean record. To sum up, in the first two ~~and a half~~ years in the army he had three crimes, in two of which cases there appear to have existed certain doubts as to his guilt, while the third case was a commonly unchecked crime of no great seriousness.

However during this latter year, he became aware of his wife's conduct at home (facts which have since been confirmed by official investigation,- and divorce proceedings instituted), and it may reasonably be assumed that his judgment became unbalanced. He had apparently made representations to his officers without any results or even advice being forthcoming; and on 22 Nov 41, he went absent for twelve days and returned. On this occasion he was dealt with remarkably leniently, receiving a mere fourteen days CB (in the field). The inconsistency of this punishment with his previous ones is obvious, unless there were strong mitigating circumstances.

He again settled down, and another year passed without any entry except for a late return from pass on one occasion. However, during this time, he was taken into civil custody on 14 Jan 42 and sentenced to imprisonment for obtaining and passing cheques during his previous absence. He obtained full remission on this sentence and was released to this Re-inforcement Unit on 16 May 42. He had apparently learned his lesson and here he became a carrier instructor and was so employed until 16 Nov 42 when, still worried over his domestic affairs at home, he went absent with the foolish idea that he would return to Canada as a stowaway or by other means and straighten out these affairs and then give himself up. After getting nowhere for four months during which time he met an English girl of whom he has now become fond, he gave up the idea and surrendered himself to the civil authorities.

He was returned to this Unit and tried by court-martial. While awaiting promulgation of the findings and sentence of that Court he became associated with a very bad character, a Gnr Massey, in the guardroom of this Unit, and was persuaded by him to escape which they successfully did on 1 Mar. Being without money, they rifled a meter from which they took a few shillings and which eventually led to his apprehension by the civil authorities on a charge of petty larceny on 26 Aug. He was again imprisoned at Wormwood Scrubs, being released to this Unit on 11 Nov last.

He appears to have done a great deal of thinking while in prison and to have really seen the error of his ways; while at the same time the matter of his divorce has at last been taken in hand and he should have little further worry in that direction. He has already paid for the civil offences and is quite prepared to pay for his absence. In view of his impending divorce which should remove the apparent cause of much of his former conduct, and the expense connected with it, he is especially conscious of the loss of pay which he has rightly forfeited already; and I really feel that any consideration the Court can give to the time he has already spent confined and his loss of pay in determining punishment will be truly appreciated by the accused. An indication of his changed attitude was his willingness to be of assistance in the investigation of the Tabor escape case, in which connection Capt Craig will give evidence.

I ask the court, therefore, to consider,

- his lack of opportunity in early life, and the manner in which he overcame his handicaps,
- his NPAM service and record,

Plea in Mitigation of Punishment - Gnr Tomlinson S.E.

- the severe treatment he received in his early army days,
- his domestic troubles, and the lack of sympathy meted out to him in this connection,
- his apparent change of heart and avowed intention to accept his share of responsibility in the future,
- and the encouragement he would receive from being given as light a sentence as is compatable with the facts of the case.

h

I do not ask, nor does he expect to get off free by any means.

Respectfully submitted.

(G.C. D'Arcy)
-Capt - defending.

No. 1 CARU
7 Dec. '43.

I first made the acquaintance of Gnr. Tomlinson when he came to the 77th. Fd. Bty. R.C.A. just prior to its' leaving for overseas on 8 Dec. '43. On our arrival in England we were stationed in Lille Barracks, Farnborough, Hants.

At the time of Gnr. Tomlinson's sentence to 28 days detention in January, 1940 it seemed to be the general opinion in the ranks that the sentence was unjust, and that he alone was not to blame.

Gnr. Tomlinson was with our regiment until Nov., 1941. I was also given to understand that he did have marital difficulties.

signed: E.W. Goalen Lt.
E.W. Goalen, Lieut., R.C.A.
No. 1 CARU.

Appendix "A"

6-1-4/T

MONMOUTHSHIRE CONSTABULARY

"B" DIVISION.

PONTYPOOL STATION.

28th. November, 1943.

Officer Commanding,
I, C.A.R.U.,
Canadian Army,
ENGLAND.

Dear Sir,

re:- Gunner Stanley Elmer TOMLINSON.
No. L. 6035.

In reply to your telephone message, this date, to this Office, I have to furnish you the undermentioned certificate.

I hereby certify that Gunner Stanley Elmer TOMLINSON, No. L. 6035 of the Canadian Army was arrested at No.47, Lowlands Road, Pontnewydd, Pontypool, Mon., at 0600 hours on the 26th August, 1943.

TOMLINSON was called from bed. He then dressed into uniform, was arrested and conveyed by car to Pontypool Police Station, by Inspector Alfred Bowkett and First Police Reserve Constable Bertie Pearce, No. 80.

Yours faithfully,

E. Clark

Superintendent.

FDT.

Appendix "B"

5. STRENGTH INCREASE.(Continued)

5. (e) M2131 SJT. STINSON K.J.
T.O.S. No. 1 C.A.R.U.(R) from 8th. Army Field Regiment wef. 16 Feb 43 and attached to Cdn. School of Artillery for Duty and Discipline whilst attending A.I.C's. Course 'till 5 Jun 43. Posted to "C" Battery.

5. (f) B7174 L/BDR. BATTERSBY T.A. (Dr. Mech "C")
T.O.S. No. 1 C.A.R.U.(R) from 11th. Army Field Regiment wef. 21 Feb 43. On CMHQ Course No. 44 Serial 71 - Unit Instrs. M.T. - 4 weeks. Posted to "H" Battery.

5. (g) L26515 GNR. STEELE G.W. (CPOA Group "C")
T.O.S. No. 1 C.A.R.U.(R) from 13th. Cdn. Field Regiment wef. 24 Feb 43. On CMHQ Course No. 58 Serial 165 - Potential Bty. Surveyors 'till 30 Mar 43. Posted to "H" Battery.

5. (h) L56 BDR. BERGLAND H.T.
T.O.S. No. 1C.A.R.U.(R) from 3rd. Cdn. Field Regiment wef. 19 Feb 43. On CMHQ Course No. 1080 Serial 2 - Fitters Gun - Basic 'till 9 Jun 43. Posted to "H" Battery.

5. (i) L189 L/BDR. CAMERON C. (Dr. Mech Grp. "C")
T.O.S. No. 1 C.A.R.U.(R) from 3rd. Cdn. Field Regi ent wef. 19 Feb 43. OnCMHQ Course No. 44 Serial 71 - Unit Instrs. M.T. 'till 20 Mar 43. Posted to "H" Battery.

5. (j) B12140 BQMS. COCHRANE T.H.
T.O.S. No. 1 C.A.R.U.(R) from 11th. Army Field Regiment wef. 1 Mar 43. (AUTH Ech Letter 99/6/Overage/1 (A.7a) 192 d/18 Feb 43.) Posted to A/W.

5. (k) A17288 GNR. THOMPSON R.K.
T.O.S. No. 1 C.A.R.U.(R) as an apprehended deserter wef. 28 Feb 43. (Apprehended by Civil Police Kensington wef. 1240 hrs. 26 Feb 43.) Posted to "D" Battery.

5. (l) A35476 GNR. YORK H.J.
T.O.S. No. 1 C.A.R.U.(R) from No. 1 C.O.R.U. wef. 3 Mar 43. (AUTH CMHQ REC/A/35476 d/27 Feb 43.) Posted to A/W.

5. (m) G8006 GNR. MC EACHERON G.A.
T.O.S. No. 1 C.A.R.U.(R) from H.Q. 1 Cdn. Corps wef. 1 Feb 43. and attached thereto from 1 Feb 43 to 19 Feb 43. (AUTH Admn. Order No. 18). Posted to "D" Battery.

5. (n) M3179 L/SJT. WATKIN C.F.
T.O.S. No. 1 C.A.R.U.(R) from 6th. Cdn. Field Regiment wef. 22 Feb 43, and attached to Pre-OCTU School for all purposes wef. 22 Feb 43 whilst attending Pre-OCTU Course. (AUTH EA7/650 d/13 Feb 43.) Posted to "H" Battery.

5. (o) L11054 SJT. STEWART W.J.
T.O.S. No. 1 C.A.R.U.(R) from 6th. Cdn. Field Regiment wef. 21 Feb 43, and attache d to Pre-OCTU School for all purposes wef. 21 Feb 43 whilst attending Pre-OCTU Course. Posted to "H" Battery. (AUTH EA7/729 d/16 Feb 43.)

(Continued on next page)

No. 52
3 Mar 43

6. STRENGTH DECREASE.

6. (a) M3145 L/BDR. CONKIN N.
S.O.S. No. 1 C.A.R.U.(R) to 6th. Cdn. Field Regiment wef. 2 Mar 43. (EA2/1921 d/1 Mar 43.) On strength "D" Battery.

6. (b) The under-mentioned are S.O.S. No. 1 C.A.R.U.(R) to Regiments shown wef. 26 Feb 43 on ceasing to be attached to No. 2 C.A.R.U. for all purposes wef. 26 Feb 43 on completion of Survey Course. (AUTH EA2/1828 d/26 Feb 43.) On strength "HQ" Battery.

G3087	GNR. MURPHY	R.J.	6th. Cdn. Field Regiment.
H12085	GNR. WING	C.W.	6th. Cdn. Field Regiment.
B92441	GNR. CANNING	J.A.	11th. Army Field Regiment.
M67379	GNR. GALBRAITH	J.W.	11th. Army Field Regiment.
K22057	GNR. KAY	R.D.L.	13th. Cdn. Field Regiment.
H25147	GNR. WHITMORE	P.T.	17th. Cdn. Field Regiment.
H60240	GNR. REID	F.E.	17th. Cdn. Field Regiment.

6. (c) C1606 GNR. COYLE J.
S.O.S. No. 1 C.A.R.U.(R) to No. 1 C.S.H.U. wef. 26 Feb 43. (AUTH 44/1 Sig Reinf/1 AAG (ORG) d/24 Dec 42.) On strength "B" Bty.

7. ATTACHED.

7. (a) The under-mentioned are attached to Regiments shown wef. 2 Mar 43 for all purposes. (SPARTAN) On strength Batteriews shown.)

5th. Cdn. Field Regiment.

M3176	A/SJT. SQUIRES	R.N.(H)	L9278	A/SJT. GLEADOW	F.R.(F)
K7029	SJT. KINAHAN	J.R.(G)	G3837	GNR. ESTEY	T.A.(H)
F86248	GNR. CASSIDY	C.J.(H)	B40144	GNR. MC LEOD	E.W.(H)
C10613	GNR. LAFEE	J.H.(H)	F47007	GNR. COTE	M. (H)
B17727	GNR. GARBUTT	L.E.(H)	F64688	GNR. CROCKER	C.E.(H)
F96517	GNR. CROSSMAN	J. (H)	C1319	GNR. NEDHAM	J.A.(H)

4th. Cdn. Field Regiment.

P6654	SJT. GORDON	W. (F)	D63169	GNR. DUBEAU	A. (H)
B7004	SJT. CHENNELL	F.C.(H)	B112068	GNR. BYERS	J.P.(H)
A28392	A/SJT. RUMBOLD	R.E.(E)	H67516	GNR. JOHN	C.W.(H)
L64714	GNR. ERMAN	L.B.(H)	B112838	GNR. ROBINSON	A.J.(H)
H101041	GNR. SMOKORSKI	H. (H)	G19819	GNR. HAMILTON	A.W.(H)
L100168	GNR. MC PHERSON	A.N.(H)	H67191	GNR. GLAWSON	J.H.(H)

6th. Cdn. Field Regiment.

A28056	SJT. MEHLER	J.A.(E)	B47886	GNR. MC LEOD	R.W.(A)
K15292A/L/SJT.	MOUNTFORD	W. (F)	D118953	GNR. O'DONNELL	F. (A)
C9690	GNR. EMMONS	H. (A)	C75964	GNR. MENESS	R.G.(A)
F35696	GNR. MAC RAE	J.W.(A)	C100452	GNR. TREMBLAY	A. (A)
A103452	GNR. WAUGH	A.J.(A)	B47629	GNR. ROLSTON	B.P.
M102236	GNR. WUTZKE	W.R.(A)			

7th. Army Field Regiment.

U1761	A/L/SJT. FISH	J.I.M.(B)	F31106	GNR. REEVES	E.R.(B)
B11137	BDR. GUNNINGHAM	W.D.(B)	F31104	GNR. PINEAU	J.H.(B)
A47014	A/L/BDR. TUCKER	P.R.(B)	B113588	GNR. PERRON	J.E.(B)
B112067	GNR. LAVOIE	A.J.(B)	C75057	GNR. PAYNE	L.E.(B)
B113197	GNR. SAVARD	F. (B)	L74765	GNR. PAUL	A.W.(B)
F30639	GNR. SAMPSON	C.J.(B)	L74681	GNR. PAUL	E.E.(B)

8th. Army Field Regiment.

L441	GNR. SHIBLEY	M. (H)	B27438	GNR. BOWER	W.W.(H)
H66708	GNR. MC IVOR	G.A.(H)	G23728	GNR. DE WOLFF	C.T.(H)
K74625	GNR. ROBERT	O.R.(H)	C10058	GNR. GUINTON	G.R.(H)
H38967	GNR. STAIRS	E.J.(H)	K70595	GNR. L'HEUREUX	R. (H)
M102572	GNR. GLADEAU	W.E.(H)			

11th. Army Field Regiment.

B16884	A/BDR. PARK	R.A.(C)	D58835	A/L/BDR. BURNETT	G. (C)
B16859	A/BDR. COURT	G.H.(C)	G49458	GNR. CORMIER	R.J.(C)

7. ATTACHED.(Continued)

7. (a) (cont'd)

11th. Army Field Regiment.

G3433	GNR.	HAMILTON	W.L.(C)	H60163	GNR.	PALMER	C.H.(C)
G49801	GNR.	BRAULT	M. (C)	M103118	GNR.	RATTRAY	W.A.(C)
B17346	GNR.	M.C KINNON	S.W.(C)	H59630	GNR.	SMITH	A.J.(C)
H101075	GNR.	MACKENOUK	J.H.(C)	L74864	GNR.	WILKINS	G.P.(C)

12th. Cdn. Field Regiment.

H24153	A/SJT.	FULLER	R.J.(F)	M100444	GNR.	BRAGG	F. (H) —
L69547	A/L/SJT.	FLEBBE	H. L.(F)	B17722	GNR.	WOOLVEN	J.A.(H) —
B7113	A/L/SJT.	GARDNER	W.G.(F)	D118180	GNR.	LOWELL	F.D.(H) —
C10195	GNR.	MARTIN	J.S.(H) —	L66251	GNR.	MC CLELLAND	G.K.(H)
H36584	GNR.	COOPER	E.R.(H) —	B111180	GNR.	LOCKYER	N.F.(H) —
B98193	GNR.	TYMAN	J.W.(H) —	G53922	GNR.	LYMAN	G.M.(H) —

13th. Cdn. Field Regiment.

B11041	RSM.	SMITH	W.E.G.(PHQ)	L279	GNR.	WEBSTER	H.B.(B)
B88611	SJT.	COLLING	E.A.(C)	B114943	GNR.	WARD	J. (B)
B11122	SJT.	SPENCE	W.C.(B)	A103102	GNR.	UNDERWOOD	W.A.(B)
B114811	GNR.	WRIGHT	W.A.(B)	B112849	GNR.	TAYLOR	F.C.(B)
C23780	GNR.	WILSON	E. (B)	B103095	GNR.	STURCH	R. (B)
B21349	GNR.	WIERBICKI	V. (B)	B21360	GNR.	SCOTT	W.A.(B)

14th. Cdn. Field Regiment.

L11051	SJT.	DALLMAN	R.E.(E)	H100943	GNR.	MACKIE	E.B.(H) —
B6007	SJT.	SCOTT	G.E.(E)	H67135	GNR.	PHIPPS	C.H.(H) —
F96252	A/L/SJT.	GORRILL	W.M.(E)	H101114	GNR.	SMITH	T.C.(H) —
B110314	GNR.	PEPIN	R.J.(H) —	M37061	GNR.	BLOOMFIELD	F. (H) —
M56293	GNR.	KISH	F.W.(H) —	K71926	GNR.	SCHMIDT	O. (H) —
M56009	GNR.	NOULETT	J. (H) —	B112255	GNR.	REEVES	G. (H) —

15th. Cdn. Field Regiment.

H40829	A/L/SJT.	WHERRELL	L.C.(B)	D135972	GNR.	MULLETT	R.G.(B)
K15398	A/BDR.	KIRKPATRICK	S.(B)	B111120	GNR.	MILLER	L.E.(B)
D118716	A/L/BDR.	KING	C.C.(B)	F97917	GNR.	MERNER	W.J.(B)
B21346	GNR.	O'ROURKE	P.J.(B)	G17144	GNR.	COREY	S.G.(H) —
B110376	GNR.	NANTBUSH	L. (B)	B110519	GNR.	COLE	W.H.(H) —
B11074	GNR.	NIMMO	R.F.(B)	G19423	GNR.	KILLORAN	A.J.(H) —
A55863	GNR.	NOLAN	J.E.(B)	M3714	GNR.	KEELER	M.H.(H) —
F97734	GNR.	MUSGRAVE	R.C.(B)	H59516	GNR.	MAC NEE	C.D.(H) —
M57019	GNR.	MURPHY	J. (B)				

12th. Cdn. Field Regiment.

H35615	A/BDR.	KENNEDY	D.F.(F)	M85860	GNR.	KOHLENZ	J. (H) —
K74003	A/BDR.	STEWART	E.G.(F)	L74381	GNR.	LYCHAK	W. (H) —
M3480	A/BDR.	STEWART	T.F.(F)	K76946	GNR.	O'CONNOR	G. (H) —
H101000	GNR.	MARROWER	D.L.(H) —	B26458	GNR.	SIMPSON	E. (H) —
H100558	GNR.	DYCK	G. (H) —	M56214	GNR.	CARLSON	G.L.(H) —
M56419	GNR.	SAS NUK	W. (H) —	M100381	GNR.	MINNENSKY	J. (H) —

8. COMMAND.(COURSE)

8. (a) K17074 GNR. DAVIDSON L. A/W

Proceeded on CMHQ Course No. 1109 Serial 6 - Motor Mechs at No. 3 Tech Trng. Group - Brighton wef. 3 Mar 43.

9. HOSPITAL.

9. (a) The under-mentioned were admitted to Hospitals shown wef. 1 Mar 43.

A58163	GNR.	BYERS	D.J.(C)	No.15 General Hospital
K18018	BDR.	MARTIN	G.E.(D)	No.15 General Hospital
B85271	GNR.	SAMCHEE	A. (B)	No. 1 Cdn. Med. Centre
M100536	GNR.	SCOTT	R. (B)	No. 1 Cdn. Med. Centre
H54745	GNR.	SINCLAIR	J.N.(H)	No. 1 Cdn. Med. Centre — X
D118731	GNR.	TREMBLAY	O. (H)	No.15 General Hospital

787

9. HOSPITALS (Continued)

9. (b) H3603 SJT. COX
Admitted to No. 1 General Hospital wef. 23 Feb 43.

9. (c) The under-mentioned were trasnferred to Hospitals shown wef. dates listed.

C18518	GNR. WESTOVER	E.	No.10 General Hospital 25 Feb 43.
B11181	GNR. SIMCOE	G.H.	No.10 General Hospital 25 Feb 43.
H54967	GNR. ASPLIN	M.	No.15 General Hos pital 25 Feb 43.
B9587	GNR. BISLE	D.H.	No.15 General Hospital 25 Feb 43.
B6590	L/BDR. BENRIGHT	M.E.	Alton. Conv. Hospital 27 Feb 43.
K17028	L/BDR. WOODWARD	T.P.L.	No.15 General Hospital 26 Feb 43.
C36771	GNR. SEDORE	E.S.	Plastic Surgery Team 19 Feb 43.
B11181	GNR. SIMCOE	G.H.	No. 1 General Hospital 19 Feb 43.

9. (d) H66487 GNR. TAYLOR J.N. "D"
Trans. to No. 8 General Hospital wef. 17 Feb 43.
Discharged from No. 8 General Hospital wef. 1 Mar 43.

9. (e) The under-mentioned were discharged from Hospitals shown wef. 1 Mar 43.

K5089	GNR. DAOUST	M...(D)	No.15 General Hos ital
C3141	L/BDR. LAWRENCE	C.S.(D)	No. 1 General Hospital
M314	GNR. NCONAN	K. .(D)	No.14 General Hospital
M104353	GNR. PETTIT	W.G.(F)	British Isol. Hospital
L11102	L/BDR. SEARS	J..(D)	No.15 General Hospital
A33109	GNR. SPENCER	E.L.(D)	No.10 General Hospital

10. LEAVE OF ABSENCE.

10. (a) The under-mentioned are granted 7 days Privilege Leave plus 48 hours pass (total leave and entitlement 9 days) from 2 Mar 43 to 11 Mar 43 with money allowance in lieu of rations under F.R.&.I. (Overseas) Art. 789.

M484	GNR. APPONEN	W.H.	C2571	GNR. NELSON	H.S.
B9830	GNR. CROCKFORD	G.J.	H65385	GNR. SHIELS	G.E.
B6727	A/L/BDR. DANIEL	E.E.	D118151	GNR. ST.PIERRE	L.P.
D118130	GNR. JARVERI	J.	G52890	GNR. SHERRER	C.J.
D10523	GNR. MOORE	G.	L26251	A/BDR. KETTLEWELL	J.R.
C142	A/BDR. MC CORMICK	R.	G28607	GNR. NOEL	J.M.

C1081 GNR. EATON H.H.

10. (b) Granted 14 days Privilege Leave from 2 Mar 43 to 16 Mar 43 with money allowance in lieu of rations under F.R.&.I. (Overseas) Art. 789.

L18117 GNR. BREAN R.

10. (c) Granted 7 days Privilege Leave plus 48 hours pass (total leave and entitlement 9 days) from 18 Feb 43 to 27 Feb 43 with money allowance in lieu of rations under F.R.&.I. (Overseas) Art. 789.

10. (d) The under-mentioned are granted 7 days Privilege Leave from 23 Dec 42 to 30 Dec 42 with money allowance in lieu of rations under F.R.&.I. (Overseas) Art. 789.

P9860 S.M. MC LEOD A. P9907 BSM. NICHOLLS G.R.E.

11. ABSENT WITHOUT LEAVE.

11. (a) H26097 GNR. GUNN W.R.R. "A"
Absent without leave from 1905 hrs. 24 Feb 43 and is still so absent of the last day of Feb and the first day of Mar 43.
(Extract No. 15 Gen. Hosp. Part II D.O. 26 d/26 Feb 43.)

(Continued on next page)

No. 52
3 Mar 43

11. ABSENT WITHOUT LEAVE. (Continued)

11. (b) The under-mentioned are reported absent without leave for periods shown.

B67415 GNR. REESOR B. (D) 1200 hrs. 27 Feb to 2240 hrs. 28 Feb 43.
L110124 GNR. SUTHERL..ND H. W. (D) 1200 hrs. 28 Feb to 1545 hrs. 1 Mar 43.
M16562 GNR. E..GLESHAM M. (B) 0630 hrs. 1 Mar to 0945 hrs. 1 Mar 43.

11. (c) C9813 GNR. CAMPBELL L.F. "H"
Returned from absent without leave wef. 1600 hrs. 1 Mar 43.

11. (d) The under-mentioned are reported absent without leave from times shown and are still so absent on the last day of Feb 43 and the first day of Mar 43.

B88569 GNR. L..RM..N C.S.(H) 2215 hrs. 15 Feb 43.
L65546 GNR. HARCOCK T.E...(G) 2359 hrs. 17 Feb 43.
B6555 GNR. M..SSE A.C.(E) 0545 hrs. 28 Feb 43.
L18104 GNR. STEW..RT D.M.(D) 1800 hrs. 12 Feb 43.
D95776 GNR. GR..RP T.G.(D) 1800 hrs. 12 Feb 43.
B10122 GNR. B..RRIT J.C.(...) 0800 hrs. 22 Feb 43.
L6065 GNR. TOMLINSON S.E.(D) 0545 hrs. 28 Feb 43.
L59746 BDR. M..NK S.R.(...) 2200 hrs. 28 Feb 43.
M50188 GNR. THOMPSON V.P.(...) 2200 hrs. 28 Feb 43.

12. QUALIFICATIONS.

12. (a) The under-mentioned attended Driver i/c Course at No. 1 C...R.U. ending 1 Mar 43 and qualified classes as shown wef. 1 Mar 43. On strength "C" Battery.

C36701 GNR. GUINDON G. (...) M68041 GNR. CORM..CK W.S.(B)
C10163 GNR. HILL R...(...) B84636 GNR. ZINKLN S.R.(B)
K71070 GNR. HINES G.G.(A) M102257 GNR. EV..N ...(B)
G49965 GNR. MC KINNON M.E.(A) L110252 GNR. COOPER P.L.(B)
C33650 GNR. GOODWIN G. (A) L74479 GNR. P..ROM..N W.E.(B)
B110963 GNR. THOMPSON C.E.(...) H67597 GNR. PLUMPTON W.N.(B)
L18559 GNR. SHEPERD F. (...) L59802 GNR. P..RLBE G.C.K.(B)
K100030 GNR. M..TTINSON W.L.(B)

12. (b) The under-mentioned attended Driver i/c Course at No. 1 C...R.U. ending 1 Mar 43 and Failed. On strength "C" Battery.

H67414 GNR. H..LVENSON F.R. H60390 GNR. L..D..NOWSKI R...
L112730 GNR. MC N..B N.J. K12098 GNR. HIGH..M C.

12. (c) The under-mentioned attended Fitter Gun Course ending 15 Feb 43 and PASSED wef. 15 Feb 43. On strength "H" Battery.

D6912 GNR. M..C DON..LD J. H5122 GNR. CL..RKE J.
M3801 L/BDR. M..RTELL T. A35306 GNR. BRUCE J.

12. (d) The under-mentioned attended Driver Mechs Course ending 17 Feb 43 and obtained results as shown wef. 17 Feb43.

H60587 GNR. GUNNL..UGHSON F. Passed. (SOS to 15th. Cdn. Fld. Regt.)
M35637 L/BDR. SMITH H. (H)Failed.
H54829 GNR. EDW..RDS C. (H)Passed.
L55423 GNR. K..CSM..R G. (H)Passed.

13. DETENTION.

13. (a) The under-mentioned were admitted to Cdn. Detention Barracks wef. 1 Mar 43.

D118400 GNR. DENIS Y. (A/W) M28002 GNR. MC C..LLUM M. (D)

(Continued on next page)

No. 52
3 Mar 43

J.D.T.

Certified true copy
Lt. Rodway A.A.
Adjt. 1 C...R.U.

12. DETENTION.(Continued)

13. (b) C50775 GNR. ST. DENIS G.J. "D"
Released from Cdn. Detention Barracks wef. 27 Feb43.

14. REMISSION.

14. (a) C50775 GNR. ST.DENIS G.J. "D"
Granted 60 days remission of sentence on release from Cdn. Detention Barracks wef. 27 Feb43.

15. TRANSFERS.

15. (a) The under-mentioned having been T.C.S. No. 1 C...R.U. are transferred to the Royal Canadian Artillery from Units as shown wef. 5 Jan 43. (AUTH99/6/Arty/2 (...7a) d/27 Feb 43.)

K80114	GNR. GREEN	J.M.	13th. Lt. Fld. Amb., R.C.A.M.C.
L74381	GNR. LYCHAK	W.	Lake Superior Regiment.

16. CHANGE OF ADDRESS - NEXT OF KIN.

16. (a) H9148 GNR. COLLINS S.T. A/W
Change of address next of kin Mrs. Margaret Collins (wife) to Lynwey , Crondal Lane, Farnham, Surrey, England.

17. CHANGE OF NAME - NEXT OF KIN.

17. (a) D118627 GNR. GOODENOUGH G.A. "D"
Change of name next of kin to Mrs. Galey P. Goodenough (Mother) of Theresa, N.Y., U.S.A.

18. POSTINGS - PERMANENT ESTABLISHMENT.

18. (a) F79373 GNR. COFFIN D.J.
Posted from "H" Battery (R) to "H" Battery (PE) Clerk wef. 27 Feb43.

18. (b) B110345 GNR. LUNDKVIST R.E.
Posted from "F" Battery (R) to "F" Battery (PE) Orderly wef. 27 Feb 43.

18. (c) C1027 GNR. GIFFEN K.L.
Posted from "G" Battery (R) to "G" Battery (PE) Clerk wef. 27 Feb 43.

18. (d) D118151 GNR. ST.PIERRE L.P.
Posted from A/Wing (R) to A/Wing (PE) Carpenter wef. 1 Mar 43.

18. (e) The under-mentioned are posted from A/Wing (PE) to "D" Battery (R) wef. 25 Feb43.

H35550	BQMS. ELLIOTT	E.R.(QM)	A28275	A/BDR.	...ISTER A.C.(M.T.)
L10409	A/BDR. VALLIER	J.R.(R.P.)	C7111	A/SJT.	CULMORE M.H.(Cook)
L10409	A/BDR. COOPER	L.G.(M.T.)			

18. (f) The under-mentioned are posted from A/Wing (PE) to "D" Battery (R) wef. 25 Feb 43.

C570	GNR. BONNER	L.A.	(Y.M.C...)
L18301	GNR. DUNLOP	M.L.	(Trumpeter)
M595	GNR. FORTIN	S.E.	(Trumpeter)
C7406	GNR. MARTIN	A.D.	(Trumpeter)

18. (g) C1606 GNR. DOYLE J.
Posted from "B" Battery (PE) to "B" Battery (R) wef. 26 Feb43.

(T.H. ...RAVE) COLONEL
COMMANDING OFFICER
No. 1 Canadian Artillery Reinforcement Unit
Canadian Army Overseas

No. 52
3 Mar 43.

No. 1 Canadian Artillery Reinforcement Unit
Overseas
Canadian Army

PART II ORDERS

Last Order No. 72 26 Mar 45

Issued By
LT.-COLONEL G.T. INCH
A/COMMANDING OFFICER

This Order No. 73 27 Mar 45

SECTION "A" OFFICERS

1. STRENGTH INCREASE.

S. (a) Amendment:
D.O. 61 para 1(c) d/6 Feb 45 insofar as it concerns the u/m/n A/Capt. G.W. Meyers
D.O. 70 para 1(b) d/24 Mar 45 insofar as it concerns A/Capt. F.H. RUSSELL N.H. Reilander amend rank to read "Lieut."

2. STRENGTH DECREASE.

2. (a) CAPT. G.H. CHAMBERS
S.O.S. No. 1 C.A.R.U.(R) to H.Q. R.C.A. 1 Cdn. Div. w.e.f. 26 Mar 45. (Auth CMHQ Tele MS 5032 d/25 Mar 45.) On strength "D" Battery.

2. (b) CAPT. E.J. COLLRAY
S.O.S. No. 1 C.A.R.U.(R) to H.Q. 4th. Cdn. Arm'd. Div. w.e.f. 26 Mar 45. (Auth CMHQ Tele MS 5031 d/25 Mar 45.) On strength "D" Battery.

2. (c) LIEUT. G.W. MEYERS
S.O.S. No. 1 C.A.R.U.(R) to 5th. Army Field Regiment w.e.f. 26 Mar 45. (Auth EA2/2427 d/23 Mar 45.) On strength "G" Battery.

2. (d) Amendment:
D.O. 120 para 1(c) d/26 Mar 42 insofar as it concerns Capt. T.C. Rogers is cancelled.
D.O. 151 para 10 d/26 Nov 40 insofar as it concerns Capt. T.C. Rogers is cancelled.

3. ATTACHED.

S. (a) LIEUT. H.E. DAVIDSON
Attached to No. 1 C.A.R.U. for all purposes from 4th. Cdn. Field Regiment w.e.f. 22 Mar 45 whilst attending CSA Course No. C4 Serial 1 - C.P.O's. at Cdn. School of Artillery. Attached to "C" Battery.

5. (b) The under-mentioned are attached to No. 1 C.A.R.U. for all purposes from Regiments shown w.e.f. 22 Mar 45 whilst attending CSA Course No. C3 Serial 1 - C.P.O's, at Cdn. School of Artillery. Attached to "C" Battery.

LIEUT.	J. LAMY	4th. Cdn. Medium Regiment.
LIEUT.	C.N.M. RUFFLE	14th. Cdn. Field Regiment.
LIEUT.	C.N. CLARKSON	15th. Cdn. Field Regiment.
LIEUT.	C.A. ASHFIELD	11th. Army Field Regiment.
LIEUT.	T.H. TURNER	1st. Cdn. Field Regiment.
LIEUT.	W.R. CHILDERS	2nd. Cdn. Field Regiment.
LIEUT.	L.D. MC KENNA	12th. Cdn. Field Regiment.
LIEUT.	W.C. MURDOCH	4th. Cdn. Field Regiment.

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5. ATTACHED.(Continued)

5. (c) LIEUT. J.F.R. O'MALLEY "D"
Ceases to be attached to No. 1 C.A.R.U. for all purposes w.e.f. 24 Mar 45. (Auth AT 2558 d/25 Mar 45.)

5. (d) Amendment:
D.O. 1E0 para 2(d) d/26 May 42 insofar as it concerns Capt. T.C. Rogers is cancelled.

6. MEMORANDA.

6. (a) Amendment:
D.O. 1E0 para 7(a) d/26 Mar 42 insofar as it concerns Capt. T.C. Rogers is cancelled.

SECTION "B" OTHER RANKS

7. STRENGTH INCREASE.

7. (a) The under-mentioned are T.O.S. No. 1 C.A.R.U.(R) from Regiments shown w.e.f. dates listed. (In Hospitals shown) Posted to "D" Bty.

K92885	GNR. BOUVETTE	G.R.	(8APR) 20 Mar 45.	No.14 Gen. Hosp.
R60119	GNR. SCHMIDT	J.	(7AFD) 18 Mar 45.	No.10 Gen. Hosp.
A58040	GNR. SIMPSON	R.R.	(7AFD) 18 Mar 45.	No.10 Gen. Hosp.
D106509L/BJT. MC CABE		P.	(HQ RCA 2 Cdn Div) 21 Mar 45.	No.15 Gen. Hosp.
B11509	GNR. CARDEW	R.B.	(12FR) 20 Mar 45.	No. 1 Gen. Hosp.
B9795	GNR. LANGBEIN	J.L.	(12FR) 19 Mar 45.	No.16 Gen. Hosp.
A55566 L/BDR. NIXON (Fitter Gun Grp. "B")		M.H.	(12FR) 18 Mar 45.	No. 1 Gen. Hosp.
M45447	GNR. POLAND (Surveyor Grp. "B")	J.W.	(13FR) 19 Mar 45.	No.16 Gen. Hosp.

7. (b) A55560 BDR. VET Y. (Fitter Gun "B")
T.O.S. No. 1 C.A.R.U.(R) from 12th. Cdn. Field Regiment w.e.f. 17 Mar 45. (On CMHQ Course No. 1012 - Artificers Refresher Course Posted to "B" Battery.

7. (c) D118256 GNR. RALPH G.R.
T.O.S. No. 1 C.A.R.U.(R) from H.Q. 1 Cdn. Corps w.e.f. 25 Mar 45. (Auth HA2/2214 d/18 Mar 45). Posted to "D" Battery.

7. (d) B20202 GNR. GILBERT P.E.
T.O.S. No. 1 C.A.R.U.(R) from 11 Coy., Cdn. Forestry Corps w.e.f. 25 Mar 45. (Auth S/CFC/1 (A.G.2c) d/12 Mar 45.) Posted to "D" Battery.

7. (e) Amendment:
D.O. 61 para 6(c) d/15 Mar 45, amend authority to read. "S/2 Gen Pioneer Coy/1":
D.O. 46 para 7(d) d/24 Mar 45 insofar as it concerns A28177 Sjt. Sutherland, N.J. amend to read "20S w.e.f. 15 Feb 45".
D.O. 69 para 8(e) d/25 Mar 45 insofar as it concerns M84295 Sjt. Webster, A.E. amend att. to read "and att. to CTS f.a.p. whilst attending A/Lt (Special) GCTC Course."

8. STRENGTH DECREASE.

8. (a) P9171 TPSM. CONNOLLY J.
S.O.S. No. 1C.A.R.U.(R) to 1st. Cdn. Field Regiment w.e.f. 26 Mar 45. (Auth HA2/1175 d/11 Feb 45.) On strength "D" Battery.

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27 Mar 45

MANNING DECREASE.(Continued)

6. (b) L60055 GNR. TOMLINSON S.E.
S.O.S. "o. 1 C.A.R.U.(R) as an unapprehended deserter w.e.f. 25 Mar 43. (Auth Crt. of Inq. d/25 Mar 43.) On strength "D" Bty.

6. (c) M45944 CADET SANDERS R.J.
S.O.S. No. 1C.A.R.U.(R) to No. 1C.O.R.U. w.e.f. 5 Nov 42 on completion of Basic OCTU Course. (Auth Overseas R.O. 3742 d/13 Nov 42.) On strength "H" Battery.

6. (d) Amendment:
D.O. 73 para 4(b) d/26 Mar 43 insofar as it concerns B15162 L/Sjt. Wilkes, J.E. is cancelled. (Repetition).
D.O. 7 para 4 (1) d/9 Jan 43 insofar as it concerns D7800 Gnr. Roy, G. is cancelled.

7. ATTACHED.
7. (a) M24225 CADET WEBSTER A.E. "H"
Ceases to be attached to C.T.S. for all purposes on admission to Hospital w.e.f. 16 Mar 43. (Extract C.T.S. Part II Order No. 11 d/19 Mar 43.)

7. (b) C1859 GNR. WALTER O. "A/H"
Attached to "C" Group H.Q. for Duty and Discipline w.e.f. 24 Mar 43. (Auth CONQ 6-2-3-2 d/24 Mar 43.)

7. (c) R55767 GNR. SAUNDERS E.A.
Attached to No. 1 C.A.R.U. for all purposes from 15th. Cdn. Field Regiment w.e.f. 25 Mar 43 pending authotity for T.O.S. Attached to "D" Battery.

7. (d) Amendment:
D.O. 7 para 5(b) d/9 Jan 43 insofar as it concerns D7800 Gnr. Roy, G. is cancelled.

8. COURSE.
8. (a) H60628 L/BDR. ZIESMAN E. (Dvr. Mech "C")
Returned from M.T. Unit Instrs. Course w.e.f. 25 Mar 43.

9. HOSPITAL.
9. (a) The under-mentioned were admitted to Hospitals shown w.e.f. 25 Mar 43.

B129542	GNR.	SHERLOCK	V.G.(G)	No. 1 Cdn. Med. Centre
B17727	GNR.	CARBUTT	L.E.(G)	No.15 Gen. Hospital
A17137	GNR.	SPEARMAN	E.J.(D)	No. 1 Cdn. Med. Centre
K71606	GNR.	DINNABOUGH	R.F.(A)	No. 1 Cdn. Med. Centre
B98153	GNR.	CURRIE	W .W.(H)	No. 1 Cdn. Med. Centre
B6210	A/SJT.	MORRISON	V.J.(QHQ)	No. 1 Cdn. Med. Centre
K66371	GNR.	PORTER	B.A.(E)	No.15 General Hospital
B110260	GNR.	COOKE	W.E.(A)	No.15 General Hospital
G23969	GNR.	ST.COEUR	A. (E)	No.15 General Hospital
M36799	GNR.	SIPES	Z.A.(A/H)	No.15 General Hospital
B17868	GNR.	KNUSHNIRYK	M.C.(A)	No.15 General Hospital
B47441	GNR.	FLEMING	V.T.(A)	No.15 General Hospital
A3801	A/L/BDR.	MARTELL	T.A.(H)	No.15 General Hospital
G23881	GNR.	PRATT	W.E.(B)	No.15 General Hospital

9. (b) M100120 GNR. PUGLIESE P. "A/H"
Admitted to Astley Ainsley Hospital w.e.f. 25 Mar 43.

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787.

9. HOSPITAL.(Continued)

9. (a) F21366 GNR. MYERS M. "A"
Admitted to No. 17 General Hospital w.e.f. 11 Mar 43.
Discharged from No. 17 General Hospital w.e.f. 25 Mar 43.

9. (d) B47503 GNR. PEARSON E.W. "A"
Admitted to British Isolation Hospital w.e.f. 2 Mar 43.
Discharged from British Isolation Hospital w.e.f. 25 Mar 43.

9. (e) K10016 GNR. GAMOT A.F. "A/W"
Admitted to No. 1 Cdn. Med. Centre w.e.f. 20 Mar 43.

9. (f) The under-mentioned were transferred to Hospitals shown w.e.f. dates listed.

C9951	GNR. HART	J.M.	No. 1 Conv. Depot	4 Mar 43.
L64337	GNR. CAMERON	F.	No. 1 Cdn. Med. Centre	19 Mar 43.
C9667	GNR. POIRIER	T.	No.15 General Hospital	22 Mar 43.
M50842	GNR. RUSSELL	F.R.(	Stoke Mandeville Hosp.	23 Mar 43.
A35386	GNR. DINGMAN	W.O.	No. 7 General Hospital	4 Mar 43.
C9801	GNR. ARTHUR	R.M.	Alton Conv. Hospital	23 Mar 43.
M68077	GNR. KOERNER	J.W.	No. 3 Cdn. Med. Centre	24 Mar 43.
D25208	GNR. MATTHEWS	J.N.	Alton Conv. Hospital	23 Mar 43.

9. (g) M24225 CADET WEBSTER A.E. "X"
Admitted to No. 3 Cdn. Medical Centre w.e.f. 15 Mar 43.
(Extract C.T.S. Part II Order No. 11 d/19 Mar 43.)

9. (h) The under-mentioned were discharged from Hospitals shown w.e.f. 25 Mar 43.

C36257	GNR. ANGIERS	P.J.(D)	No. 5 General Hospital	
L100328	GNR. BLONDEAU	J. (A)	No. 1 Cdn. Med. Centre	
A10387	GNR. BOA	A.J.(D)	No. 1 Cdn. Med. Centre	
P9171	TPR. CONNOLLY	J. (D)	No. 1 Conv. Depot	
C5176	GNR. DRISCOLL	R.C.(D)	No.15 General Hospital	
C1002	GNR. FRASER	J.G.(D)	No.16 General Hospital	
L65547	L/SJT. FURBER	H.L.(D)	No. 1 Cdn. Med. Centre	
L35029	GNR. GOLSCHESKY	M.(D)	No. 1 Conv. Depot	
C9951	GNR. HART	J.M.(D)	No. 1 Conv. Depot	
A33236	GNR. HEARN	E.J.(D)	No.10 General Hospital	
C9785	GNR. HILDITCH	D.O.(D)	No. 5 General Hospital	
D118716	L/BDR. KING	C.C.(B)	No. 1 Cdn. Med. Centre	
A34021	BSM. KNOWLES	J.H.(RHQ)	No. 1 Cdn.Med. Centre	
L65372	GNR. LE BLANC	T.A.(H)	No. 1 Cdn. Med. Centre	
C19067	GNR. MC CONNELL	E.C.(C)	No. 1 Cdn. Med. Centre	
B11970	GNR. MILLER	W.T.(D)	No.16 General Hospital	
	Deleted			
A35400	GNR. VOLLETT	W.P.(D)	No. 1 Conv. Depot	
B11648	GNR. TYRRELL	F.M.(D)	No.15 General Hospital	
K15357	GNR. WALTON	R.A.(D)	No. 1 Conv. Depot	

9. (i) C144 GNR. WAIT N.C. "RHQ"
Admitted to No. 1 Cdn. Medical Centre w.e.f. 22 Mar 43.
Discharged from No. 1 Cdn. Medical Centre w.e.f. 25 Mar 43.

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27 Mar 43

(Continued on next page)

9. HOSPITAL.(Continued)

9. (j) The under-mentioned were discharged from Hospitals shown w.e.f. dates listed.

L18462	GNR. SPENCE	L.A.(D)	No. 1 Conv. Depot	24 Mar 43.
C30385	GNR. LA ROSE	R. E.(A)	No. 3 Cdn. Med. Centre	13 Mar 43.

9. (k) Amendment:

D.O. 71 para8(c) d/25 Mar 43 insofar as it concerns A35585 Gnr. Dingham, W.O. amend to read "No. 15 General Hospital".

10. LEAVE OF ABSENCE.

10. (a) The under-mentioned are granted 7 days Privilege Leave plus 48 hours pass (total leave and entitlement 9 days) from 28 Mar 43 to 4 Apr 43 with money allowance in lieu of rations under P.R.&.I. (Overseas) Art. 789.

D56815	GNR. BOER O.		D111517	GNR. SIMS	A.C.
L110252	GNR. COOPER	P.T.A.	B13157	L/BDR. STANTON	J.

10. (b) P9807 GNR. RYAN J.W.

Granted 7 days Privilege Leave from 26 Mar 43 to 2 Apr 43 with money allowance in lieu of rations under P.R.&.I. (Overseas) Art. 789.

10. (c) M50096 GNR. OZDOBA S.

Granted 14 days Privilege Leave from 26 Mar 43 to 9 Apr 43 with money allowance in lieu of rations under P.R.&.I. (Overseas) Art. 789.

11. ABSENT WITHOUT LEAVE.

11. (a) H10030 GNR. SMITH H.C. "A/W"

Absent without leave from 1400 hrs. 25 Mar 43.

12. QUALIFICATIONS.

12. (a) L1659 GNR. COOK F.H. "C"

Attended Motor Mechs Course ending 17 Mar 43 and PASSED w.e.f. 17 Mar 43.

12. (b) C9839 GNR. JENKINS J.C. "C"

Attended Driver Mechs Course ending 17 Mar 43 and PASSED w.e.f. 17 Mar 43 .

12. (c) G44786 GNR. DUNCAN A. "C"

Attended Driver i/c Course at No. 1 C.A.R.U. ending 22 Mar 43 and qualified Class "B" w.e.f. 22 Mar 43.

13. TRADESMENS QUALIFICATIONS.

13. (a) C6184 GNR. COOK A.J. "C"

Trade Tested by a Standing Trade Testing Board as Motor Mech Group "B" and PASSED w.e.f. 18 Mar 43.

13. (b) C9839 GNR. JENKINS J.C. "C"

Trade Tested by a Standing Trade Testing Board as Driver Mechanic Group "C" and PASSED w.e.f. 17 Mar 43.

14. PUNISHMENTS.

14. (a) C1689 GNR. BRIMER J.C. "D"

Awarded 1 days forfeiture of pay on 25 Mar 43 for absent without leave from 2200 hrs. 21 Mar 43 to 2330 hrs. 21 Mar 43. (Absent 1 hr. 30 mins.) A.A. Sec. 15(1). Forfeits 1 days pay F.R.&.I. 159(1)(c). Total forfeiture 1 days pay.

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27 Mar 43

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14. PUNISHMENTS.(Continued)

14. (b) H28150 GNR. CASSIDY J.J. "D"
"warded 4 days Field Punishment and forfeits 4 days pay on 19 Mar 43 for absent without leave from 1200 hrs. 21 Mar 43 to 1030 hrs. 23 Mar 43. (Absent 1 day 22 hrs. 30 mins.) A.A. Sec. 15(1) Forfeits 2 days pay P.R.&.I. 149(1)(a). Forfeits 4 days pay P.R.&.I. 149(1)(b). Total forfeiture 6 dayspay.

14. (c) H60706 GNR. THOMSIN C. "D"
Awarded 2 days Field Punishment and forfeits 2 days pay on 23 Mar 43 for absent without leave from 1200 hrs. 21 Mar 43 to 1145 hrs. 22 Mar 43. (Absent 23 hrs. 45 mins.) A.A. Sec.15(1). Forfeits 1 days pay P.R.&.I. 149(1)(a). Forfeits 2 days pay P.R.&.I. 149(1)(b). Total forfeiture 3 days pay.

14. (d) H314 GNR. MOHAN K. "D"
Awarded 4 days Field Punishment and forfeits 4 days pay on 19 Mar 43 for absent without leave from 2200 hrs. 21 Mar 43 to 1030 hrs. 23 Mar 43. (Absent 1 day 13 hrs. 30 mins.) A.A. Sec. 15(1). Forfeits 2 days pay P.R.&.I. 149(1)(a). Forfeits 4 days pay P.R.&.I. 149(1)(b). Total forfeiture 6 days pay.

14. (e) C19692 GNR. GROVE A.R. "D"
"warded 4 days Field Punishment and forfeits 4 days pay on 19 Mar 43 for absent w ithout leave from 1200 hrs. 21 Mar 43 to 2100 hrs. 22 Mar 43. (Absent 1 day 9 hrs.) Forfeits 2 days pay P.R.&.I. 149(1)(a). Forfeits 4 days pay P.R.&.I. 149(1)(b). Total forfeiture of pay 6 days.

14. (f) B7067 GNR. WALTON J.R. "D"
Awarded 18 days Field Punishment and forfeits 18 days pay on 19 Mar 43 for: 1st. charge: absent withoutleave from 2200 hrs. 19 Mar 43 to 1445 hrs. 22 Mar 43. (Absent 8 days 16 hrs. 45 mins.) A.A. Sec. 15(1). 2nd. charge: conduct to the prejudice etc. A.A. Sec. 40. Forfeits 9 dayspay P.R.&.I. 149(1)(a). Forfeits 18 days pay P.R.&.I. 149(1)(b). Total forfeiture 27 days.

14. (g) B9534 GNR. JENKINS A. "RRQ"
"warded 2 days Field Punishment and forfeits 2 days pay on 24 Mar 43 for absent without leave from 2359 hrs. 21 Mar 43 to 2030 hrs. 22 Mar 43. (Absent 20 hrs. 31 mins.) A.A. Sec. 15(1). Forfeits 1days pay P.R.&.I. 149(1)(a). Forfeits 2 days pay P.R.&.I. 149(1)(b). Total forfeiture 3 days pay.

14. (h) K15367 GNR. CARMICHAEL K.L. "C"
Awarded 3 days Field Punishment and forfeits 3 days pay on 11 Mar 43 for absent w ithout leave from 2245 hrs. 10 Mar 43 to 0615 hrs. 11 Mar 43. (Absent 7 hrs. 30 mins.) A.A. Sec.15(1). Forfeits 1 days pay P.R.&.I. 149(1)(a). Forfeits 3 dayspay P.R.&.I. 149(1)(b). Total forfeiture 4 days pay. (Extract No. 3 C.A.C.R.U. Part I Order No. 63 d/17 Mar 43.)

14. (i) Amendment:
D.O. 80 para 15(a) d/12 Mar 43 insofar as it concerns B17674 Gnr. Dockstader, J. amend by adding"(Extract No. 7 General Hospital Part I, Order No. 14 d/3 Feb 43.)".

15. CHANGE OF ADDRESS - NEXT OF KIN.
15. (a) H67325 GNR. FRANDSIN W. "C"
Change of address next of kin Mrs. Martha Frandden (wife) to Layland, Manitoba, Canada.

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27 Mar 43

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16. BIRTHS.

16. (a) P9907 BSM. NICHOLLS G.R.F. "H"
A Daughter: Janice Lee Nicholls
Place: Pelling Barn, Scaynes Hill, Sax., Eng.
Date: 29 Jan 43.

17. POSTINGS - PERMANENT ESTABLISHMENT.

17. (a) The under-mentioned are posted from A/Wing (PE) Drivers 1/c to "H" Battery (R) w.e.f. 24 Mar 43.

C1946 GNR. CAMERON J.E. D18448 GNR. BRATKOWSKI N.

17. (b) The under-mentioned are posted from A/Wing (PE) Driver Mechs to "H" Battery (R) w.e.f. 24 Mar 43.

B16120 GNR. JOHNSTONE R.F. C1277 GNR. CASSEMAN G.T.
M6478 GNR. ST.GEORGE A.M. P69803 GNR. HUTCHINSON A.

17. (c) B9854 GNR. JENKINS A.
Posted from R.H.Q.(PE) to "D" Battery (R) w.e.f. 24 Mar 43.

17. (d) C75589 GNR. LALONDE J.F.
Posted from "D" Battery (R) to R.H.Q.(PE) Orderly w.e.f. 24 Mar 43.

17. (e) H67520 GNR. ARNOLD S.C.
Postedfrom "G" Battery (R) to "P" Battery (PE) Clerk w.e.f. 26 Mar 43.

17. (f) G8074 A/L/SJT. GEIKIE E.C.
Posted from "E" Battery (PE) (Sjt. Instr.) to "H" Battery (R) w.e.f. 23 Mar 43.

17. (g) D E L E T E D

17. (h) K70092 GNR. MC MAHON W.C.
Posted from "I" Battery (R) to "E" Battery (PE) Orderly w.e.f. 23 Mar 43.

17. (i) The under-mentioned are posted from "I" Battery (R) to "E" Battery (PE) w.e.f. 26 Mar 43.

K76590 GNR. MC NEILL H.C. Clerk
M60048 GNR. OLYNIC W.E. Orderly

17. (j) B17476 A/BDR. WAKEHAM P.J.
Posted from "E" Battery (PE) (Instr.) to "I" Battery (R) w.e.f. 23 Mar 43.

SECTION "C" SPECIAL INCREMENT

18. STRENGTH DECREASE.

18. (a) LIEUT. R.A. LA PRAIK
S.O.S. No. 1 C.A.R.U.(R) to 5th. Cdn. Medium Regiment w.e.f. 26 Mar 43. (Spl. Inc. 99/20/5 Med R/2 6/23 Mar 43.) On strength "G" Battery.

Certified true copy
A. Radway Lt. R.C.
Adjt. "O" Wing.

K.J.C. Lilley Lt.

(G.T. INCH) LT.-COLONEL
A/COMMANDING OFFICER
No. 1 Canadian Artillery Reinforcement Unit Overseas
Canadian Army

No. 73
27 Mar 43.

appendix "D"

No. 1 Canadian Artillery Reinforcement Unit
Canadian Army Overseas

PART II ORDERS

Last Order	Issued By	This Order
No. 288	COLONEL W.A. TOWNSLEY M.C., E.D.	No. 289
7 Dec 43	COMMANDING OFFICER.	8 Dec 43

SECTION "A" OFFICERS

1. STRENGTH INCREASE

LT-COL. Alfred Ogilvie HOOD

(a) T.O.S. from No. 1 C.G.R.U. w.e.f. 6 Dec 43. (Auth- CRU A6363 d/6 Dec 43). Posted to "D" Bty.

2. ATTACHED

LIEUT. John Palmer MADER "G"

(a) Ceases att to R.C.A.F., Linton f.a.p. w.e.f. 5 Dec 43.

CAPT. Charles Roy COMPSTON "D"

(b) Ceases att to 128 Airfield w.e.f. 6 Dec 43.

LIEUT. Geo. Kenneth HEACOCK "G"

(c) Ceases att to No. 1 C.A.S.C.R.U. f.a.p. w.e.f. 14 Nov 43 on completion of CMHQ Course No. 519 Ser 53 - Offrs Veh. Mastership.

3. COURSES

LT-COL. Alfred Ogilvie HOOD "D"

(a) Proceeded on CSA Course C-5 - B.C's at Cdn. School of Arty w.e.f. 6 Dec 43.

(b) The u/m proceeded on Gun Pit Blowing Course at Cdn. School of Arty w.e.f. 7 Dec 43. On strength Btys shown.
LIEUT. Chas. Edward LAVALLEE (D) LIEUT. Clifford Milton GILLESPIE(B)

4. HOSPITAL

(a) The u/m were admitted to No. 2 Cdn. Gen. Hospital w.e.f. 6 Dec 43. On strength Btys shown.
LIEUT. Thomas Ernest PEACH (A) CAPT. Frank Herbert KELLEY (D)

5. LEAVE OF ABSENCE

(a) The u/m were granted 7 days P.L. plus 48 hrs pass (total 9 days) with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 6 Dec 43 to 15 Dec 43.
LIEUT. Harold Stanley BARBER LIEUT. Albert Victor TAYLOR
LIEUT. Wm. Robt. Key MATTERSON LIEUT. Wm. Forrest TUFF

(b) The u/m were granted 7 days P.L. with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 6 Dec 43 to 13 Dec 43.
LIEUT. Geo. Henry DICKINSON LIEUT. Gordon Cecil MCGARY
LIEUT. Ronald MacDonald JONES LIEUT. Geo. Leonard MCURELL
LIEUT. Donald Howard MAC DOUGALL LIEUT. Francis Alfred REID
LIEUT. Clark MAC INTYRE LIEUT. John MacLean SUTHERLAND
LIEUT. John Walter MC GRATH

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5. LEAVE OF ABSENCE (Continued)

LIEUT. Chas. Edward WEYMAN

(c) Granted 14 days P.L. with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 6 Dec 43 to 20 Dec 43.

6. QUALIFICATIONS

(a) The u/m having attended Drivers I/C Course C.H. 137 (Offrs) at No. 1 C.A.R.U. w.e.f. 29 Nov 43 to 4 Dec 43. have qualified Class "B" w.e.f. 4 Dec 43. On strength Btys shown.

CAPT. Wm. Phipps	ADAMS	(H)	
CAPT. Joseph Francis	BROWN	(H)	
CAPT. William	BURLANYK	(G)	
CAPT. Robert Claude	LAPPER	(3 A/Tk Regt)	
LIEUT. Bernard Charles	ACKERMAN	(G)	
LIEUT. John Campbell	BILL	(G)	
LIEUT. Ralph Fergus	BLACK	(G)	
LIEUT. Byron Lloyd	BOWMAN	(G)	
LIEUT. Wm. Howard	BROWN	(G)	
LIEUT. Alaster Duncan	CAMERON	(G)	
LIEUT. Edward Tierney	CANTWELL	(G)	
LIEUT. Alan Joseph	CULLEN	(G)	
LIEUT. John Cecil	IRVINE	(G)	
LIEUT. Phillip Hanson	KILVERT	(G)	
LIEUT. Donald Patton	MC DANIEL	(G)	
LIEUT. Donald Gould	MC INTYRE	(G)	
LIEUT. John Frederick	REEVES	(G)	
LIEUT. Wm. George	ROBINSON	(G)	
LIEUT. William	RUTHERFORD	(G)	

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(b) The u/m having attended Motorcycle Course M.C. 120 (Offrs) at No. 1 C.A.R.U. w.e.f. 29 Nov 43 to 4 Dec 43 have qualified Class "B" w.e.f. 4 Dec 43. On strength "C" Bty.

LIEUT. Charles Herbert	BURNITT	
LIEUT. Allan Morell	MILLER	
LIEUT. Keith Wm.	MOUNTFORD	
LIEUT. Henry Wm.	WENSLEY	

7. STRENGTH DECREASE

LIEUT. Aaron Flint CHURCHILL

(a) S.O.S. to 6th Cdn. Fd. Regt. w.e.f. 29 Nov 43 and att therefrom f.a.p. w.e.f. 29 Nov 43 to 7 Dec 43. (Auth- EA2/1874 d/29 Nov 43). On strength "A" Bty.

SECTION "B" OTHER RANKS

8. STRENGTH INCREASE

(a) The u/m are T.O.S. from Regts shown w.e.f. dates listed (In hospitals shown). Posted to "D" Bty.

M3426	GNR. GINGELL (Signaller Gp "C")	H.D.(13SPR)	29 Nov 43	No. 12 Gen. Hosp.
C56	L/BDR. CROUCH	F. (14SPR)	25 Nov 43	No. 2 Gen. Hosp.
D128009	GNR. CHARRON	P.E.(4 MedR)	26 Nov 43	No. 12 Gen. Hosp.
H69648	GNR. STOW	E.E.(19SPR)	26 Nov 43	No. 1 Neuro. Hosp.
B20202	GNR. GILBERT	P.E.(5FR)	28 Nov 43	No. 13 Gen. Hosp.
A57021	GNR. BERRY (Dvr Op Gp "C")	J.R.(11 L.A.A. Regt)	16 Nov 43	No. 10 Gen. Hosp.
B95215	GNR. PEARCE	G.E.(15FR)	27 Nov 43	No. 13 Gen. Hosp.

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8. STRENGTH INCREASE (Continued)

(b) The u/m are T.O.S. from 19 Cdn. S-P Regt. w.e.f. 24 Nov 43. On CMHQ Course No. 99 Ser 298. Posted to "H" Bty.

A55688 A/L/SJT. THOMAS G.
A66805 BDR. WRIGHT K.B. (Mot Mech Gp "B")

C2966 GNR. SOMERS W.P. (Clerk Gp "C")

(c) T.O.S. from 13 Cdn. S-P Regt. w.e.f. 23 Nov 43. (Auth Adm. Order No. 222). Posted to "H" Bty.

K25053 BDR. SHERMAN J. (Clerk Gp "C")

(d) T.O.S. from 15th Cdn. Fd. Regt. w.e.f. 29 Nov 43. (Auth- Adm Order No. 222). Posted to "H" Bty.

B13150 BSM. SHERLOCK N.

(e) T.O.S. from No. 1 C.N.E.T.D. (Re-Alloc Centre) w.e.f. 7 Dec 43. (Auth- AT 5854 d/5 Oct 43). Posted to "D" Bty.-

(f) Amendment:
D.O. 284 para 8(f) d/1 Dec 43 insofar as it concefns F88893 Gnr. Frizzel H.W. is cancelled. (D)
D.O. 285 para 5(a) d/3 Dec 43 insofar as it concerns C26259 Gnr. Wells R.W. is amended by deleting "(Dvr Mech Gp "C")". (D)
D.O. 276 para 9(f) d/22 Nov 43 is amended to read " w.e.f. 20 Nov 43 ". (W)
D.O. 279 para 6(f) d/25 Nov 43 insofar as it concerns D92791 Gnr. Livingston G. is amended by deleting "(Tech Storeman Gp "C")"(D)

9. COURSES

(a) The u/m proceeded on CSA Gun Pit Blowing Course at Cdn. School of Arty w.e.f. 7 Dec 43 to 9 Dec 43. On strength Btys shown.

B21498	BDR. DAWSON	W. (B)	H92455	L/BDR. KOTAK	M.N.(B)
L59746	BDR. MARK	S.R.(B)	B12094	BDR. STEWART	G.F.(H)
L39117	GNR. DUMONT	W.A.(B)	L59780	L/BDR. SAUSER	H.A.(B)

(b) The u/m proceeded on CMHQ Course No. 1109- Mot Mech at No. 3 Tech Trg. Group w.e.f. 8 Dec 43. On strength "C" Bty.

M474 SJT. ECHLIN R. M63558 SJT. OSTERBERG L.B.

10. HOSPITAL

(a) The u/m were discharged from hospital shown w.e.f. 6 Dec 43.

L64777	GNR. BATEMAN	W.G. (D)	No. 9 Gen. Hosp.
K74153	GNR. BROWN	J.W. (F)	No. 1 Cdn Med Centre
D13590	GNR. CREASE	C.W. (D)	No. 13 Gen. Hosp.
G50762	A/L/BDR ENMAN	E.T. (D)	No. 1 Special Hosp.
B23877	GNR. GORDON	J.G. (D)	No. 13 Gen. Hosp.
D9031	GNR. LISTER	J.C. (S)	No. 2 Gen. Hosp
L35316	GNR. LOUSTEL	P.J. (H)	No. 1 Cdn Med Centre
A35310	BDR. NORRISH	T.J. (D)	No. 1 Special Hosp.
L102327	GNR. OLM	A. (D)	No. 2 Gen. Hosp.
H29088	L/SJT. SIMMONS	W.H. (D)	No. 13 Gen. Hosp.
B43887	GNR. THIBEAULT	F.J. (F)	No. 17 Gen. Hosp.
C63396	GNR. WILKES	C.W. (F)	No. 8 Gen. Hosp.

(b) The u/m were discharged from hospitals shown w.e.f. dates listed.

D6026	GNR. CARPHIN	C. (D)	Mil. Hosp. Buckland	20 Oct 43
A57021	GNR. BERRY	J.R. (S)	No. 10 Gen. Hosp.	27 Nov 43

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10. HOSPITAL (Continued)

(c) The u/m were transferred to hospitals shown w.e.f. dates listed.

M3426	GNR.	GINGELL	H.D.	No. 1 Special Hosp.	2 Dec 43
C56	L/BDR.	CROUCH	F.	No. 1 Special Hosp.	2 Dec 43
B95215	GNR.	PEARCE	G.E.	Alton Conv. Hosp.	2 Dec 43
D9031	GNR.	LISTER	J.C.	No. 2 Gen. Hosp.	28 Nov 43

(d) The u/m were admitted to hospitals shown w.e.f. dates listed.

B11349	GNR.	BARTLETT	A.E.	(B)	No. 2 Gen. Hosp.	4 Dec 43
D7736	GNR.	BAUDET	A.	(D)	No. 1 Cdn Med Centre	5 Dec 43
M35432	GNR.	FERGUSON	L.E.	(A)	No. 1 Cdn Med Centre	4 Dec 43
M43529	GNR.	FYSTRO	K.K.	(B)	No. 1 Cdn Mee Centre	6 Dec 43
F66680	GNR.	KARP	E.	(G)	No. 1 Neuro. Hosp.	5 Dec 43
M43549	BSM.	HUNER	J.T.	(H)	No. 2 Gen. Hosp.	4 Dec 43
B45038	GNR.	LAWATSKY	J.W.	(B)	No. 1 Cdn Med Centre	6 Dec 43
K16513	GNR.	MARSHALL	G.W.	(G)	No. 1 Cdn Med Centre	6 Dec 43
B13147	GNR.	PARKINSON	H.	(A/W)	No. 2 Gen. Hosp.	6 Dec 43
A4409	GNR.	RICHTER	W.A.	(F)	No. 1 Cdn Med Centre	5 Dec 43
H69884	GNR.	SNIDER	R.	(A)	No. 1 Cdn Med Centre	5 Dec 43
H60728	GNR.	SCHMOK	C.R.C.	(H)	No. 1 Cdn Med Centre	4 Dec 43
G47387	GNR.	TAIT	H.C.	(B)	No. 2 Gen. Hosp.	4 Dec 43
B148416	GNR.	WATSON	A.R.	(A)	No. 1 Cdn Med Centre	6 Dec 43
B44341	GNR.	WISNER	J.D.	(A)	No. 1 Cdn Med Centre	6 Dec 43

11. LEAVE OF ABSENCE

L101633 GNR. FINKLEMAN S. "A/W"

(a) Granted 7 days P.L. plus 48 hrs pass (total 9 days) with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 24 Nov 43 to 3 Dec 43.

(b) The u/m were granted 7 days P.L. plus 48 hrs pass (total 9 days) with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 6 Dec 43 to 15 Dec 43.

L11088	GNR.	ADAMS	J.	A102073	GNR.	MILLER	J.
H35572	A/L/BDR	BADE	E.	H3734	GNR.	MILLER	R.
C187	GNR.	BARNES	W.H.	B43848	GNR.	MITCHELL	J.D.
M56222	A/L/BDR	BOYD	D.J.	G7007	GNR.	MURPHY	R.A.
L59796	A/L/BDR.	BRASS	W.W.	H60256	GNR.	NESBITT	H.J.
				A35366	GNR.	NIXON	M.H.
	D.E.L.E.T.E.D			H59835	GNR.	PARE	J.
K5091	GNR.	CHAMPION	A.E.	P9185	L/BDR.	PATTERSON	W.S.
M37076	GNR.	CHEW	J.E.	A34022	RQMS.	PAYNE	W.F.
B7027	BQMS.	CONNOR	E.W.	H5070	L/BDR.	PETERS	C.N.
D128128	SJT.	FORTIN	R.	B6026	GNR.	REUVE	S.
B130065	BDR.	DONOHUE	E.F.	M35303	GNR.	ROBINSON	F.H.
H66456	A/L/BDR	FROST	B.D.	H67399	GNR.	ROSEVEARE	J.C.
B112806	GNR.	FURPHY	W.J.	H59829	GNR.	ROSS	C.N.
B17238	GNR.	GAGNE	A.J.	A17104	GNR.	ROSS	R.L.
C26299	L/SJT.	GREEN	R.E.	D6543	GNR.	SEPRINI	T.
M102750	GNR.	HANSEN	A.E.	P9341	SJT.	SMITH	H.M.
B21342	GNR.	HARRISON	G.	K46804	A/L/BDR.	STACK	R.
D96346	GNR.	HEUFF	M.J.	B41747	GNR.	THOMPSON	C.R.
B131389	GNR.	KENNEDY	N.A.	L59799	GNR.	TILLOTSON	A.
K7070	L/SJT.	LANG	J.R.	B111296	GNR.	VALLIERE	V.G.
L26448	GNR.	LEES	G.A.	L74469	PTE.	WILL	N.F.
M43934	GNR.	LEWIS	D.	C244	BDR.	WYNTON	H.
P9405	SJT.	LIVIE	D.M.	B7097	SJT.	GOAD	H.G.
M29144	GNR.	LOEWEN	W.				

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11. LEAVE OF ABSENCE (Continued)

(c) The u/m were granted 7 days P.L. with money allce in lieu of rations under FR&I (Overseas) Art 789 w.e.f. 6 Dec 43 to 13 Dec 43.

K5020	CDT. CARSWELL	R.H.	A31076	CDT. NEILSON	J.A.
D10947	CDT. GUNLIFFE	S.J.	P9424	CDT. VERGETTE	H.T.
B7093	CDT. DEL MEDICO	G.A.	L2	CDT. WILLIAMS	E.J.
G7130	CDT. MURRAY	D.W.	A3155	CDT. WOODWARD	H.W.

(d) The u/m were granted 7 days P.L. plus 48 hrs pass (total 9 days) with money allce in lieu of rations undef FR&I (Overseas) Art 789 w.e.f. 18 Nov 43 to 27 Nov 43. (Extract from No. 1 C.B.C.D. Part II Order No. 211 d/30 Nov 43).

B138567 GNR. CUMMING G. D175566 GNR. LANDRY J.D.

12. ABSENT WITHOUT LEAVE

D17556 GNR. LANDRY J.D. "D"

(a) Reported AWL at 0600 hrs 28 Nov 43.(Extract from No. 1 C.B.C.D. Part II Order No. 213 d/3 Dec 43.).

D6128 GNR. CLEMENTS T.G. "C"

(b) Reported AWL from 1400 hrs 23 Nov 43 whilst in No. 2 Gen. Hosp.

C9337 GNR. LISTON J.E. "S"

(c) Reported AWL from 2200 hrs 5 Dec 43 to 0900 hrs 7 Dec 43.

D105820 GNR. GRAY H. "A"

(d) Returned from AWL at 1600 hrs 6 Dec 43.

D6128 GNR. CLEMENTS T.G. "C"

(e) AWL from 1400 hrs 23 Nov 43. Still absent 1400 hrs 1 Dec 43 (8 clear days). (Extract from No. 2 Cdn. Gen. Hospital Part II Order No. 30 d/1 Dec 43).

A28191 GNR. DENNIS F. "D"

(f) AWL from 1200 hrs 19 Nov 43. Still absent after 8 clear days.

H12053 GNR. MARTELL H.G. "A"

(g) AWL from 2359 hrs 14 Nov 43. Still absent after 21 clear days.

13. REVERSIONS

(a) Amendment:

S.O. 286 para 11(a) d/4 Dec 43 is cancelled in its entirety.

14. QUALIFICATIONS

(a) The u/m having attended Driver i/c Course C.H. 136 at No. 1 C.A.R.U. w.e.f. 23 Nov 43 to 4 Dec 43 have qualified Class "A" w.e.f 4 Dec 43. On strength "C" Bty.

B47418	L/BDR. MELLWAY	J.R.	K76580	GNR. MAC LEOD	D.H.
B111805	GNR. BLOYE	D.I.	B47560	GNR. MORGAN	I.A.R.
B21876	GNR. HENRY	G.R.	M101552	GNR. TELFORD	W.E.
D132361	GNR. KENNESON	G.			

(b) The u/m having attended Driver i/c Course C.H. 136 at No. 1 C.A.R.U. w.e.f. 23 Nov 43 to 4 Dec 43 have qualified Class "B" w.e.f. 4 Dec 43. On strength "C" Bty.

C125017	BDR. LARCHE	J.R.	L193580	GNR. STEELE	G.C.
C5824	BDR. STRINGER	J.A.	L101577	GNR. TATLOW	R.
H195353	GNR. NICHOLS	M.J.			

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15. TRADESMEN'S QUALIFICATIONS

(a) The u/m having been trade tested as Driver Mech Gp "C" by a Trade Testing Board have PASSED w.e.f. 24 Nov 43.

M3648 GNR. GAY C.B.(19SPR) M61751 GNR. STUDER G.R.(A/W)
B15295 GNR. CRAIG W.T.(19SPR)

(b) The u/m having been trade tested as Motor Mech Group "B" by a Trade Testing Board have PASSED Groups shown w.e.f. 24 Nov 43. On strength Btys shown.

C100126	GNR. FICKES	K.J.	(C)	Mot Mech Gp "C"
L319	GNR. BRANT	G.C.	(C)	Mot Mech Gp "B"
B21457	GNR. BANHAM	W.H.	(C)	Mot Mech Gp "B"
M103075	GNR. SQUIRE	L.G.	(C)	Mot Mech Gp "B"
C10183	GNR. SPENCER	M.C.	(A/W)	Mot Mech Gp "B"
H67318	GNR. SCULLY	M.	(C)	Mot Mech Gp "C" AFV

(c) The u/m having been trade tested as Driver Mech/Group "C" by a Trade Testing Board have PASSED w.e.f. 27 Nov 43. On strength "C" Bty.
M35303 GNR. ROBINSON P.H. (C) H67399 GNR. ROSEVEARE J.C.(C)

D6563 A/SJT. ZAPPA P.D. "C"

(d) Ceases to draw trades pay Clerk Gp "B" w.e.f. 30 Nov 43.

A33110 GNR. TOUT O.H. "A/W"

(e) Granted trades pay Motor Mech Gp "B" w.e.f. 26 Oct 43 on assuming duties within the W.E.

16. FIELD GENERAL COURT MARTIAL

H35284 GNR. CROOKES A.D. "D"

(a) On 3 Dec 43 tried by F.G.C.M.

Charges: A.A. Sec 15(1). AWL from 1800 hrs 5 Oct 43 to 0740 hrs 24 Nov 43. (Absent 49 days 13 hrs 15 min)

Findings: Guilty.

Sentence: 6 months detention.

Confirmation: Findings and sentence of the Court were confirmed by the Brigadier Commanding "C" Group HQ on 4 Dec 43.

Close Arrest: In close arrest from 0740 hrs 24 Nov 43 to 2359 hrs 2 Dec 43. (8 days 16 hrs 20 mins).

Forfeitures of Pay

AWL	FR&I 149(1)(a)	50 days
Close Arrest	FR&I 149(1)(c)	9 days
Detention	FR&I 149(1)(b)	183 days
TOTAL FORFEITURE OF PAY		242 days

(Concurrent with award of 28 days F.P. on 25 Sep 43).

L6055 GNR. TOMLINSON S.E. "D"

(b) On 26 Feb 43 tried by F.G.C.M.

Charges: (1) A.A. Sec 15(1). AWL from 0855 hrs 15 Nov 43 to 1230 hrs 10 Feb 43. (Absent 87 days 3 hrs 35 mins).
(2) A.A. Sec 24(2)

Findings: Guilty on both charges.

Sentence: 5 months detention

Confirmation: Findings and sentence of the Court were confirmed by the Brigadier Commanding "C" Group HQ, but sentence of detention amended to 150 days.

(Continued on next page)

16. FIELD GENERAL COURT MARTIAL (Continued)

(b) (Cont'd)

Close Arrest: In close arrest from 1230 hrs 10 Feb 43 to 2359 hrs 25 Feb 43. (14 days 11 hrs 30 mins).

Forfeitures of Pay:

A/L	FR&I 149(1)(a)	87 days
Close Arrest:	FR&I 149(1)(c)	15 days
(Concurrent with 9 days forf of pay on 17 Feb 43).		
Detention	FR&I 149(1)(b)	150 days
NET FORFEITURE OF PAY		243 days

Awarded stoppage of pay in the amount of £1-17-8½ - Cost of clothing and equipment lost through neglect.

17. DETENTION

M24002 GNR. CROWE M.W. "D"

(a) Released from Cdn. Detn. Bks. w.e.f. 5 Dec 43.

18. REMISSION

M24002 GNR. CROWE M.W. "D"

(a) Granted 120 days remission of sentence w.e.f. 5 Dec 43 on, release from Cdn. Detn. Bks.

19. MARRIAGES, BIRTHS AND DEATHS

H59972 GNR. BARNETT T. "A/W"

(a) Born a son
Name: Michael Peter.
Place: South Benfleet, Essex, England.
Date: 1 Dec 43.

20. CHANGE OF MEDICAL CATEGORY

(a) The u/m having appeared before a Standing Medical Board were re-categorized as shown w.e.f. dates listed. On strength Btys shown.

B47305	L/BDR. HARDING	P,S, (S)	"A1"	25 Oct 43
B5895	GNR. MILLAR	H.G. (D)	"B2"	5 Nov 43

21. CHANGE OF REGIMENTAL NUMBER

L101037 GNR. FRY C.J. "C"

(a) Regimental Number changed to H15209. All documents to be amended accordingly. (Auth- A4 C.A.T.C. Part II Order No. 95 d/15 Apr 43).

22. TRANSFERS

(a) The u/m were transferred from Corps shown to R.C.A. w.e.f. 6 Dec 43. On strength "F" Bty.

B150280	GNR. MORRISON	K.L.	from Corps of Inf.
M103273	GNR. LYLE	R.B.	from Corps of Inf.
G19782	GNR. RYAN	A.W.	from R.C.C.S.

23. SUBSISTENCE ALLOWANCE

(a) Amendment:

D.O. 287 para 19(a) d/6 Dec 43 insofar as it concerns the u/m is amended by adding dates shown.

H82004	GNR. NORMAN	H.L.(C)	" 3 Nov 43 "
H54823	GNR. JEFFREY	J.K.(13FR)	" 9 Nov 43 "

(Continued on next page)

J.D.T.

24. PAY AND ALLOWANCE

(a) The u/m were granted a daily regimental rate of pay of $1.50 w.e.f. dates listed having completed 6 months proficient service (Auth C.O. 486/42). On strength Btys shown.

B83100	GNR. JOHNSON	F. (A/W)	18 Jul 43
F20530	GNR. BOYLANI	J.H.(A)	19 Sep 43
B45166	GNR. BRISCOE	J.K.(F)	2 Dep 43
L103123	GNR. BROWN	L.J.(D)	23 May 43
M66654	GNR. BUECHLER	E. (A/W)	5 Apr 43
C10007	GNR. BURNS	W.C.(A/W)	1 Mar 43
C13168	GNR. CARPENTER	J.C.(F)	1 Mar 43
B22178	GNR. CHESNEY	R.H.(A)	1 Sep 43
M66634	GNR. CLARK	J. (C)	25 Nov 43
L154115	GNR. CORCORAN	H.V.(H)	12 Jul 43
M4069	GNR. CORNO	D.T.(A/W)	11 May 43
H60379	GNR. CRAIK	R.A.(A/W)	1 Mar 43
K50874	GNR. CRITCHFIELD	E.J.(D)	1 Oct 43
B22364	GNR. DE FRANCISCO	J.G.(B)	13 Jul 43
	D E L E T E D		
M43934	GNR. LEWIS	D. (A/W)	7 Aug 43
H60417	GNR. GRIFFITHS	G. (A/W)	1 Apr 43

(b) The u/m were granted a daily regimental rate of pay of $1.40 w.e.f. dates listed having completed 4 months service with efficient and good conduct. (Auth- C.O. 486/42). On strength Btys shown.

M43934	GNR. LEWIS	D. (A/W)	7 Jun 43
M66654	GNR. BUECHLER	E. (A/W)	5 Feb 43

25. POSTINGS - PERMANENT ESTABLISHMENT

D6111 SJT. GOODALE G.C.

(a) Posted from "I/W" (PE) (Instr) to "B" Bty (R) w.e.f. 29 Nov 43.

D6563 A/SJT. ZAPPA B.D.

(b) Posted from "C" Bty (R) to "I/W" (PE) (Clerk) w.e.f. 30 Nov 43.

H35489 A/SJT. MILLER R.

(c) Posted from "G" Bty (R) to "G" Bty (PE) (Instr) w.e.f. 29 Nov 43.

26. STRENGTH DECREASE

F75510 GNR. KNOWLES J.E.

(a) S.O.S. as a deserter w.e.f. 23 Nov 43. (Auth- Ct of Inq d/23 Nov 43). On strength "D" Bty.

(b) The u/m are S.O.S. to No. 1 C.G.R.U. w.e.f. 6 Dec 43. (Auth- Adm. Order No. 222, CMHQ Course No. 1039). On strength Btys shown.

C82001	L/SJT. MOORE	S.C.	(CMHQ)	(Clerk Gp "C")
M50013	SJT. CALLOW	H.F.	(E)	(Clerk Gp "C")

B11781 GNR. WATAWASEMS W.

(c) S.O.S. to No. 1 C.N.E.T.D. w.e.f. 3 Dec 43. (Auth Category "E"). On strength "D" Bty.

C2966 GNR. SOMERS W.P. (Clerk Gp "C")

(d) S.O.S. to No. 1 C.G.R.U. w.e.f. 29 Nov 43. On CMHQ Course 807 Ser 17 - Clerks. On strength "H" Bty.

D6026 GNR. CARPHIN C.

(e) S.O.S. to 5th Cdn. Fd. Regt. w.e.f. 20 Oct 43. (Auth- 99/20/5 Fd R/1 d/21 Oct 43). On strength "D" Bty.

(Continued on next page)

26. STRENGTH DECREASE (Continued)

K25035 BDR. SHERMAN J. (Clerk Gp "C")

(f) S.O.S. to No. 1 C.A.R.U. w.e.f. 29 Nov 43. (Auth Adm Order No. 222. CMHQ Course 807 Ser 17). On strength "H" Bty.

(g) Amendment:
D.O. 173 para 7(1) d/23 Jul 43 insofar as it concerns B112339 Gnr. Dingham J.E. is amended to read " B112339 Gnr. Dingman J.E. " and by adding "(Dvr Mech Gp "C")". (15FR)
D.O. 285 para 25(a) d/3 Dec 43 insofar as it concerns D137831 Gnr. Miller R.C. is cancelled. (H) (Auth CRU A6253 d/3 Dec 43).
D.O. 235 para 12(a) d/4 Oct 43 insofar as it concerns B11781 Gnr. Watawasens W. is cancelled. (D).

K P C Ridley Capt.
p (W.A. TOWNSLEY) COLONEL
COMMANDING OFFICER
No. 1 Canadian Artillery Reinforcement Unit
Canadian Army Overseas

No. 289
8 Dec 43

(Last Page)

8 Dec 43
Certified true copy
A Sherman
for Capt & Adj
2 Army Tk Coy RCA

FDT

LIST OF WITNESSES

PROSECUTION

Mr. E. Casey — Superintendent of the Monmouthshire Constabulary, Pontypool Station.

Lt. W.M. Blackwell — No 1 Cdn Artillery Reinforcement Unit.

LIST OF APPENDICES

Appendix "A"	A written statement purporting to be signed by Mr. E. Casey.
Appendix "B"	Certified true copy of No 1 C.A.R.U. Part II Orders No 52 dated 3 Mar 43
Appendix "C"	Certified true copy of No 1 C.A.R.U. Part II Orders No 73 dated 27 Mar 43.
Appendix "D"	Certified true copy of No 1 C.A.R.U. Part II Orders No 269 dated 8 Dec 43.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I, L.6055 Gunner Tomlinson, S.E., of No 1 Canadian Artillery Reinforcement Unit, desire to have Capt. F.H. Kelley to represent me at my trial by Court Martial.

S.E. Tomlinson

L.6055 Gnr. Tomlinson, S.E.

8 Dec 43

This to certify that I have received today one copy of amended Charge Sheet and one copy of amended Summary of Evidence for my trial by Court Martial.

L.C. Tomlinson

(L.6055 Gnr TOMLINSON, S.E.)

SUMMARY OF EVIDENCE in the case of L6055 Gunner Stanley Elmer TOMLINSON, RCA, on the strength of No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

Mr E. Casey, Superintendent of the MONMOUTHSHIRE CONSTABULARY, PONTYPOOL STATION, a written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the Summary of Evidence and marked Appendix "A".

Having regard to the expenses involved, the attendance of this witness cannot, in my opinion, be readily procured.

.....
Lt W.M. Blackwell
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS for the prosecution

Lt W.M. Blackwell, I produce the following certified true copies of Part II Orders of No 1 C.A.R.U., Nos and dates as shown below, pursuant to A.A. 163(1)(j), referring to the accused, whom I now recognize.

No 289	dated 8 Dec 43	marked Appendix "D"
No 52	dated 3 Mar 43	marked Appendix "B"
No 73	dated 27 Mar 43	marked Appendix "C"

.....
Lt W.M. Blackwell
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused declines to make a statement and reserves his defence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

.....
Lt W.M. Blackwell
Officer detailed to take the Summary of Evidence.

Bordon, Hants
3 Dec 43.

Ex 'A'
FDT

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2665)

No. L6055 Name TOMLINSON S.E. Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 7 Sep.39 G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field		Gnr.		A.A.Sec.40 being in improper possession of Public Property & prpperty belonging to an officer		28 days Det.	19 Jan 40		
Field	25 Dec 40	Gnr		A.A. Sec. 40 Conduct etc,driving vehicle without proper authority	Sgt. McDiarmid Bdr,McDonald	5 days F.P.	2 Jan 41	Lt-Col Wyman	Total Forf. XX5days pay.
Field	25 Nov 40	Gnr		A.A.Sec.40Neglect etc,failed to park W.D.Vehicle at appointed place resulting in loss of spare tire and wheel.	Lt. Coates. Lt. Chambers Bdr. Carswell TBSM Brown Bdr Miller	5 days F.P.	23 Jan41	Lt-Col Wyman	Forf. 5 days pay FR&I 149 (I)(b) $60.00for damage to W.D. vehicle FR&I 158 (2)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									amended assessed stoppage of pay to amt . of $35.00 Auth R.A.Q. 2272 d/25 Feb41.
Field	22Nov 41	Gnr		A.A.Sec15(I)woas.AWL from 1600 hrs 22 Nov 41 until 1000 hrs 4 Dec 41- 11 days 18 hrs.	B.S.M. Lawrence	14 days C.B .	15 Dec. 41	Major J.W. Dodds	Forf.12 days pay FR&I 149 (I)(a)
Field				Tried in Civil Court for theft and forgery		6 months imprisonment (H.M. Prison Wormwod Scubs. (released 16 May 42).			
Field	14 Sep 42	Gnr.		A.A.Sec.15(I) WOAS. AWL. from 0800 hrs 14Sep 42 until 1250 hrs 14 Sep 42 (4hrs 50 mins.)	Documentary	14 days C.B.	15 Sep 42	Lt-Col F. Barber	

M.F.M. 6
(A.F. B.122)—
40/P.S./8136 (2965)

No. L6055 Name TOMLINSON S.E. Sqn., Battery, or Company Corps R.C.A. Date of enlistment 7Sep39 G.C. Badges Service or Proficiency Pay N/A Character

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Nov 42	Gnr		(1) A.A.Sec.15(1) AWL from 0855 hrs 15 Nov.43 to 1230 hrs. 10 Feb.43 (Absent 87 days 3 hrs 35 mins) Documentary		5 months detention (Award stoppage of £ 1-17s-8½d. cost of clothing & Eqpt. lost through neglect)	26 Feb 43	F.G.C.M.	Total Forf. 243 days pay (Findings & sentence of the Court were confirmed by the Brig.Cond. "C" Gp.HQ. but the sentence amended to 150 days)
				(2) A.A.Sec. 24(2)					

Certified true copy made from M.F.M.4 in my possession 15 Dec. 43

A.P.Hawke Lieut
for
S.R.Roebuck Lieut
Records Officer
No.1 C.A.R.U.

(P.T.O.)

ARMY FORM B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L-6055	Gunner	TOMLINSON, S.E.	No 1 C.A.R.U.

1. The following is a fair and true summary of the entries in the regimental xxxxxxxxxxxxxxxxxxxx conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	times 4	times.
For A.A. Sec 40	times 2	times.
For	times	times.
For	times	times.
For	times	times.

xxxxxxxxxxxxxxxxxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L.6055 Rank Gunner Name TOMLISON, S.E. of No.1 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
F.G.C.M.	Field 26 Feb 43	A.A. Sec 24(2) A.A. Sec.15(1)	150 days Detention	
		Note. Has not served his sentence		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of Dec 43.

(K.J.C. RIDLEY) Capt.,
Records Officer, No.1 C.A.R.U.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through; except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. ~~President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes - attached.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. AFB 355 or AFB 296. 2. AFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes - attached.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 74(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-6055 Gnr TOMLINSON, Stanley Elmer

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd ~~X~~			
3rd ~~X~~			
4th ~~X~~			
5th ~~X~~			
6th ~~X~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 18 months

(Sgd) ..... 13 Dec 43. (Sgd) J. D Lovett Lt Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

Date 13/Dec/43 (Sgd) J. C. Stewart
Commanding J. C. STEWART, Brigadier, Commanding "C" Group, Can. I.C.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L-6055 Gnr. Tomlinson S.E.	15 Dec 43.	W A Bromley COL. C.O. - 1 C.A.P.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WW-138

GNR TOMLINSON S.E.

L-6055 Gnr. Tomlinson, S.E.
1 C.A.R.U.

WO-196

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-FIFTH day of FEBRUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

Omit where convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~I am unable to appoint~~
*1. ~~Three Officers to form the Court.~~
*2. ~~A Field Officer as President.~~

for the following reasons, namely:—

Proceedings Reviewed

[signature] Capt. A.D.C.
16 Dec 43 Reviewing Officer D.A.G. C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	G.H. GILLESPIE, R.C.A.	3 C.A.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	M.J. SALE, R.C.A.	3 C.A.R.U.
LIEUT.	C.F. DIGGORY, R.C.A.	3 C.A.R.U.
LIEUT.	G.D. JACK, R.C.A. (Waiting Member)	3 C.A.R.U.

*Signed [signature] COLONEL,
*Commanding "C" Group, Cdn Reinf Units
Convening Officer.

*Any alterations made by the Convening Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
5 L-60655 Gnr. Tomlinson, S.E. (R.C.A.) 1 C.A.R.U.	FIRST CHARGE A.A. Sec.15(1)	Guilty	Guilty	Confirmed I vary the Sentence so that it shall be as follows:- 150 days detention and confirm the finding and the sentence as so varied.
	SECOND CHARGE A.A. Sec.24(2)	Not Guilty	Guilty of charge except that he did not lose 1 pr boots ankle, 1 pr gloves woollen and 1 cap (Amt £1.9.4) RP 44316 to undergo detention for a period of four months and part under stoppage of pay to amounting to £1-17-8½ Grant Gillespie Maj Pres 26-2-43	
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) : I request an adjournment until 1300 hrs 26-2-43 on grounds that I have not had sufficient time to prepare defence.

(Signed) D Rogers Colonel, (Signed) Grant Gillespie Maj Pres
Commanding "C" Group, Cdn Reinf Units.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26 day of Feb, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) Clerk
*(4. The officers under instruction)
were duly sworn.

*Omit if not applicable

Signed this 26 day of Feb 1943.

Grant Gillespie Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~I direct that the soldier named in the margin be sent committed to prison or detention barrack until further orders.~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 1st day of March 1943

Brigadier,
Confirming Officer, Group,
Cdn Reinforcement Units.

Promulgated and extracts taken in the case of L.60655 Gnr TOMLINSON S E

(a) (Dated) 6 Dec 43 (Signed) WG Connolly
C.O. 1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[20704] Wt.47553/242 40,000 7/42 A.& E.W.Ltd. Gp.698
[21785] Wt.13088/1259 40,000 7/42 " "

CHARGE SHEET

The accused, L-6055 Gunner Tomlinson, S.E., Royal Canadian Artillery, on strength of "P" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with WHEN ON ACTIVE SERVICE:

ABSENT WITHOUT LEAVE.

First Charge, A.A. Sec 15 (1).

in that he at St. Lucia Barracks, Bordon, Hants, did absent himself without leave from 0855 hrs 15 Nov 42 until surrendering himself to the Civilian Police at Harrow Road Station at 1230 hrs 10 Feb 43. (Absent 87 days 3 hrs 35 min.)

LOSING BY NEGLECT

Second Charge, A.A. Sec. 24 (2)

in that he, at St. Lucia Barracks, Bordon, Hants, did lose by neglect, clothing and equipment in the amount of £3-18-0½d. unexpired wear value.

Dated at Bordon, Hants.,
this 24 Feb 43.

G.T. Inch

(G.T. Inch) Lt.-Col.
Commanding Officer "P" Training Wing,
No.1 Canadian Artillery Reinforcement Unit.
R.C.A. Canadian Army (Overseas).

To be tried by Field General Court Martial,

A/Commander "G" Group, Cdn Reinf Units. Colonel,
(Convening Officer)

Bordon, Hants.
25 Feb 43

Pres

CHARGE SHEET.

The accused, L-6055 Gunner Tomlinson, S.E., Royal Canadian Artillery, on strength of "P" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with WHEN ON ACTIVE SERVICE:

First Charge. A.A. Sec. 15 (1).

ABSENT WITHOUT LEAVE,

in that he at St. Lucia Barracks, Bordon, Hants, did absent himself without leave from 0855 hrs 15 Nov 42 until surrending himself to the Civilian Police at Harrow Road Station at 1230 hrs 10 Feb 43.
(Absent 87 days 3 hrs 35 min.)

Second Charge. A.A. Sec. 24 (2).

LOSING BY NEGLECT,

in that he, at St. Lucia Barracks, Bordon, Hants, didlose by neglect, clothing and equipment in the amount of £3-18-0½, unexpired wear value.

Dated at Bordon, Hants.,
this 24 Feb 43.

(T.H. Musgrave) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.
R.C.A. Canadian Army (Overseas).

To be tried by Field General Court Martial.

Colonel,
A/Commander 4Cdn Group, Cdn Reinf Units.
(Convening Officer)

Bordon, Hants.
25 Feb 43.

MF-s 246

MEDICAL OFFICER'S CERTICICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No. L.6055 GNR. TOMLINSON...S.E.....

of No.1 Cdn Arty Reinf. Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station. No.1 C.A.R.U.....

Date. 26. FEB. 43.....

.....
Medical Officer
No.1 Cdn Artillery Reinforcement Unit.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT 3 C.A.R.U. ON THE 26th. DAY OF Feb 43.

TRIAL OF:/ No. L-6055 Gnr. Tomlinson, S.E.

The Order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.

Prosecutor:- Lieut. P.N. Armstrong, R.C.A., No.1 C.A.R.U.

Defending Officer:- Lieut. D.G. Spillings, R.C.A., No.1 C.A.R.U.

At 1100 hrs. the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q.1. Do you object to be tried by me as President or by any of the Officers whose names you have heard read over ? A.1. No
The President, Members [redacted] are duly sworn.
The Officers under instruction are duly sworn.

Q.2. Do you object to Gnr. A.N. Kirsch acting as shorthand writer ?
A.2. No.

The shorthand writer is duly sworn.

The accused pleads Guilty to 1st Charge,
Not Guilty to 2nd Charge.
R.P. 35B is complied with in respect to 1st Charge.
The Accused was asked question required by R.P. 35(a) in respect to 2nd Charge.
The Accused asked for an adjournment until 1500 hours on the grounds that he had not had 24 hours to prepare his defence.

Adjournment granted. Court Adjourned 1130 hours.

Court reopened at 1500 hours.

Defence ready to proceed with second Charge.

Prosecution:

First Witness:- M 18108 Bdr. Martin, G.E. is sworn

States,"I am M 18108 Bdr. Martin, G.E. of "P" Wing, Q.M. Stores at No. 1 C.A.R.U. On 22 Feb 43 I checked the kit of L 6055 Gnr. Tomlinson, S.E. and found it deficient in the amount of £3-18-0½, unexpired wear value.

Q. Have you a copy of the list of shortages with you ?
A. Yes.

Witnesses list, checked against list attached to summary of Evidence and found to correspond.

Defence declines to cross-examine witness.

Defense

The Defending Officer having been duly sworn produced the following articles of kit, which he stated belonged to the accused, and had not been produced at the checking of kit due to the fact that the accused had been in close arrest since arriving back from A.W.L. and these had not been in Q.M. Stores.

		Vocabulary Price	Unexpired Wear Value
Boots, Ankle	1 Pair	£1-1-6	£ -/16/1½
Gloves, Woolen	1 Pair	2-7½	1/11½
Capes A/G	1	15-0	11/3
		£1/19/1½.	£1/9/4.

Prosecution declines to cross-examine witness.

The Prisoner declines to give evidence.

Court closes to consider finding.

Court Reopens.

The Summary of Evidence on 1st Charge read and signed by President.

Q. Do you wish to make any statement in mitigation of punishment.?

A. Yes. (Statement attached)

Q. Do you wish to give evidence yourself or call any witnesses as to character ?

A. No.

Court closes to consider finding 2nd Chg.

Court opens, prosecutor produces evidence as to character and M.F.M.6.

Court closes to consider sentence.

Gnd/Gilhespie Maj
26 Feb 43

F.C.C.M. ## L 6055 Gnr. Tomlinson, S.E.

Statement of Mitigation - on oath.

I enlisted in the Artillery on Sept. 7th 1939. Previous to that I was in the M.P.A.M. since 1934. I was married in 1937 and when I left Canada in 1939 I had a daughter. The following year I had a son. At that time I was getting mail regularly until about June 1940. Then I didn't receive any mail or parcels from my wife up until this day and I haven't received any yet.

I got in touch with my Padre, Capt. McKinney, 3 Fd. Reg't. who got in touch with Major Farley, who got in touch with my wife. I was taking a course at C.T.S. last August when I had a letter come from C.M.H.Q. with a letter from my wife and a notation enclosed from Padre McKinney. The letter is about eight pages and states she had a baby by another man over there. I have the letter with me. She puts dates and everything in this letter. I saw the Padre at C.T.S. and he said I should wait until I got back to my Unit, 1 C.A.A.U. When I got back I saw Major Hallet who said there wasn't much I could do about it. I then saw the Padre again but he just didn't seem to be able to help me, Sir.

I let it go for about a month and half carried on with my work, but I just couldn't get it off my mind so I just took off, Sir, and tried to get home myself.

I tried pretty hard but just couldn't make the grade. I heard the boys might be going into action pretty soon so I surrendered myself to the Harrow Rd. Police Station.

I still don't know where my wife and kiddies are, Sir, and I was wondering if this Court might be able to do something about it, Sir.

That is all.

Cross examination:

Pros: "Gnr. Tomlinson, do you feel that you've helped yourself by going A.W.L.?"
Acc: "I had to Sir, it played on my mind so much."
Pros: "Have you heard any complaints from your wife or anyone as to complaints about you?"
Acc: " I don't think so."
Pros: "Have you the letter you mentioned?"
Acc: "Yes, Sir."
Capt. Sale: " Was an address given in the letter?"
Acc: "Yes, but my wife is evidently not there now."

Scott Gallagher Maj
Pres

Copy

Army Form O.1617
R.A.F. Form 1617

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 138* Armitage at Randolph Avenue (hour) 12 30 p on the 10-2-43 day of as being No. L. 6055 (Rank and Name) Gunner Tomlinson a deserter (or absentee without leave) from Bordon, Hants and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age ... Height ... Feet ... Inches

Complexion ... Hair ...

Eyes ...

Marks ...

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	
Probable Date of Desertion or beginning of absence, and from what place	14-11-42 Bordon, Hants.

Sgt L. Taylor P.S. 25*

Signature of Officer of Police in charge of Ha + Wo Road Station

10th February 1943 Date of Signature.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ... Police in the case of No. ... who surrendered to the Police at ... on ...

Payable to ...

CERTIFIED that this statement of expenses is correct.

... Superintendent or Officer in charge of Police Station at ...

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of deserters and absentees from the Army, who surrender to the civil police; *i.e.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 489/1940).

27143) W.33503/131 25,000 10/40 A.S.F.W.Ltd. Gp.692 Forms O.1617/12

APPENDIX "A"

DEFICIENCIES - REGIMENTAL KIT- L-6055 Gnr. Tomlinson, S.E.

Article	No.	Vocab. Price £ . . .	Unexpired Wear £ . .
Anklets, Web	1 pr.	3. 5½	2. 7
Boots, ankle	1 pr.	1. 1. 6	16. 1½
Brushes, boot	1	8	6
Braces	1pr	1. 6	1. 1½
Brushes, button	1	8	6
Brushes, shaving	1	1. 4	1. 0
Brushes, tooth	1	4½	3½
Discs, identity	2	2	1½
Dressing, first fd.	1	1. 1	10
Gloves, woollen	1 pr	2. 7½	1. 11½
Jacket, sweater	1	6. 9	5. 1
Razors	1	1.10½	1. 5
Shorts, gym	2	3.10	2. 10½
Vest, gym	2	3.	2. 3
Attachments, brace	2	3. 6	2. 7½
Respirator Hav.	1	4. 4	3. 3
Facepiece	1	8. 6	6. 4½
Container	1	6. 6	4. 10½
Eyeshields	6	2. 3	1. 8
Anti-dim	1	2½	2
Ointment A/G	2	1. 7	1. 2
Cape A/G	1	15. 0	11. 3

Total Vocabulary Price.....£4-10-8½

Total Unexpired Wear Value.....£ 3 -18 - ½

Summary of Evidence in the case of L-6055 Gnr. Tomlinson, S.E. on the strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath:

FIRST WITNESS. H-3603 Sjt. Cox, S.E. of No. 1 C.A.R.U., having been duly sworn, states:

I am H-3603 Sjt. Cox, S.E. on strength of "A" Wing, No. 1 C.A.R.U. At the Roll Call for Church Parade at 0855 hours, 15 Nov 42, L-6055 Gnr. Tomlinson, S.E. failed to answer to his name and he was absent from his bed and room. He has been absent from all parades from that date and was reported as such until being S.C.S. wef 6 Dec 42. His kit was turned into Quarter Stores, 48 hours after his absence.

The Accused declined to cross-examine this Witness.

H 3603 Sgt Cox S.E.
H-3603 Sjt. Cox, S.E.

SECOND WITNESS. K-18018 Bdr. Martin, G.E. of No. 1 C.A.R.U., having been duly sworn, states:

I am K-18018 Bdr. Martin, G.E. of "P" Wing Quarter Stores, No. 1 C.A.R.U. On 22 Feb 43 I checked the complete kit of L-6055 Gnr. Tomlinson, S.E. against the Normal Issue as laid down in CARO(C) 1956 and CARO(C) 3120 and found it dificient in the amount of £4.10.8½ Vocabulary Price and in the amount of £3.18.-½ Unexpired Wear Value as per attached list marked Appendix "A". J.C.E.

The Accused declined to cross-examine this witness.

Geo. E. Martin
K-18018 Bdr. Martin, G.E.

THIRD WITNESS. K-92034 S/Sjt. Bowser, H.G. of No. 1 C.A.R.U., having been duly sworn states:

I am K-92034 S/Sjt. Bowser, H.G. "P" Wing H.Q. Orderly Room Sjt. and as such produce the following document from the Orderly Room files, marked Appendix "B", which is A.F.C. 1617, A Certificate of Surrender to Civil Police of an Absentee without leave, stating that L-6055 Gnr. Tomlinson, S.E. surrendered himself to the Civil Police at Harrow Road Police Station at 1230 hours, 10 Feb 43.

The Accused declined to cross-examine this Witness.

H.G. Bowser
K-92034 S/Sjt. Bowser, H.G.

The Accused, having been duly cautioned in accordance with R.P. 4(e) declined to make a statement.
Certified that R.P. 4(c),(d),(f) and (g) have been complied with.
Certified that this SUMMARY OF EVIDENCE, consisting of one page and two Appendices marked "A" and "B", was taken down before me in the presence and hearing of the Accused.

J.A. Egan
J.A. Egan, Capt., R.C.A.
No. 1 C.A.R.U.

Dated at Bordon, Hants., this 22nd. day of February, 1043.

Geo. Gillespie Maj
for

Old sheet destroyed at end of 6 months Service. 7/3/40. JV.

No. L-6055 Name Tomlinson, S.E. Sqn., Battery, or Company C.A.R.U. No. 1 Corps R.C.A. Date of enlistment 7/9/39. G.C. Badges Service or Proficiency Pay

M.F.M. 6 A.F.B. 121 (12M—7-41 (1)—[illegible] H.Q. 1773-39-1652

Date of last entry in Company Conduct Sheet 2/1/40 No. and date of last drunk Nil. Period not reckoning towards freedom from extra fine Sheet No. 1. Signature O.C. Company, etc. Charged J. Vereker, Major.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26/11/40	Gnr.		Absented from his quarters when under open arrest. Sec 15 (1) + Sec 40 A.A. Conduct etc. driving vehicle without proper authority	Capt. E.L. Depercies Sgt McDiarmid Bdr McConald	7 days C.B. 5 days F.P.	3/12/40 2/1/41.	Major L.M. Jones. Lt-Col Wyne.	Forf. 5 days pay FR&I
Field	25/12/40	Gnr.		Sec 40 A.A. Neglect etc. failed to park W.D. Vehicle at appointed place resulting loss of spare tire and wheel.	Lt. Coates Lt Chambers Bdr Cornwall Bdr Millar	5 days F.P.	23/1/41	Lt-Col Wyne.	Forf 5 days pay and cost of wheel val $35.00.
Field	10/11/41	Gnr.		Sec 15 (1) A.A. W.O.A.S. A.W.L. from 0930 hrs 10/11/41 until 1200 hrs 10/11/41. 2 hrs 30 min.	TBSM Brown Bdr Millar	7 days C.B.	17/11/41.	Major JW Dodds.	
Field	22/11/41	Gnr.		Sec 15 (1) A.A.WOAS AWL from 1600 hrs 22/11/41 to 1000 hrs 4/12/41. 11 days 18 hrs.	BSM Swaine.	14 days C.B.	15/12/41.	Major Dodds	Forf 12 days pay FR&I 149 (1)(a) (P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14/9/42	Gnr.		WOAS AWL from 0800 hrs 14/9/42 until 1250 hrs 14/9/42. 4 hrs 50 min .A.A. Sec 15 (1).	Documentary	14 days C.B.	15/9/42	Lt-Col F. Barber.	

C R Barber Lieut
(L.A. Morine) Lieut & A/Adj.,
HQ Training Wing, No 1 C.A.R.U.

Certified True Copy.
24 Feb 43.

Geo H Gibson Maj
Pres

Description of Court by which tried, or status of Officer exercising the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		AWL.		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Feb 1943

R.C. Killick Capt
(J.E. Killick) Capt and Records Officer
No. 1 C.A.P.U.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

L-6055 Gnr. Tomlinson, S.E. of the No. 1 Cdn Arty Reinf Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 664, K.R., 1935.

*The numbers inserted should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AWL	1 times	4 times.
For Conduct etc.	times	1 times.
For Neglect etc.	times	1. times.
For	times	times.

~~NIL~~

~~This is the Conduct Sheet~~

~~the Conduct Sheet has been produced~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42848/604 50,000 2/40 W. S. Ltd. 55—6324

Scott Gillespie Maj
Pers

3. The accused is not under sentence at the present time.

The accused at the present time is under sentence for

beginning on the

4. The accused has been in confinement, awaiting trial on the present charges

for 10 days in Civil Custody,

and 7 days in Military Custody.

Total 17 days.

Of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 28 yrs.

6. The date of his attestation specified in his attestation paper is 7th Sep 39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 5 mon.

8. The accused is entitled to deferred pay or gratuity in respect of 3 5/12 years' service.

9. The accused is entitled to reckon 3 5/12 years' service for the purpose of determining his pension, &c.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name 1-6055 Gunner Donaldson, S.H. of the 70th J. Canadian Artillery Reinforcement Units.

Note.—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

Nil.

(Continued overleaf)

5H-104

Inv. Tomlinson, L. E.

Missing

NO DOCUMENTS RECEIVED IN THIS ENVELOPPE

5R-37
Gr. Tomlinson, A.E.

Missing

NO DOCUMENTS RECEIVED WITH THIS ENVELOPPE

52-76

Pl. ~~Tompkins~~ Tompkins, S. H.

RECEIVED 17 JUN 1945 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 52-76

FIELD GENERAL COURT-MARTIAL

CF 1008 (In lieu of AFA 21) 40 M 8/1008 (4608) 4/38B

Convened by Brig H.T. Bell-Irving Comd 1 Cdn Inf Bde dated 30 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B134050	Pte	Gordon William Tompkins		A & S.H.

PROCEEDINGS REVIEWED
J.W. Rodgers
18 June 45
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 30 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notns and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter ? Ans ..... Jm

~~The Interpreter is sworn.(1)~~ Do you object to ..... as shorthand writer ? Ans ..... Jm

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major J.W.B. Martin	Lincs & Welld R.
Member	Lieut. J.L. Pelletier	Lincs & Welld R.
Member	Lieut F.I. Donkin	29 Cdn Armd Recce Regt.
Judge-Advocate	Maj. E.E. Wasson	DJA HQ 4 Cdn Armd Div.
Prosecutor	Lieut. J.R. Heywood	A/J.A.G.
Defending Offr	Lieut E.P. Sadler	A/J.A.G.

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	not guilty of desertion but guilty of absence without leave for the period charged.	
2nd	-		
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for a period of twelve months

(Sgd) ..... Judge-Advocate, if any. 30 May 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) NIL
(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding

Date 8 June 45 Commanding 10 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B/134050 Pte Gw Tompkins	9 Jun 45	[signature] Maj A/J.A.G.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex.....initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (ii).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No sir.(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Neither. Do you intend to call witnesses on your behalf? Ans. Yes sir. Are they witnesses as to character only? Ans. Yes sir.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 7, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. X and Ex. Y respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes by my Defending Offr.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously tendered which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3A9, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(12), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATION

CHARGE SHEET

The accused, No. B134050 Pte Gordon William TOMPKINS, The Algonquin Regiment, a soldier of the Canadian Army while on active service, is charged with:

FIRST CHARGE
AA 12(1)(a)

DESERTING HIS MAJESTY'S SERVICE

in that he

at 1600 hrs 23 Apr 45 did absent himself from his unit in the face of the enemy and remain so absent until he surrendered at 1530 hrs 17 May 45.

(Total absence 23 days 23 hrs 30 mins)

In the Field
20 May 45

L C Monk
(L C Monk) Major,
A/OC - The Alq R

To be tried by Field General Court Martial.

In the Field
28 May 45

H P Bell-Irving
(H P Bell-Irving) Brig
Comd 10 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B134050	Pte		Gordon William	TOMPKINS	Alq R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 May 45 endorsed by me, [redacted] be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	J. F G MARTIN (Must be named. RP 106.)	Linc & Welld R (Unit.)

MEMBERS.

Lt	J L PELLETIER	Linc & Welld R
Lt (Rank.)	F I DONKIN (Named or detailed. RP 106.)	29 Cdn Armd Recce Regt (Unit.)

WAITING MEMBER.

Lt (Rank.)	C A MARTIN (Named or detailed, if any. RP 106.)	29 Cdn Armd Recce Regt (Unit.)

JUDGE-ADVOCATE.

Maj (Rank.)	E E WASSON (Must be named, if any. RP 106.)	4 Cdn Armd Div (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Dat 28 May 45

[signature] (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 10 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

This is to certify that I have this morning examined R-134050 Pte Tompkins, G.W. of the Algonquin Regt and in my opinion is fit to undergo trial by Court Martial

C. A. Sands Capt RCAMC

Field
30-May-45

First Witness for the Prosecution.

Lieut H. J. Purdie, 2/Lt Comd. 16 Pl "D" Coy
7th Algonquin Regt, having been duly
sworn states:-
23 apr 45 I was comd. 16 Pl "D" Coy Alg. R.
The accused Pte. Langevin was a member
of my Pl. At about 1800 hrs 23 apr 45 I
personally ordered accused to proceed to
Coy HQ to clean a Bren gun. Accused
complied with order. The accused did not
return to Platoon until 72 hours
later. At that time 23 apr 45 at 1800 hrs.
my Platoon was committed in battle.
The absence of the accused was needed
the Platoon had to carry out Task without
assistance of accused.
X-examination.
After sending accused away I did leave the
Platoon area. I don't know of my own knowledge
whether accused returned to Pl area during
my absence. We picked up a Bren gun we
believed to be the one the accused took down,
at Coy HQ at latter time.
By the Court.
We had taken a bridge position the night
before. We had advanced a bit during the
day and taken some prisoners. We
were under small arms fire We were a
forward company.
The accused did not return Bren gun.
We had four Bren guns - they all got back
to Coy HQ during the day.

the Bren gun in guns could have been returned by accused in my absence.
By the Pd.
Coy HQ was 1500 yds in rear of town from which I met accused back.
We didn't clean guns where we were as it was much more convenient to clean them at HQ. I met accused back because he was good at cleaning Bren guns.
Accused was paid by A/C HQ (RP 83 B completed with)
Second witness for the Prosecution.
B55019 CSM Simmons. D Coy, the Algonquin Regiment having been duly sworn states:
3 May 45 I was with Coy as CSM D Coy Adv. H.Q. The accused was absent at that time. 17 May 45 at approx 1530 hrs accused reported in and I saw him.
X-examination.
I don't know accused prior to 17 May 45.
By the Court.
Our Coy was in Wood Farmers when accused returned. He did not report to Bren HQ then as far as I am.
By the Pd.
The accused was not with our Coy from 3 May to 17 May 45. (RP 83 B completed with)
Third Witness for the Prosecution
D.A. Forestell, RSM, the Algonquin Regt having been duly sworn states:
I was CSM D Coy Adv. H.Q. 23 Apr 45.
I was at Coy HQ most of the day. I did not see accused coming in a Bren gun carrier towards Coy HQ for

purpose of clearing it. I could have recognized accused as I know him quite well. At 1700 hrs I first received information about accused. A fairly close check was then made of cleared. I cleared this ~~person~~ The accused was under close arrest when I next saw him 17 May 45.

X-examination.

The day the accused went absent the Coy was busy ~~Burning~~ Cleaning Ops backlog Vacation. The accused was not in Coy area to my knowledge 17 May 45.

By the Court.

The Coy was in contact with the enemy. Coy HQ was 1500 yds from forward platoons. I think it highly improbable that the accused could have run Taken this course under conditions and circumstances prevailing at the time as a rule an old accustomed soldier back to clean a weapon. I could remember seeing accused around Coy HQ at all the days in Ques.

Re the 7a.

I boarded over a C S on luminous on D Coy when I became A S M. The accused has not returned to D Coy since to my knowledge over a C S on luminous

(RP 838 completed week)

A/ Character Witness for accused.

B65148 C.Q.M.S. Draper G. Co. D Coy. Alg. H.

having been duly sworn states:-

I am at present A/C.Q.M.S. D Coy. I have known accused approximately 2 yrs. I have had accused under my command in the past. I have found him a willing worker. He did his work willingly and without being told. He behaved this way under open arrest. He worked just as well before he was under arrest.

(R.F.-8315 connected with)

Second Character Witness for accused

B178043 Sgt. Cuthbert J. - H. Coy Alg. H.

having been duly sworn states:-

I have been with Alg. since last Aug. and a Sgt since 2 months. I have been in action since 1st Sept H. I recognize the accused. The accused was in action with my Pl. The accused has been a better than average soldier. The accused was in my pl. for the last 2 yrs in action. I found him a willing volunteer for hazardous jobs. He volunteered for a Prah Team at Kuselmin Canal A.9.a. to find and attempt to sink a tank. He also volunteered on numerous occasions to make trips back A Canal bridge as ammn under heavy enemy mortar and shell fire. He always did his share and more in action.

accused was in my Pl. 1 Mar 45 until
about 2 Apr 45. He was in the mortar
and then on the Prob. He was with me in
Pl. HQ. I used to see other Pl. Ldrs.
We were in action about 4 wks altog either
when accused was ~~in~~ under my command.
accused was quiet. My impression towards
end. I should think he could be taken
out. (RP 83 B complied with)

J. A. sums up.

1. Summing up by Court
   To act guiding body

2. Summing up by J. A.
   See that rules of evidence applied
   advise Ct on law generally
   such advice should be accepted
   any comments on fact or explanations by prisoner should be disregarded

3. Charge & decision
   in this case — in face of enormity of
   most serious of military crimes.
   two aspects — absence
   no intent to desert
   Intent can be inferred from facts
   in such a decision head Ct Ct
   at long last.

4. Generally
   (a) accused innocent till proved guilty
   Onus on prosecution throughout
   (b) Benefit of a reasonable doubt.

5. Open Ct to find accused guilty by
   lesser offence by a Ct if Ct finds
   intent to desert not proven.

Army Form B 236 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED
(For use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment
B134050	Pte	TOMPKINS G W	The Algonquin Regiment

1. The following is a fair and true summary of the entries in the Field Conduct sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For: AA 15(1) 1 times

Date of First entry in Field Conduct Sheet ..... 12 Feb 45 .....

Date of Last entry in Field Conduct Sheet..... 12 Feb 45 .....

2. [illegible]

3. [illegible]

4. The accused has been waiting trial on the present charges for ...Nil.....days in civil custody; and for....Nil.....days in custody, i.e.,.....Nil.....days in open arrest and....Nil.....days in close arrest, of which..Nil.....days were spent in hospital.

5. The present age of the accused is.....21 yrs 4 mos.....

6. The date of his attestation is.....10 Oct 42.....

7. The service which the accused is allowed to reckon is

2 yrs 8 mos

8. The accused is in possession of:

Cdn Vol Serv Medal and Clasp

9. [illegible]

In the opinion of the Commanding Officer .....

In the opinion of the Company Officer .....

In the opinion of the Platoon Officer .....

Exhibit "X"

President.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the Regimental Books in my custody, are correct to the best of my knowledge and belief.

Signed this 30th day of May 1945.

(E McWilliam) Capt/Act/Adjt
The Algonquin Regiment

No. B134050 Name Tompkins W. Sqn, Battery, or Company Corps CIC Date of enlistment 10 Oct 42 Ages CC Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAS/150 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
2 CITR		Pte		AA Sec 15 (1) AWL 0200 hrs 9 Feb 45 to 1145 hrs 9 Feb 45 Absent 9 hrs 45 mins		2 days F.P. tot forf 3 days pay	12-2-45		

Certified True Copy 19 May 45.....Capt Adjt

Ex 6, D.T.Y.

Precedent. Sleeper keep.

(PTO)

SUMMARY OF EVIDENCE

in the case of

B134050 PTE
Gordon William TOMPKINS

The Algonquin Regiment
Canadian Army Overseas

The Commanding Officer
Directs that Evidence
be taken on oath.

FIRST WITNESS:

Lt H J Purdie, Offr Comd 16 Pl, "D" Coy., The Algonquin Regiment, after being duly sworn, states:

"On 23 Apr 45, "D" Coy of The Algonquin Regiment were occupying a posn on which 16 Pl wwas def a br. Pte Tompkins (whom I recognize as the accused), a member of the pl was sent approx 200 yds to the rear to Coy HQ to clean a bren gun. He did not return. I looked for him in the Coy HQ area and could not locate him. The Platoon carried out its task for the night without Pte Tompkins. I did not see Pte Tompkins again until he surrendered at 1530 hrs 17 May 45."

The accused declined to cross examine the witness.

H Purdie (H)

SECOND WITNESS:

B55019 CSM Simmons, "D" Coy., The Algonqui Regiment, after being duly sworn states:

"On 3 May 45 I took over the duties of Company Sergeant Major of "D" Coy The Algonquin Regiment. At that time Pte Tompkins was shown on Coy Records as absent without leave. I did not see the accused until he returned at 1530 hrs 17 May 45. The accused was not with the Coy during the period 3 May 45 to 17 May 45."

The accused declined to cross-examine the witness.

R. B. Simmons

THIRD WITNESS:

J J Forestell, RSM., The Algonquin Regiment, after being duly sworn states:

"On 23 Apr 45 I was Company Sergeant Major of "D" Coy, The Algonquin Regiment. The accused was reported absent without leave to me on that date. I did not see Pte Tompkins again 17 May 45 when he returned to the Unit."

The accused declined to cross-examine the witness.

J.J. Forestell. R.S.M.

The accused was cautioned as follows:

"Do you wish to make any statement, or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing, and may be given in evidence."

The accused declined to make a statement.

Rules of Procedure 4(c), (d), (e), (f) have been complied with. I certify that the foregoing Summary of Evidence consisting of Three pages was taken down by me in writing, in the presence and hearing of the accused, this 20th day of May 1945.

(Officer detailed to take Summary)

LIST OF WITNESSES

Prosecution:

(i) Lieut H J Purdie — The Alq R

(ii) RSM J J Forestell — The Alq R

(iii) CSM Simmons R S — The Alq R

Defence

Nil

I certify that I have received free of charge a copy of Summary of Evidence and Charge Sheet.

J. W. Tompkins

I desire the services of ~~an~~ officer to represent me at my trial by FGCM.

J. W. Tompkins

Plea

P. 6

B-134350 - Pte Tompkins A.H.

Before us stands a man young in years as well as experience, who came away from School & joined the Army as an Active Service soldier. This soldier fought near Com. at Zabal & Messines, and was wounded, as a result he spent several months in a hospital. After a short period of conv. he returned to the front.

During this time he has proven himself in many ways to be an exceptionally good soldier, and more than willing to volunteer for difficult tasks.

In the past his record shows that the accused has only one minor charge against him and as can be seen is not in the habit of committing offences.

During the period of re-allocation we find the accused has again seen fit to offer his life by re-enlisting for the North East Coast Defences. Surely a man of this character would not be guilty of wilful desertion. He was at the time obviously in a state of mental confusion, and suffering from battle strain which caused him to temporarily lose his self-control, judgment, later realizing his error, returned, surrendered and ~~at~~ his own free will.

This man has grown up in the last three years prior to joining the army without the guidance of his parents, who are both deceased. His has a strict bearing as his stability in difficult times. I am confident he will return in this regard.

It is hoped that considering the circumstances surrounding this case that the court will ~~accord~~ accord it ~~as not guilty~~ for the accused. as lenient as possible in sentence to be issued. A Tompkins

6 X

Gm. TOMS SO

Correspondence to be PINNED here

Army Form A.3. X 6

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this ninth day of December, 1942. — Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 A.A. Brigade., Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[redacted]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.		
Rank.	Name.	Regiment.
Major	P.J. Keller	1 Lt.A.A.Regt.RCA.
Members.		
Rank.	Name.	Regiment.
Capt.	J.W. Brice	2 H.A.A.Regt.RCA.
Lieut.	H.P. Ward	2 H.A.A.Regt.RCA.
WAITING MEMBER Lieut.	D.W. MadDonald	1 Lt.A.A.Regt.RCA.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed D.R. Agnew
(D.R.Agnew) Brigadier.
Commanding 1 A.A. Brigade, RCA.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B.22570, Gunner Stewart Oliver TOMS, 42 Lt.A.A. Bty: 7 Lt.A.A. Regt. R.C.A.	First Charge A.A. Sec. 9(2)	Guilty	Guilty 11 Dec. 1942 60 days detention Keller Major D. Agnew Brigadier Commanding, 1 A.A. Bde., R.C.A	Confirmed. D. Agnew Brigadier Commanding, 1 A.A. Bde., R.C.A

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) D. Agnew (Signed) Keller Major
(D.R.Agnew) Brigadier. 1 Lt AA Regt RCA.
Commanding 1 A.A. Brigade. RCA. (unit)
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the eleventh ~~tenth~~ day of December, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this Eleventh day of December 1942.

Keller Major
President of the Court Martial.

The Court closed to consider the sentence at 1030 hrs.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 14th day of December 1942.

D. Agnew Brigadier,
Commanding 1 A.A. Bde. R.C.A.
Confirming Officer.

Promulgated and extracts taken in the case of B.22570 Gnr. TOMS. S.O.

(*a*) (Dated) 14 Dec. 42 (Signed) Capt 7 Lt AA Regt RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Wt. 18092/1316 70m 2/41 W. & Co., Ltd. Gp. 748/2

H.Q. First Cdn Army
16 Dec 42

X 6

REVIEW SHEET

F.G.C.M. PROCEEDINGS - Dated 11 Dec 42
B-22570 Gnr. Toms, S.O., 7 Cdn Lt A.A. Regt, RCA.

1. Finding and Sentence duly confirmed and promulgated.

2. No Comments.

3. Passed.

(T. G. Norris) Major
D. J. A.
First Cdn Army

KGM/RP

CHARGE SHEET

The accused, Number B-22570, Gunner Stewart Oliver TOMS, of 42 Light Anti-Aircraft Battery, 7 Light Anti-Aircraft Regiment, Royal Canadian Artillery, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
Sec. 9 (2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he
at Beckenham, Kent, on the 7th day of December, did not take a Bren gun from No. 48 Wickham Road to Troop Stores when ordered to do so by B-22400 Bdr. Whitehead, L.A., 42 Light Anti-Aircraft Battery, 7 Light Anti-Aircraft Regiment, Royal Canadian Artillery.

Field
8 Dec 42

(H.J. Inns), Lt.-Col.
Commanding,
7 Lt.A.A.Regt., RCA.

To be tried by Field General Court Martial

(D.R.Agnew) Brigadier,
Commanding 1 AA Bde RCA

Field
9 Dec 42.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. B-22570 Gnr. TOMS, S.O. 7 L.A.A. Regiment,

is * FIT to undergo trial by Court-Martial.

11 DEC 1942

Signature of the Medical Officer. R.A.M.C.

* Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the summary of Evidence (R.P. 19 (B) (iii)).

(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).

(c) To be filled in by the Commanding Officer.

(d) Any items not applicable to be struck out.

(e) One copy to be sent to the President; one copy to be filed with the application for trial.

(f) Original summary of evidence to be sent to the President.

(g) Original summary of evidence to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(h) 3, 4, 5 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(i) 5 and 8 to be sent to the President.

(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

M.F.B. 321
(A.F.B. 116)
20,500—12-40 (8744-5)
H.Q. 1772-39-481

B-22570 Gnr. TOMS, S.O.

A/m gunner was examined by me to-day & found to be mentally fit to plead and to instruct his Defending Officer, mentally fit to understand and physically fit to undergo any sentence which may be passed if he is found guilty.

T. M. Medwin Capt.
R.C.A.M.C.

11 Dec 42

PROCEEDINGS OF TRIAL

Accused B225-70 Gnr. Stewart Oliver TOMS 7th Lt AA Regt. RCA.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 11 Dec. 1942.
(Country)

	Rank	Name	Unit
President	Major	P.J. Keller	1 Lt AA Regt. RCA
Members	Capt.	J.W. Bruce	3 Fy AA Regt. RCA
	Lieut.	H.P. Ward	2 Fy. AA Regt. RCA.
Judge-Advocate (if any)			
Prosecuting Officer	Capt.	K.H. Brown	Lawyer? Ans. Yes
Defending Officer	Lieut.	M.E. Archer	Lawyer? Ans. no

(The following procedure must be actually carried out.)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P. 17(E); 22(A))

The President, in closed court (R.P. 22 fn 1), reads the Convening Order and the Charge Sheet(s) to the members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.108)

The accused is (are) brought before the Court, and at 0930 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 that the accused is (are) fit to undergo trial by court-martial. The certificate is initialled by the President, and attached to the proceedings.

President to accused
Do you object to _____ as interpreter? Ans. n.a.
Do you object to Sgt. Smith A. as shorthand writer? Ans. no

The names of the President and Members of the Court are read to the accused (R.P. 110)

President to accused
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans. no

The President, Members, Judge-Advocate, officers under instruction, interpreter and shorthand writer are duly sworn. (R.P. 26-27) (Forms of Oath, p.E)

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (not) elected trial by court-martial. (A.A. 46(8))

President to accused
Do you wish to make any special pleas before arraignment, that is to say, before you plead guilty or not guilty? Ans. nil
(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P. 62(E), 108); or as to the jurisdiction of the Court (R.P. 34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.30, R.P.57), record such plea and evidence (if any) on separate sheet(s) to be initialled by the President and attached to the proceedings.)

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:-

First Charge	Second Charge	Third Charge	Fourth Charge
Guilty			

(For procedure on alternative charges, see RP.37 fn 2.)
Further proceedings are recorded on Pages hereto attached.

PAGE "A"

(For Use When Accused Pleads Guilty to All Charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President.)

1. R.P. 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by that plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead "not guilty" thereto.

2. President to accused:-
Q. Do you desire to make any statement of the circumstances, in reference to the charge(s)? (R.P. 37(B)) Ans. No

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon.)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P. 37(B))).

4. President to accused:-
Q. Do you wish to make any statement in mitigation of punishment (R.P. 37(C))? Ans. Yes

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination.)

5. President to accused:-
Q. Do you wish to give evidence yourself or call any witnesses as to character (R.P. 37(C))? Ans. no.

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto.)

6. Capt Kenneth Harold Brown 7 AAA Regt RCA sworn;
(RANK) (Christian Names) (Surname) (Unit)
produces Statement of Character and Service, and Field Conduct Sheet, duly certified by the Officer having custody of the Regimental Books. The said documents are read, marked "A", "B", initialled by the President and attached to the proceedings (R.P.46).

7. President to accused:-
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P. 46(D)) Ans. no
No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

8. The Court is now closed to consider sentence. (Record on p.3.)

(Punishments, A.A. 44, K.R.(Can) 563 - 566; one sentence only awarded, R.P.48; jurisdiction of F.G.C.M., R.P.116.)

The sentence is not announced to the accused by the Court.

J. Keller major.
(Signature of President)

In the case of
B-22570 Gnr. TOMS, S.O.

Summary of Evidence

Taken on oath by direction of C.O. 7 Lt.A.A. Regt., R.C.A.

Prosecution 1st Witness

B-22400 Bdr. Whitehead, L.A., 42 Lt.A.A. Bty. R.C.A., sworn, states:
"I am Bdr. of No.1 Detachment, "A" Tp., 42 Lt.A.A. Bty. The accused is in my detachment. Around 1645 hrs on Monday 7 Dec 42 at 48 Wickham Rd., Beckenham, I ordered Gnr. Toms to take the Bren gun back to Tp. Stores on Overbury Ave. I was detailed by Lieut. Ferris to have that Bren gun cleaned at the Mess Hall, 48 Wickham Rd. because the hot water was there and the cleaning had been done and I was supposed to have the Bren gun returned to Tp. Stores, Overbury Ave. When I personally ordered the accused to take the gun back to Tp. Stores he said, "I won't do it and you go fuck yourself." He did not take the gun back but turned around and walked away. L/Bdr. Scott took the gun back, after the accused had turned around and walked away. I reported this to my Tp. Sergeant, Sgt. Judd, H.C. At the time the incident happened the following were around: Gnr. Bennett, J., Gnr. Watt, D.B. and L/Bdr. Scott, F.R."
The accused declines to cross-examine this witness.

B.L.Whitehead B.A.
B-22400 Bdr. Whitehead, L.A.

Prosecution 2nd Witness

B-22482 L/Bdr. Scott, F.R., 42 Lt.A.A. Bty. R.C.A., sworn, states:
"I am in No.1 Detachment, "A" Tp., 42 Lt.A.A. Bty. Yesterday afternoon we were out firing the Bren gun and after firing we were detailed by Lieut. Ferris to clean the gun. I took the gun down to the cook-house, 48 Wickham Rd. and the accused Gnr. Toms was sent over by Bdr. Whitehead to Tp. Stores to get some 2x4 to clean it. We waited around for about half an hour for him to show up with the equipment and he never turned up. So another man was sent after him and brought back the equipment to clean the gun. The accused came back about the same time, and was personally ordered by Bdr. Whitehead to take the Bren gun back to Tp. Stores. This Order was given at 1645 hrs. After an argument with Bdr. Whitehead the accused told Bdr. Whitehead to fuck himself and said he would not take the gun back. He went into the line-up for supper, and I myself took the gun back."

The accused declines to cross-examine this witness.

F.R.Scott F.R.
B-22482 L/Bdr. Scott, F.R.

Prosecution 3rd Witness

B-22528 Gnr. Watt, G.B., 42 Lt.A.A. Bty. R.C.A., sworn, states:
"I am in detachment A-1, 42 Lt.A.A. Bty. At 1645 hrs 7 Dec. at the kitchen, we were on parade and cleaning a Bren gun under the charge of Bdr. Whitehead. Bdr. Whitehead told Gnr. Toms to take the Bren gun up to Tp. Stores. Gnr. Toms told him to go fuck himself and didn't take the gun back but went in and ate."

The accused declines to cross-examine this witness.

G.B.Watt
B-22548 Gnr. Watt, G.B.

Prosecution
4th Witness

B-22405 Gnr. Bennett, J., 42 Lt.A.A. Bty. R.C.A., sworn, states:
"I am in No.1 Detachment, "A" Tp. 42 Lt.A.A. Bty. On 7 Dec. around 1645 hrs our detachment had just got through cleaning a Bren gun. I heard Bdr. Whitehead tell Gnr. Toms to take the gun back to the Stores which are about a block away. Gnr. Toms told Bdr. Whitehead to fuck himself. He didn't ta ke the gun back but went and had his supper. L/Bdr. Scott took the gun back."

The accused declines to cross-examine this witness.

John Bennett
B-22405 Gnr. Bennett, J.

The accused, having been warned in the terms set out in R.P.4(E), declines to make any statement or to give evidence on oath.

The accused is informed that the Prosecutor will be an Officer subject to Military Law and possessing legal qualifications.

The accused is asked whether he wishes an Officer to be appointed to defend him at the trial and replies in the ~~negative~~. affirmative

B. S.O. Toms
B-22570 Gnr. Toms, S.O.

Certified that Rules of Procedure 4(B) to 4(G) inclusive have been complied with.

Taken before me under oath at Beckenham, Kent, in the presence of the accused, this 8th day of December 1942.

K.H. Brown Capt

.....
(K.H. Brown) Capt.,
Adjutant,
7 Lt.A.A. Regt., R.C.A.

on page 56

Statement in Mitigation of Punishment by Lieut. J. H. Buck.

Defending Officer:- Mr. President and Members of the Court. The accused has pleaded guilty to a serious charge, of disobeying a lawful command. You have the summary of evidence showing nothing in the accuseds' favor, and if possible, I would like to assent this story.

The accused was ordered by Sdr. Whitehead to go to Troop Stores and get some two by four for cleaning the Bren Gun. He did this and took the two by four to his own quarters where he thought the Bren Gun would be brought, after it had been cleaned with hot water at the Kitchen. This was a misunderstanding on the part of the accused. Result was that Sdr. Whitehead, waiting at the Kitchen had to dispatch another man for more two by four's. This other man met the accused and informed him that the Bren Gun was at the Kitchen. As it was nearly supper time, the accused went to the Kitchen with two by fours and also took his mess tins. After delivering the two by fours, the accused walked away to fall in in the line up which was forming for supper, thinking of course, his job was done. Sdr. Whitehead, possibly not knowing why the accused had taken such a long time delivering the two by fours, then ordered Gnr. Toms to return the Bren Gun to Troop Stores. Gnr. Toms said that he would take charge of the Bren Gun but wished to remain in the supper line up and after he had his supper, he would return the gun to Troop Stores. Sdr. Whitehead then ordered him to return the gun to Troop Stores immediately. The present charge results. In summing up, the accused felt that he was given the job of returning the Bren Gun as a sort of punishment for his tardiness in securing the two by fours, which was caused by a misunderstanding on his part and he also felt that his suggestion of taking charge of the Bren Gun and returning it after supper, as he was already in the supper lineup, was not unfair. There is little more that I can add, other than he realizes the seriousness of his mistake that he had made, and can attribute it, possibly, to his losing his temper.

The Prosecuting Officer is called and takes oath.

Capt. E. H. Brown

Prosecuting Officer, duly sworn, states:- I am Adjutant of the 7 L A/A Regiment, R.C.A. I produce A.F.B. 296, signed by myself, which is a statement as to character and particulars of the service of the accused. The entries on this document are extracted from the regimental books in my custody. I also produce a copy, certified by myself, of the A.F.B. 6 of the accused, the original of which is in my custody.

Exhibit "A" to Appendix "K" to Kellerman Report

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-22570	Gnr	TOMS, S.O.	7 Lt A A Regt RCA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	11 times	11 times.
For Conduct to Prejudice etc.	1 times	1 times.
For Neglect to Prejudice etc.	1 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

There are no entries in the conduct sheets of the accused.

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 827, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted, ~~or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil ~~Nil~~ 4 ~~46~~ days in civil custody, and 4 days in military custody, making a total of ~~Nil~~ 4 ~~46~~ days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper (M.B.M.1) is 20 yrs. 11½ months.

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper (M.B.M.1) is 16 Aug 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr. 117 days

8. The accused is entitled to deferred pay or gratuity in respect of NIL service.

9. The accused is entitled to reckon 1 yr 117 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward).)~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental~~ rank of

12. (*In the case of an officer.*) ~~The accused~~ holds in the army the rank of , dated , ~~and in his regiment (or corps or department) the rank of dated~~

(*)16148) Wt.30348/8992 75,000 12/40 A.& A.W.Ltd. Gp.484
(17697) Wt.48691/1586 25,000 8/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-22870 Rank Gnr Name Toms, S.O. of 7 Tr R A Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 day of Dec 42

K H Brown Capt.
Adjutant
7 LT A A Regt RCA

43. The accused has served as non-commissioned officer continuously without reduction to the present date.

Date of Promotion.

In the rank of , years, months.

In the rank of years months.

In the rank of years months.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs covered amended accordingly.*)

No. B-22578 Name TOMS S.O. Sqn., Battery, or Company 42 Lt.A.A. Bty., R.C.A. Corps 7 Lt.A.A. Regt. Date of enlistment 18/8/41 Rank Gnr. Pay 3 Proficiency Pay

M.F.M. 6
A.F.B. 122
(1944—7-43 (1819-20) H.Q. 1772-20-1602)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature and Corps, etc. W.G.Petrie, Major RCA

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with award	By whom awarded	Remarks
Petawawa		Gnr.		Embarkation Leave 27-9-41					
Cdn. Army O.S.		"		Landing Leave 8/12/41 to 13/12/41 FTW					
" "	25 Feb 42	"		Sec 15(1)AA AWL from 1330 hrs 25/2/42 until 2230 hrs 25/2/42 Absent 9 hrs.	Sgt. Cameron	Admonished	27 Feb 42	Maj. Petrie	Fts 1 days pay FR&I 149(1)(a)
" "	26 Feb 42	"		Sec 15(1)AA AWL from 0830 hrs until 0900 hrs 26/2/42 Abs.30 Min.	Sgt. Barry	4 days C.B.	27 Feb 42	"	
" "	26 Feb 42	"		Sec 15(1)AA AWL from 1330 hrs 26/2/42 until 0630 hrs 27/2/42 Absent 17 hrs.	L/Bdr Howe	12 days C.B.	27 Feb 42	"	Fts 1 days pay FR&I 149(1)(a)
" "	27 Feb 42	"		Sec 15(1)AA AWL from 0820 hrs 0835 hrs 27/2/42. Abs 15 mins.	Sgt. Barry	7 days C.B.	27 Feb 42	"	
" "	27 Feb 42	"		Sec 15(1)AA AWL from 1330 hrs 27/2/42 until 0630 hrs 28/2/42 Absent 17 hrs.	L/Bdr Howe	14 days C.B.	28 Feb 42	"	Fts 1 days pay FR&I 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cdn.Army O/S	28 Feb 42	Gnr		Sec 15(1)AA AWL from 0830 hrs to 0840 hrs 28/2/42. Abs 10 mins.	L/Bdr Sylvester	1 days C.B.	28 Feb 42	Major Petrie	
" "	28 Feb 42	"		Sec 15(1)AA AWL(while C.B.) from 1400 hrs to 2230 hrs 28/2/42. Absent 8 hrs 30 min.	Sgt. Judd, RF	7 days pay FR&I 149(2)	2 Mar 42	Maj. McKenzie A/O.C.	Fts. 1 days pay FR&I 149(1)(a)
" "	2 Mar 42	"		Sec 40AA Conduct etc in that he did not attend Default. Pde.1545	L/Bdr hrsFletcher	4 days pay FR&I 149(2)	3 Mar 42	"	
" "		"		Privilege Leave 24/4/42 to 1/5/42 FTW					
" "	22Jun42	"		Previous sheet destroyed according to instructions C.A.R.O.(O) 2084			7 Jul 42	Sgd. W.G.Petrie, Maj. Lt.-col. H.J. Inns	Fts 1 days pay FR&I 149(1)(a)
" "	4 Jul 42	"		Sec 15(1)AA AWL from 1700 hrs to 2300 hrs 4/7/42. Abs. 6 hrs.	A/L/Bdr Johnston A	4 days pay FR&I 149(2)			
" "	31 Aug 42	"		Sec 40AA Neglect etc in that he did not attend Reg.Off.as warned	BSM Smith, CL	5 days pay FR&I 149(2)	1 Sep 42	"	
" "	24 Aug 42	"		Sec 15(1)AA AWL from 2359 hrs 24/8/42 to 2205 hrs 25/8/42 Absent 22 hrs 6 min	Documentary	5 days pay FR&I 149(2)	"	"	Fts 1 days pay FR&I 149(1)(a)

No. B-225[illegible] Name TOMS S.O. | Sqn., Battery, or Company | Corps | Date of enlistment | Rank | Service or Proficiency Pay | M.F.M. 6

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Trade | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cdn Army O/S	12 Sep 42	Gnr		Sec 15(1)AA AWL from 2300 hrs 12/9/42 to 0900 hrs 15/9/42 Absent 2 days 9 hrs.	Lt.Archer Bdr. Whitehead	Fts 3 days pay FRI149(1)(a) 15 days F.P.	19 Sep 42	Lt.-col H.J.Inns	
"	"			Privilege Leave F2 7/8/42 to 14/8/42 FTW					
"	"	30 Nov 42		Sec 15(1)AA AWL from 1400 hrs 30/11/42 to 1730 hrs 30/11/42 Absent 3 hrs 30 min.	Sgt Troughton Sgt Judd HC	Admonished	4 Dec 42	"	

to be a

Certified True Copy of original M.F.M. 6 in my custody.

(K.H. Brown) Capt.,
Adjutant,
7 Lt.A.A. Regt. R.C.A.

HG-107

Spr Tonakino, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.3837 Spr Tonakino, A

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of six (6) days.

28 NOV/44 (Sgd) [illegible] Lt Col
(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further ordered~~(1) JEL
(1. AA 57A. Delete if not used.)

(Sgd) J.E. Sager Brigadier
Date 29 NOV 44 Commanding C.F. Gp C.R.U.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-3837 Spr. Tonakino, A.	1 Dec. 1944	(S.P. Nutting) Capt. RCE. A/Offr.Comd. 5 Cdn Art Wks Coy., R.C.E.

5 Cdn Art Wks Coy RCE DO Pt II 53 (Dec 44).

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 116107

RECEIVED 8 DEC 1944 JAG (Overseas) R.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA80 (in lieu of AF B32) 40-P & S-16608-2864

Convened by Brigadier J.E. Sager Comd F Gp CRU dated 27 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.3837	Sapper	Arthur	TONAKINO	5 Cdn Art Wks Coy RCE

PROCEEDINGS REVIEWED
JCC
REVIEWING OFFICER, JAG (OVERSEAS) R.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date) 28 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~No~~
~~The Interpreter is sworn.~~(1) Do you object to Sgt SHAW J.E. P.38776 as shorthand writer? Ans No Sir
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No Sir(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.H. REDMAN VD	H.Q. CRU
Member	Capt	K.B. LIGHTFOOT	1 C.B.W.
Member	Lt	J. MERCER	MT TECH STORES 1 CCOD
~~Judge-Advocate~~			
Prosecutor	Lt	R.A. BRIGHT	5 CDN ART WKS Coy
Defending Offr	Capt	A. BERESKINE	HQ CDN CONST Corps

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) ~~arraigned (separately)~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP* 35*fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)

(*1. RP* 37(*B*). *2. RF* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....

(*1. RP* 155. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 485. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans Call three witnesses - Give Evidence NOTE AT TT

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admisson in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB* 355 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes A Lot of it NOTE AT! (2)

(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(*1. When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *RP* 48. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1*B*), 68(1), *KR Can* 566. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. D-3837 Sapper Arthur Tonakino, on strength of 5 Canadian Artizan Works Company, Royal Canadian Engineers, a soldier of the Canadian Army Overseas, is charged with;

FIRST CHARGE
SECTION 15(1)
ARMY ACT

When on Active Service,

ABSENTING HIMSELF WITHOUT LEAVE,

in that he, at Hindhead, Surrey,

Absented Himself Without Leave from 2359 hours, 29 Oct 44 until 2355 hours 19 Nov 44. (Absent 20 days, 23 hours and 56 minutes.)

Major, RCE.
(G.A. McClintock)
Officer Commanding,
5 Canadian Artizan Works Company,
Royal Canadian Engineers.

HINDHEAD, SURREY.

DATE: 22 Nov 44

To be tried by Field General Court Martial.

BORDON, Hants,
27 Nov 44

(J.E. SCOBIE) Brigadier,
Comd "F" Gp, C.R.U.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.3787	Sapper		Arthur	TOKAKINO	5 Cdn Art Wks Coy RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 NOV 44 endorsed by me, ~~(if by an offr of any kind for him)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate Thereof the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, V.D. Gen List	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H.B. Lightfoot RCEME	att 1 Cdn Base Wksp RCEME
Lieut	J. Mercer	MT Tech Stores 1 Cdn COD RCOC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) (J.E. SAGER) (Signed personally. RP 105 fn 2) Brigadier (Rank.)

Date 27 Nov 44 Commanding "F" Gp, C.R.U. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFA93 (In lieu of AFA3) 40/P & S/169? (6021))

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. D-3837 Sapper TONAKINO, A.

of 5 CAW Coy., RCE. *is in a* ~~normal~~ *state of health,*

and fit *to undergo Trial by Court Martial.*

H. D. Logan Capt
Medical Officer

Station 2 C A A U

Date 28th Nov 44

M.F.B. 246
49 F & S/679

F.G.C.M. IN THE CASE OF

D 3837 Spr TONAKINO, A, 5 CAWC

28 Nov 44

EVIDENCE AS TO CHARACTER note E-1

1st CHARACTER WITNESS
B 28638 Cpl MURRAY, M.J., on strength 5 CAWC, having been duly sworn states:

I am Cpl of the guard at this unit, I have known the accused for some time and as far as I have known him he is a good soldier he always appeared to be co-operative and willing to do his share of the work. I have never noticed any signs of instability or nervousness on his part.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

E-1

EVIDENCE BY THE ACCUSED

The Accused duly sworn states:

Sir,

Before joining the army I was a tile setter by trade. I left my job and joined the army. My parents are Italian, I volunteered because my country was at war, my Country is Canada and I wanted to help if I could. At first the boys used to rag me about my nationality but I could do nothing much about it and left them alone, everytime the Italians retreated or advanced they used to say abusive things to me, and call me names. I was in the 7 Cdn Recce Regt at the time and after a few months they became better but I never had any real friends or close pals. I met a girl in Brighton and she finally had a baby that I was the father of, at the time I last went AWL it was just before the baby came and she had no one to help her or to take care of her so I went and did what I could, after she was able to care for herself I returned to the unit. When I got out of detention I went to 1 CERU and took a briklayers course, I worked hard on that and passed it and then to the CAWC. It was from there that I went absent again, this time. I did not want to go away again but I was so lonesome and I wanted to see the girl and the baby so when I could stay away no longer I left. I got my full time off for good conduct while in detention all except one day. While I was away I got work to do and this went to keep the woman and baby, I intend to marry her as soon as it is possible, when I came back I had money and hated to leave her but I felt it was my duty to come back to my unit so I came. We were very happy together and I think a lot of the baby. I used to drink but since knowing her I have stopped and have not done so since, a period of about two years.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

The Def Offr requested that he be allowed to give evidence on oath: Request granted by the Court:

The Def Offr duly sworn states:

Sir,

Last week I went down to see this girl with whom the accused has been living. I found that he has been with her for about one and a half years and they are mutually happy, I found out from her the circumstances of their life together and also confirmation of the statement he made to me. The accused wife was very frank and she explained that she was estranged and separated from her husband and met the accused and he helped her out and he found in her a home and among her friends and relations the companionship which he failed to find in the barrack room and in the unit.

They lived happily together for seven months or so and during that time he worked and supported her. When the baby was born he felt more or less obliged to help her out and among her friends and relatives he passed as a decent Canadian soldier, he is a neat and good looking chap, and during the time that he took care of her he kept the flat neat and tidy. I only ask the Court to understand that this man found in this [redacted] woman and her friends the companionship that he did not find among his own people, that is the members of his unit, his longing to go back where he was sympathized with and loved was to strong to control. His family at home consider him to be married. This girl also told me that the accused often seemed worried and troubled and at times a bit unsound in some of his reasonings, as a matter of fact she feels that her care of him is as necessary for his welfare as his care of her is to hers. She told me that she thought him very unstable, this is all confirmed by the Pulhem's Profile and SPO's report. He is M2 and S3, and it is my opinion that with that category he is more apt or liable to do rash things than an ordinary person.
He is a good man in his trade and while at the CERU he worked hard and passed his course very well, his work at the unit is satisfactory, but he is unstable and I truly mentally unbalanced.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

PLEA IN MITIGATION WAS READ BY THE DEF OFFR AND IS ATTACHED Note E-3

Plea in Mitigation F.G.C.M

D 3337 Spr TONAKINO, A. 5 CDN

ARTIZAN WORKS COY. R.C.E

President and Members,

Sirs;

I hope your Court will not be unduly influenced by the fact that the accused went A W L shortly after a Courts Martial for a prior unauthorized and prolonged absence.

There are many factors that should be considered. Firstly, the accused served honourably with the Recce Regt. for two years. His conduct was exemplary, despite many provocations. Because of his Italian parentage he suffered numerous jibes from his comrades. He felt he was an alien in Canadian uniform. The fact that he had volunteered after throwing up his job was forgotten by his comrades and he had to suffer cruel jokes and contempt during the African and Italian campaign. There was no redress. He could not come whining to an officer and he could not beat up an entire barrack room. The only redress was to "kid" back and this man was mentally incapable of returning jibes thrown at him. It is not surprising therefore if he lost the feeling of loyalty which he had when he joined the army.

Secondly, the accused was worried about his woman and year old daughter. His concerns over his family outweighed his sound judgment and he went AWL. This is not the usual love of a man for a woman and child; it is a case of a lonely soldier of limited mental outlook and low stability whose entire interest was wrapped up in his family. Among this woman and her family he found the companionship which he failed to find in the army. only after a few weeks at home did he realize the seriousness of his crime and then surrendered himself.

Thirdly, the accused's category is M 2 and S 3. The two characteristics of limited mentality and instability made him incapable of sound judgment and he committed such a stupid crime as going AWL so soon after a F G C M.

I trust therefore that the Court will be considerate and mete out a moderate or even light punishment for the following reasons. In this case the motives were too powerful for a person of limited mentality and low stability to resist. Furthermore the accused is becoming adjusted to his present unit

MG

has qualified in his trade and is really trying to soldier. A mild punishment in this case, would be a powerful incentive for him to continue the exemplary conduct of the first two years of his service.

A. Berecha Capt.

MM

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-3837 Spr. Tonakino, A. on the strength of No. 5 Cdn Artizan Works Coy., Royal Canadian Engineers, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

Lieut. W.L. Head, RCE., on strength of No. 5 Cdn Artizan Works Coy., R.C.E., an officer of the Canadian Army Overseas, having been duly sworn states:

I am Lieut. W.L. Head, RCE., Officer i/c Regimental Books, No. 5 Cdn Artizan Works Coy., RCE. I hereby submit Part II Order of No. 5 Cdn Artizan Works Coy., RCE., No.44 dated 31 Oct 44, reference para 7(7-A), marked exhibit "A", which is a certified true copy of said order.
The accused declined to question the witness.

(Lieut. W.L. Head, RCE.)

SECOND WITNESS for the prosecution

G-51068 Spr. Mason, M.S. on strength of No. 5 Cdn Artizan Works Coy., R.C.E., a soldier of the Canadian Army Overseas, having been duly sworn states:

I am G-51068 Spr. Mason, M.S. on the strength of No. 5 Cdn Artizan Works Coy., RCE. On the night of 19 Nov 44, I was on guard duty and was just coming off duty at about 2355 hrs. when the accused, whom I now recognize, reported in. I turned him into the guard room at 2355 hrs. 19 Nov 44.

The accused declined to question the witness.

(G-51068 Spr. Mason, M.S.)

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence, on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given as evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS FEFENCE.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in writing in the presence and hearing of the accused and the Rules of Procedure 4(c) (d), (e) and (f) have been complied with.

HINDHEAD, SURREY,
22 Nov 44

B.P. Nutting Capt. RCE.,
(B.P. Nutting)
5 Cdn Artizan Works Coy., RCE.,
Officer detailed to take the
Summary of Evidence.

1.

Summary of Evidence.

Summary of Evidence in the case of D.3837 Spr. J. Ambard R. on the strength of No 5 Coy Artizan Works Coy Royal Canadian Engineers, as also of the Canadian Army Service.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness for prosecution. Sgt. W. L. Head R.C.E. on strength of the No 5 Coy Artizan Works Coy R.C.E. an officer of the Canadian Army Service having first duly sworn states:

"I am Instructor Sgt W. L. Head R.C.E. I produce Regimental Books, No 5 Coy Artizan Works Coy R.C.E. I hereby submit Part II. Order of No 5 Coy Artizan Works Coy R.C.E., No 44 dated 21 Oct 40, page para. 7 (a) marked in red pencil "A" which is a certified true copy of said order. The accused declined to question the witness.

Corrected 21 Oct.

Second Witness for prosecution.

G.51068 Spr. Mason W. J. on strength of No 5 Coy Artizan Works Coy R.C.E. & as also of the Canadian Army Service, having been duly sworn states:

I am G.51068 Spr Mason W.J. on strength of No 5 Coy Artizan Works Coy R.C.E. On the night of 19 Nov. 40, I was on guard duty and was coming.

Left duty at about 2:55 pm
with the accused, Lam and two
escorting. Reported in. Returned
to his unit from at 2:55 hrs
19 Nov. 44.

The accused declined to question
the witness.

W. S. Mason

The accused was cautioned as
follows:

"Do you wish to make any
statement or give evidence on oath?
You are not obliged to say anything
in reply unless you wish to do
so, but whatever you say or any
evidence you give will be taken down
in writing and may be given in
evidence."

The accused declined to make a
statement and elected to give
sworn evidence in reply.

Certify that the foregoing summary
of evidence comprising pages 1 to 5
was taken down by me in writing
in the presence and hearing of the
accused and the Rules of Procedure,
4(c), (d), (e) and (f) have been complied
with.

Lt Col
President of Survey.
22 Nov. 1944

EXA
MM

EXHIBIT (A)

No. 5 CDN ANTILL... ORDER CO..., R.C.A., C...(O)(C...S 1)

LAST ORDER	PART I O ORDERS	THIS ORDER
NO. 43	ISSUED BY	NO. 44
27 OCT 44	MAJOR C... McCLI...OCH, R.C.A.	31 OCT 44

SECTION "A" - OFFICERS

1. LEAVE OF ABSENCE:
1-A Granted 7 days P/L and 48 hrs short leave with P/. in lieu of rations (Total Leave and Entitlement 9 days) Proceeded 29 Oct 44 Returning 7 Nov 44
Lieut. J.R. Mathieson, R.C.A.

SECTION "B" - OTHER RANKS

3. ATTACHMENTS:
1-A Attached fup (Except Duty & Discipline to No. 2 Cdn Tob Depot wef 30 Oct 44 and attached fup except Duty & Discipline to No. 25 Cdn Gen Hosp wef 31 Oct 44
A-48546 A/L/Cpl. Chaffe, ...S. A-48529 Spr. Reeves, J.H.
(AUTH: 43/LEAVE/DEN/1 d/26 Sep 44 of DDRS C...H))

1-B Attached fup except Duty & Discipline to Basingstoke Neuro and Plastic Surgery Hosp wef 31 Oct 44
A-48682 L/Sgt. Tozer, ...T. B-89127 Spr. Chatterton, H.
A-48685 Spr. McGillivray, J. A-99248 Spr. Quast, W.G.
A-48509 Spr. Schmidt, C.J.
(AUTH: 43/B...CK OOD ...MX/1/3 d/19 Oct 44 of DDRS C...H))

1-C Attachment fup from 1 C.A.R.U. is extended to 1 Dec 44
K-54796 Spr. Adams, D.F. B-97256 Spr. De Palma, J.F.
H-9192 Spr. Hide, C. B-130041 Spr. Fortino, J.E.
(AUTH: HQ CRU 40...MTY ...ES CRU/1 (T...) d/28 Oct 44)

4. LEAVE OF ABSENCE:
4-A Granted 7 days P/L and 48 hrs short leave with P/. in lieu of rations (Total Leave and Entitlement 9 days)

PROCEEDED	RETURNING
27 Oct 44	6 Nov 44
H-25110 Spr. Blanchard, E.H.	
PROCEEDED	RETURNING
29 Oct 44	8 Nov 44
F-91625 L/Cpl. Crowell, H.A.	
PROCEEDED	RETURNING
30 Oct 44	9 Nov 44
L-56601 Spr. Apopsowicz, ...E.	A-48576 Spr. Spencer, S....
C-2253 Spr. Carriere, J....	H-...552 ...L/Cpl. McMillan, L.E.

2-B Granted 3 days Compassionate Leave with .../. in lieu of rations Proceeded 30 Oct 44 Returning 1 Nov 44
A-19439 ...L/Cpl. Cochrane, R.

5. TRADESMEN'S QUALIFICATION:
5-A Having been re-tested qualified as Painter "C" wef 25 Oct 44
B-130041 Spr. Fortino, J.E. (1 CARU)
(AUTH: STTS HQ CRU d/25 Oct 44)

6. TRADESMEN'S RATES OF PAY:
6-A Granted tradesmen's rates of pay in trades and groups shown
G-2071 Spr. Wyatt, W.F. (Group "C") wef 26 Oct 44
D-137239 Spr. LaClaire, C.J.... (Group "B") wef 26 Oct 44

9. NEXT OF KIN:
9-A Change of address of Next-of-Kin to Mrs. C.E. Blackwell, (Wife) 200 Maitland St., London, Ontario, Canada.
A-11 Cpl. Blackwell, ...E.(RT)

9-B Change of address of Next-of-Kin to Mrs. Isobelle J. Dunn, (Wife) c/o Mrs. Joe Carlisle, Wolseley, Sask., Canada.
L-19102 Spr. Dunn, .

(PLEASE TURN OVER FOR CONTINUATION OF THIS O.D.R)

NO. 5 CDN [illegible] WORKS COY., R.C.E., C...(9)(...OCT 2)

LAST ORDER NO. 43 — PART TWO ORDERS ISSUED BY — THIS ORDER NO. 44

31 OCT 44 — [illegible] MAJOR C.A. McCLINTOCK, RCE — 31 OCT 44

5. [illegible] OF DUTY: (Cont'd)

5-C Change of address of next-of-kin to Mrs. Wayne Smart (Wife)
125 Grey St., Chatham, Ontario, Canada.
A-48647 L/Cpl. Smart, W.F.

5-D Change of address of next-of-kin to Mr. S.F. Barnes (Father)
Rama, Sask., Canada.
L-19730 Spr. Barnes, S.F.

6. BLOOD DONORS:
C-M Y.Mun.Cured as Blood Donor, attended a clinic on 12 Sep 44 and gave 430 c.c. blood.
B-28 05 Spr. Murat, A.

7. [illegible] TO STRENGTH FROM:
T-M [illegible] FROM 2359 Pte 29 Oct 44
B-30837 Spr. Tomkins, A.

[illegible] Lt Stand RCE
(C.A. McClintock) Major, R.C.E.,
Commanding,
5 Cdn Artizan Works Coy.,
Royal Canadian Engineers, C...(9)

CERTIFIED TRUE COPY OF THE PART II ORDER OF THIS UNIT, NO.44 DATED 31 OCT 44.

DATE: 23 NOV 44

Lt Stand RCE
(W.L. Head) Lieut., RCE.,
Officer i/c Regimental Books,
5 Cdn Artizan Works Coy., R.C.E.

M.F.R. 355
22M—5-41 (572-3)
H.Q. 1772-99-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (or unit)
D-3837	SAPPER	TONAKINO, A.	5 CDN ARTIZAN WORKS COY., R.C.E.

1. The following is a fair and true summary of the entries in the [redacted] Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
	times	A.A.SEC 15(1) ~~One(1)~~ times
For	times	times
For	times	times
For	times	times
For	times	

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for [redacted] days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which [redacted] days were spent in hospital.

5. The present age of the accused according to his record of service is 27 6/12 yrs & 7 days

6. The date of his attestation specified in his record of service is 7 APRIL 1941

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 7 mos, 14 days less 1 yr, 4 mos, & 14 days for AWL, Close Arrest and Detention.

8. The accused is entitled to reckon 2 3/12 yrs. service for the purpose of determining his pension, etc.

9. The accused [redacted] is in possession of or entitled to). State any decoration or reward, military - Cdn Volunteer Service Medal and Clasp.

EXB

[redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D-3787 Rank Sapper Name TONAKINO, A. Unit of 5 CDN ARTIZAN WORKS COY, RCE.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	24 FEB 44	A.A.SEC 15(1), Absenting Himself Without Leave	7 months, 14 days Detention	71 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of MAR 1944.

(B.A. Nutting) Capt. RCE
Offr IC Regtl Books
5 Cdn Art Wks Coy RCE

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. D3837 Name TOMAKINO Arthur | Sqn, Battery, or Company | Corps Cdn Armd Corps | Date of enlistment 7 Apr 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAM/TSS (3413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | ??????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET #1 DESTROYED AFTER 6 NOS. SERVICE WEF 7 NOV41.									
Field	5 Dec 42	Tpr		A.A.15(1) - A.W.L. from 2359 hrs 5 Dec 42 to 0600 hrs 7 Dec 42 (Absent 1 day, 6 hrs and 1 Min.)	Cpl.McDermott-O'Connor, B.	7 Days C.B.	7 Dec 42	(T.O'Hara) Major	Forf 2 days pay under FR&I 149(1)(a)
Field	13 Mar 43	Tpr.		A.A.15(1) - A.W.L. from 2230 Hrs 13 Mar 43 to 2035 hrs 29 Jan 44. (Absent 321 days 22 hrs 5 mins.) A.A.24(2) - Not Guilty.	Capt.W.L.Hutton Lieut W.B. McCullogh. S/Sgt McConomy,J. Cpl.McDermott-O'Connor,B.	7 Months 14 days Det'n.	24 Feb 44	KXXXX A/Comd 5 Cdn Inf Div. F.S.C.M.	Forf 322 days pay under FR&I 149(1)(a) For 227 days pay under FR & I 149(1)(b). Forf 26 days pay und

CONT'D----------

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
							-------	CO'T'D	FR&I 149(1)(e)(i) Total Forf of 272 days pay and 20/19/6 under FR & I 172(6)

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION

Date 22 Nov. 1944

(B.F. Nutting) Capt., RCE
Offr i/c Regt'l Books,
5 Cdn Arty Wks Coy. RCE CA(O)

This is to certify that I have received one (1) copy of the Charge Sheet and one (1) copy of the Summary of Evidence in my forthcoming Court Martial.

Date 23 Nov 1944

A. Tonakino
(D-3837 Spr. Tonakino, A.)

22 Nov 44.

I, D-3837 Sapper TONAKINO, A., No. 5 Cdn Artizan Works Coy., R.C.E., request Capt. A.I. Bereskin, RCE., of Headquarters Cdn Constructional Engineers, to defend me at my forthcoming trial by Field General Court Martial.

(D-3837 Spr. Tonakino, A.)

LIST OF WITNESSES

List of witnesses in the case of D-3787 Sapper TONAKINO, Arthur, Royal Canadian Engineers, No. 5 Cdn Artizan Works Coy., R.C.E., a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

(1) Lieut. W.L. Head, RCE, - 5 C.A.W. Coy., R.C.E.

(2) G-51068 Spr. Mason, M.S. - 5 C.A.W. Coy., R.C.E.

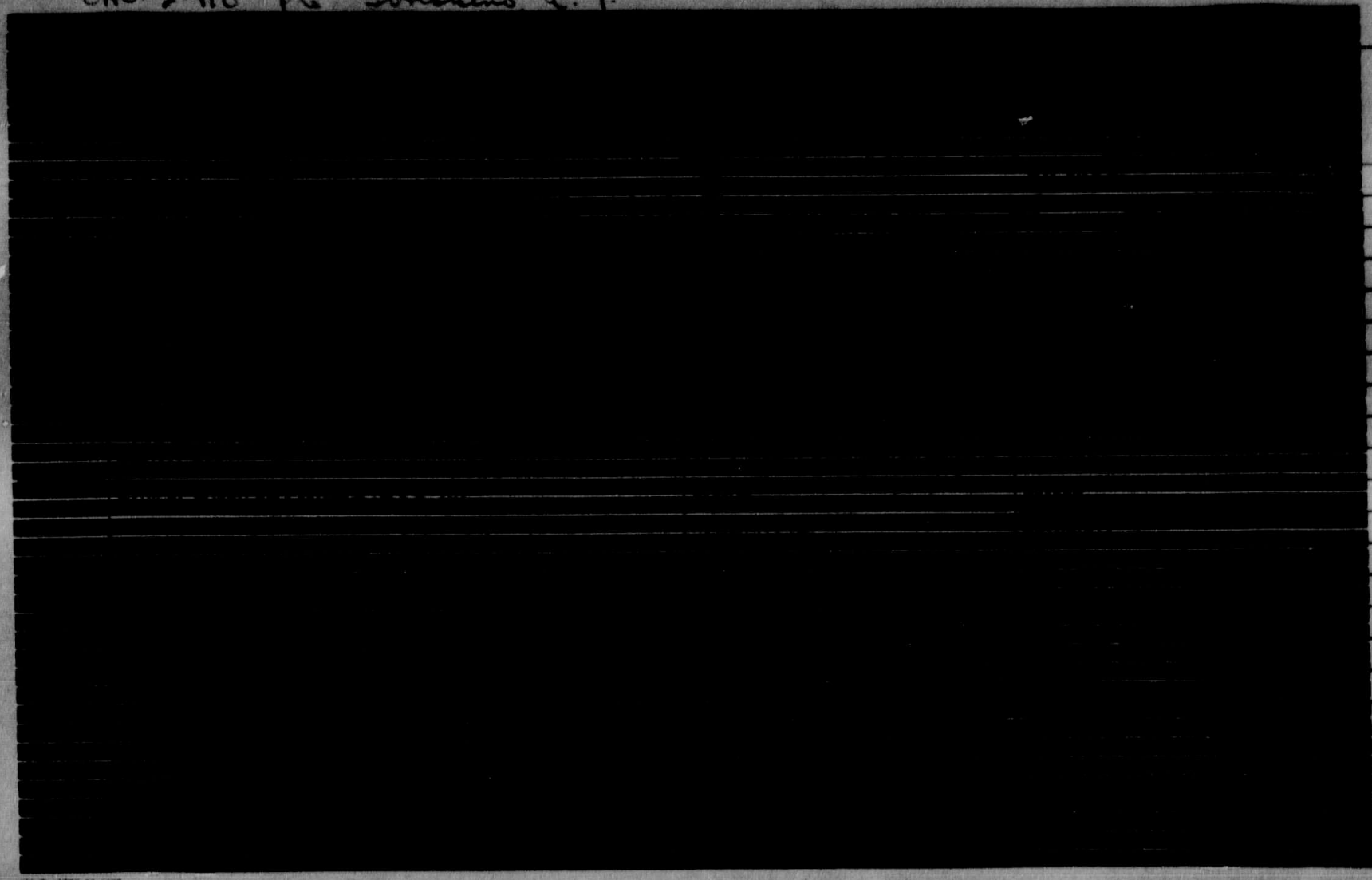
FOR THE DEFENCE:

NIL

LIST OF EXHIBITS

(A) No. 5 Cdn Artizan Works Coy., R.C.E. Part II Order No. 44, dated 31 Oct 44.

CMO. 2-110 Pte Tomchuino R. T.



H.Q. 1772-39-1377

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D 3837 Pte Arthur TONAKINO 1 Cdn Repat Depot

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. ~~See RP 45(A). Information should be found on MF B355 or AF B296.~~)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Ten months detention

(Sgd) ~~Judge-Advocate, if any.~~ 13 Nov 46 (Sgd) [signature] Lt.Col.
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Col

Date 14 Nov 46 Commanding 1 Cdn Repat Depot Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.3837. Pte. TONAKINO, A.	14 Nov 46.	[signature] A/Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED NOV 19 1946 RECORDED AT CMHQ IN AB 150 A. Case 2 - 110

FIELD GENERAL COURT-MARTIAL CFA96 (In lieu of AFA81) 40/P & R/1600 (H144) 4/38B

Convened by Order of Col M B K Gordon DSO ED Comd 1 Cdn Repat Depot dated 9 Nov 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 3837			Arthur	TONAKINO	1 Cdn Repat Depot

PROCEEDINGS REVIEWED 20 Nov 46 C.H. Tourt. Maj.
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 13 Nov 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(*s*) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ ~~as interpreter ? Ans~~

~~The Interpreter is sworn.(1)~~ Do you object to 1269758 Sgt RICHARDS as shorthand writer ? Ans NO SIR

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr~~, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col	V McKenna (MC)	1 Cdn Repat Depot
Member	Capt	G O Massey	1 Cdn Repat Depot
Member	Lieut	J G England	1 Cdn Repat Depot
~~Judge-Advocate~~			
Prosecutor	Lieut	F G Rivers	1 Cdn Repat Depot
Defending Offr	Lieut	M A Taylor	1 Cdn Repat Depot

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans N.C.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D-3837 Cpl Tonakino A. before arraignment make(s) (no) (~~a~~) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes. I plead in mitigation of sentence.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, MML p 80, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, D3837 Spr. Arthur TONAKINO, RCE., on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hrs., 21 August 1945 until surrendering himself to B149279 Sgt. Pavlos, J., a member of the Cdn Provo Corps on duty in London at 2100 hrs., 2 November 1946.

ABSENT: 437 days, 21chours, 1 minute.

(B M MACINTYRE) Lt-Col.,
Officer Commanding,
No 1 Wing,
No 1 Cdn Repat Depot,
Canadian Army Overseas.

Field

8 Nov, 46.

To be tried by Field General Court Martial

(M B K Gordon) Col
Commanding Officer
#1 Cdn Repat Depot

Field

8 Nov 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50. RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 3837	Spr	- -	Arthur	TONAKINO	1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law; has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Nov 46 endorsed by me, for by an offr of my staff for me), " To be tried by Field General Court-Martial "

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt col	V McKenna (MC)	1 Cdn Repat Dep

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by Commanding Officer	1 Cdn Repat Dep
Lt	To be detailed by Commanding Officer	1 Cdn Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 9 Nov 46

M B K Gordon (Signed personally. RP 105 fn 2.)

(M P K Gordon.)

Col (Rank.)

Commanding #1 Cdn Repat Depot Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

MEDICAL OFFICER's REPORT

(HR (Can) 557)

This is to certify that I have this morning medically examined

NO D7837 Spr. Tonaking A.

and that in my opinion he is (fit) ~~(unfit)~~ "M.F."

to undergo trial by Court-Martial.

Station Tweedsmuir Camp.

Date 13 November 1946.

W.W. MacDonald Capt.

RCAMC
Medical Officer
"1" Wing #1 Cdn Repat Depot

Note: (All delotions and alterations will be initialled by the M.O.)

SUMMARY OF EVIDENCE

in the case of,

D3837 Spr. Arthur TONAKINO, RCE, on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order 5352 which have been read over and shown to the Accused, and are attached hereto as Exhibits."

(1) Certified True Extract from No 6 Cdn Art Wks Coy, RCE, Part II Order No 70 dated 24 August 1945 which declares that D3837 Spr. TONAKINO, A., absented himself without leave from 2359 hrs., 21 August 1945.
(Marked Exhibit "A")

(2) Certificate in accordance with the Army Act Sec 163 (1) (j) dated 3 Nov 46 and signed by the O i/c No 6 (Area) Provost Coy., which declares that D3837 Spr. TONAKINO, A., surrendered himself at London at 2100 hrs., 2 November 1946.
(Marked Exhibit "B")

F. G. Rivers Lt.
.....
(F G RIVERS) Lieut RCAC.
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

F. G. Rivers Lt.
.....
(F G RIVERS) Lieut RCAC.,
Officer detailed to take the Summary of Evidence.

Field

7 Nov 46.

THE CASE OF D3837 Spr. Arthur TONAKINO

LIST OF WITNESSES FOR THE PROSECUTION

Nil

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS FOR THE PROSECUTION

(1) Cert True Extract from No 6 Cdn Art Wks Coy, RCE, part II Order No 70 dated 24 Aug 45, concerning the absence without leave of D3837 Spr. Tonakino, A.
(Marked Exhibit "A")

(2) Cert in Accordance with the Army Act Sec 163 (1) (j) dated 3 Nov 46 concerning the surrender of D3837 Spr. Tonakino, A.
(Marked Exhibit "B")

LIST OF EXHIBITS FOR THE DEFENCE

Nil

RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

A. Tonakino
.....
(D3837 Spr. TONAKINO, A.)

APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

A. Tonakino
.....
(D3837 Spr. TONAKINO, A.)

Signed in the Field

This 8 day of Nov 46.

EXHIBIT A

NO 6 CDN ART WKS COY RCE
CANADIAN ARMY OVERSEAS
DAILY ORDER PART II

LAST ORDER
NO 69
d/20 Aug 45

THIS ORDER
NO 70
d/24 Aug 45

issued by

Major M.J.C. SPRATT RCE

: :

SECTION "B"
OTHER RANKS

4. ABSENT WITHOUT LEAVE

(a) AWL from 2359 hrs 21 Aug 45 (Still absent)

D3837 SPR TONAKINO A.

"M.J. NEFF Lieut"
for (M.J.C.SPRATT) Major RCE
Officer Commanding
No 6 Cdn Art Wks Coy RCE

Certified true extract from the
original document held in my possession.

5 May 46 (D.C. Bissell) Capt RCA
Records Officer
Records CMHQ
Officer having custody of original
document

B-I49279 Sgt. Pavlos J.

No. D-3837 Spr. Tonskino A.

#6 C.A.W.C. R.C.E.

#I Cdn. Repat Depot

B-I49279 Rank Sgt. Name Pavlos J.

Cdn. Provost Corps

On the 2 day of Nov. 1946 at London Hours 2I00

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) or XXXXXXXX

XXXXXX.

Arnett W.M. Lt.

(W.M. Arnett)

O i/c No. 6 (Area) Cdn. Provost Coy

London

3 Nov 46

Ex B 1/46.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank.*	*Name*	*Regiment (or as the case may be)*
D3837	Spr.	TONAKINO, A.	1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	AA Sec 15(1)	3 times
For		times
For		times
For		times
For		times

~~Number of instances of gallantry or distinguished conduct.~~

~~Nil~~

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning to run the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 29 yrs. 6 mos.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 7 Apr 1941

7. ~~The service which the accused is allowed reckoned towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay/gratuity in respect of~~

9. ~~The accused is entitled to reckon~~ ~~N.I.L.~~ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or ~~entitled to, no military decoration or military award (or is in possession of or~~ entitled to (*state any military decoration or reward*). CVSM & Clasp, Defence Medal, War Medal.

11. ~~(If the accused is a warrant officer.) The accused being for the war made a warrant officer has held the regimental rank~~ ~~of~~

12. ~~(In the case of an officer.) The accused has the army the rank of dated~~ ~~and in his regiment (or corps or department) the rank of dated~~

W1 5767/1519 20M. 3/44. P. Ltd. T51-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D3837 *Rank* Spr. *Name* TOMMINO, A. of 1 Repat Depot Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.C.C.M.	24 Feb 44	~~xx~~ AA Sec 15(1) AWL.	7½ mos. Detention	71 days
F.C.C.M.	28 Nov 44	AA Sec 15(1) AWL.	60 days Detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of Nov 46

J. G. Rimes Lt. R.C.A.C
1 Cdn Repat Depot

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraph entered accordingly.)

Date of Promotion.

In the rank of

In the rank of

In the rank of

Ex. C Vol.

3/17 MFM 6
(AFB 122)
40(PAS/136)(5413)

No D3837 Name TONAKINO, A | Sqn, Battery, or Company | Corps RCE | Date of enlistment | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						7 dys C.B.	7-12-42		
Field		Spr.		AA Sec 15(1) AWL.		7½ mos Detn	24-2-44	F.G.C.M.	71 dys Remis
"		"		AA Sec 15(1) AWL.		60 dys Detn	28-11-44	F.G.C.M.	20 dys Remis
"		"		AA Sec 15(1) AWL.		Admonished	30-5-45		
"		"		AA Sec 15(1) AWL.		28 dys F.P.	4-7-45		
"		"		AA Sec 15(1) AWL.					

CERTIFIED TRUE COPY OF ORIGINAL MFM 4 HELD IN MY POSSESSION.

13 NOV 46 F. G. Rivers Lt.

(F G RIVERS) Lieut., RCAC, Legal Officer,
No 1 Wing, No 1 Cdn Repat Depot,
Canadian Army Overseas.

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

(PTO)

PLEA IN MITIGATION

IN THE CASE
OF

D.3337 Spr Arthur TONAKINO --- 1 Can Repat Depot

Gentlemen of the Court, Tonakino came overseas to England here in April 41, very shortly after arriving here he fell in love with a girl. This lady had a legal separation from her husband. For the last five years she has never seen nor heard of her husband. She is not receiving a cent from this man at all. Tonakino happens to be in love with this lady and has lived with her as her husband for the past five years. They have a little girl of three years and a little boy of seven months. He tried to have some of his deferred pay signed over to this lady but because the children were in the ladies name it was not permissable. She was unable to work on account of the baby and was up against it and Tonakino took it on himself to leave the army which he had no business doing we understand but owing to circumstances he felt it was the only thing he could do. He took a job to support this woman and the children and as you know he had no registration papers or anything else. He has had to chase from job to job in order to stay out of the hands of the law as it were to support this woman. This is the only crimes he has had in the army, in every case he has left in order to support this woman and earn money. As far as his people in Canada are concerned, he is married to this woman, they write her and send her parcels and up to the present time they thought he was married to her. When you are passing sentence on this man I would like you to take into consideration the reason for it and be as lenient as possible. He has to go back to Canada and as soon as possible he is coming back to this country to marry her and when the seven years is up he hopes to marry this woman. All that I have said can be proved and if the Court wishes proof, proof can be brought.

Will you kindly take all this into consideration when passing sentence.

5 H-149

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Gov. Town, N.F.

1/14 CMHQ 40-3
(Series of 43)

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C75675 Fus. William Frank Toner 5 Cdn A/Tk Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A Avec 6(1)(c)	Guilty	Guilty	
2nd A Avec 40	Guilty	Guilty	
3rd A Avec 40	Guilty	Guilty	
4th A Avec 41	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of ninety (90) days.

(Sgd) [illegible] Judge-Advocate, if any. Date awarded. 30 Nov 45 (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6; 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2); RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
I confirm the findings & sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

Date 7 Dec 45. (Sgd) D W Womack Lt Col Commanding CRA 4 Can Armd Div. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

C 75675 Fus William Frank Toner 8 Dec 45. [illegible] Capt. Adjt 5 Cdn A/Tk Regt

1. ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CF A96 1 1/P

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col E.W. Cormack Comd 4 CAD dated 29 Nov 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit

C 75675 Gnr William Frank Toner 5 Cdn A/Tk Regt

PROCEEDINGS REVIEWED

21 Dec 45 A.J. Brooke Maj

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 30 Nov 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0830 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans _____

~~The Interpreter is sworn.(1)~~ Do you object to _____ as shorthand writer? Ans _____

~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No S.J.T.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major C.H. O'Hara 23 Cdn Fd Regt RCA
Member	Capt. R.H. Honeyford-Rae 5 Cdn A/Tk Regt RCA
Member	Lieut. J.W. Birnie 8 Cdn A/Tk Regt RCA
Judge-Advocate	Major E.E. Wasson DJA 4 CAD
Prosecutor	Capt. D.A. Burbridge 5 Cdn A/Tk Regt RCA
Defending Offr	Lieut J.F. Harvey-Reaves 5 Cdn A/Tk Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused _____ before arraignment make(s) (no) (a) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 4 CAD 20160 Vol 10 P 144

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 75675 Gnr William Frank Toner 5 Cdn A/Tk Regt.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A Hse 6 (3) (C)	Guilty	Guilty	
2nd	A Hse 40	Guilty	Guilty	
3rd	A Hse 40	Guilty	Guilty	
4th	A Hse 41	Guilty	Guilty	
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Ninety (90) days.

(Sgd) [illegible] Maj. 30 Nov 45 (Sgd) C H O'Hara

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.) Ninety

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings & sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 7 Dec 45. (Sgd) E W Comack Lt Col

Commanding CRA 4 Can Armd Div.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C 75675 Gnr William Frank Toner	8 Dec 45.	[signature] Capt. Adjt 5 Cdn A/Tk Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5th-149

A 1

FIELD GENERAL COURT-MARTIAL

CPA86 (To face of AF B3)
A.G.P.S.R. 1866 (2864)

Convened by Order of Lt Col E.W. Comack Comd KA & CAL dated 29 Nov 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 75675	Gnr	William Frank	Toner	5 Cdn A/Tk Regt.

PROCEEDINGS REVIEWED

21 Dec 45 M.J. Brody Maj

REVIEWING OFFICER JUDGE ADVOCATE GENERAL'S BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 30 Nov 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) CAM

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences. CAM

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ CAM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans

~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ ~~as shorthand writer?~~ Ans ~~The shorthand writer is sworn.(1)~~ CAM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major C.H. O'Hara	23 Cdn Fd Regt RCA
Member	Capt. R.H. Honeyford-Ince	5 Cdn A/Tk Regt RCA
Member	Lieut. L.W. Birnie	8 Cdn LAA Regt RCA
Judge-Advocate	Major E.E. Wasson	DJA 4 CAD
Prosecutor	Capt. D.A. Burbridge	5 Cdn A/Tk Regt RCA
Defending Offr	Lieut. V.F. Harvey-Reaves	5 Cdn A/Tk Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for Information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1) CAM

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. CAM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 1 CAD 2860 Vol 10 P 149

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Yes Sir.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ____, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*i*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(2)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 86(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes Sir, by way of Statement.

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 36(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 110, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*B*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5 A tk G-O
5 Cdn A tk Regt RCA

30 Nov 45

ERH I have this day examined and he ERH
This is to certify that C 75675 Gnr TONER, W F is medically fit to undergo trial by Field General Court-Martial.

E R Harrigan Capt
(E R Harrigan) Capt RCAMC
Medical Officer
5 Cdn A tk Regt RCA

In the Field
30 Nov 45.

COM

William Frank

M5844537

#M5844537

M5844537

In the fd
26 Nov 45

(R J Hegan) Lt col
Comd 5 Cdn A tk Regt RCA

To be tried by FGCM.

(E W CORMACK) Lt-Col RCA
CRA 4 Cdn Armd Div

In the Fd
28 Nov 45

cdl

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.75675	Gnr		William Frank	TONER	5 Cdn A Tk Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 NOV 45 endorsed by me, ~~(or by an offr of my rank for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Being unable to appoint~~ (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons ~~hereto~~ attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	C H O'HARA (Must be named. RP 106.)	23 Cdn Fd Regt (Unit.)

MEMBERS.

Capt	R H HONEYFORD MC	5 Cdn A Tk Regt
Lieut (Rank.)	J W BIRNIE (Named or detailed. RP 106.)	8 Cdn LAA Regt (Unit.)

WAITING MEMBER.

Lieut (Rank.)	R F RAMSAY (Named or detailed, if any. RP 106.)	23 Cdn Fd Regt (Unit.)

JUDGE-ADVOCATE.

Actg Major (Rank.)	E.E. Wasson (Must be named, if any. RP 106.)	DJA 4 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Holland (Country.)

E.W. Cormack (E W CORMACK) (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Dat 28 Nov 45

Commanding CRA 4 Cdn Armd Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/P & S/1697 (6142)

(See overleaf for oaths and notes for use on trial.)

cm

At the time of the offence Capt. Honeyford who sat on the Court was in 14 Bty 5 A/TK Regt
The accused is in 3 Bty.

As Bty-s are almost as separate as Regiments in infantry it is not thought that Capt. Honeyford is disqualified in any way although he is from same Regt viz 5 A/TK Regt. and had to be withdrawn to availability of Officers.

The fact that accused plead guilty, it is felt, also makes the question of very little importance.

Walkemeyer Accused.

Anything I did was under the influence of liquor.

SUMMARY OF EVIDENCE.

Summary of Evidence in the case of C75675 Gnr Toner W.F. 3 Bty., 5 Cdn Anti-Tank Regt.RCA, a soldier of the Cdn Army Overseas is charged with:-

First Charge:- Impeding a Warrant Officer legally exercising authority under the Provost-Marshall.AA Sec 6(3)(c).

Second Charge:- Conduct to the Prejudice of Good Order and Military Discipline.AA Sec 40. Improper use of WD Vehicle.

Third Charge:- Conduct to the Prejudice of Good Order and Military Discipline.AA Sec 40.

Fourth Charge:- Committing a Civil Offence, that is to say Dangerous Driving contrary to S.11 Road Traffic Act 1930(20 & 21 Geo 5, C.43)(as amended by the Road Traffic Act, 1934(24 & 25 Geo 5, C.50 S.4).

Exhibit 'A'

Charles Henderson O'Hara Major
Pres.

By direction of the Commanding Officer the evidence is taken on oath.

First Witness D9518 RSM Brown M.V., 8 Cdn Pro Coy, Cdn Army Overseas, having been duly sworn states:

"On 11 Nov 45, at approx 2130 hrs, while returning from Amersfoort, I noticed a soldier in the middle of the road with both arms up for me to stop. I stopped my jeep as the road was narrow and I could not pass him. He came very close to the jeep and said something which I could not understand. I informed him that we were Provost. He said "I don't give a damn if you are Provost or not." He asked me if I was armed. I told him I was not and he said "But I have a gun; stick 'em up." On hearing him say that, I had my leg out of the jeep at the same time talking to him, but he closed in, pressing something against my body and saying "Get out and get out fast if you don't want your body full of lead". I answered him again and told him not to be foolish. He then said "One word more and I'll pull the trigger". At that time I was fully out of the jeep, with him very close. He turned to the other passenger in my jeep, A.J. Jansen, Interpreter, who was still in the jeep and said "That goes for you too; get out of the car, I'll take it over. Don't either of you try anything". During this time he had his right hand inside the front of the fur jacket which he was wearing. In a matter of seconds he was in the driver's seat, after giving me a slight push. The motor of the jeep was still running. He threw it into gear and started off, but I managed to seize the two upright bars of the jeep. I managed to hang on for about a quarter of a mile, while he made every effort to throw me off.

(Cont'd on page 3)

During this time, the speed of the vehicle was so high that it was extremely difficult for me to hang on. He was swerving from right to left with no regard to pedestrians or other motor traffic. When he reached the round-about in Amersfoort, he made a big swerve to loosen my grip on the jeep. I couldn't hold on any longer and was thrown off, landing up against the curb. The jeep drove on. There was a good deal of traffic in the town of Amersfoort at this time and numerous pedestrians. I immediately pulled myself erect from the gutter, and began to look for Provost assistance. I stopped a passing jeep to give chase to my own vehicle, but the driver was a Dutchman and could not understand me. After about ten minutes elapsed, I contacted a 3 Coy Provost jeep, driven by F77487 Cpl Buchanan, H. With him, I cruised around to see if we could locate my jeep. We finally stopped at the round-about again to plan further action, when the Cpl on #3 Coy brought to my attention an 8 Coy jeep (Ser 43) passing the round-about at a terrific speed. I recognized it as my jeep and the driver as the man who had held me up. We gave chase, and followed him for approx fifteen miles along the highway to Apeldoorn. During the chase from the round-about in Amersfoort, Cpl. Buchanan started his siren to clear the streets of civilians and other traffic. At no time was it possible to pass him owing to his reckless driving, going from side to side. We were forced to stop finally, owing to the jeep we were driving running out of petrol. We jumped out of the jeep and stopped some passing cars. Finally we got a four gallon can of gas off a staff car. We told the driver of the staff car our story, and he told us that he had just passed a jeep bogged down off the road. I told the cpl then that we should go back to Amersfoort and get the Mobile Patrol. We found the Mobile Patrol from #8 Provost Coy in Amersfoort. I told the patrol to take off their white web so as not to unnecessarily alarm the man we were after, as he was thought to be armed. On arriving at the spot, I ordered two cpls to go to the left of the jeep and one cpl and myself went to the right side of the jeep. We closed in on the jeep. The driver was still sitting in the jeep. Immediately we closed with him, a struggle started. During the struggle, he threatened to shoot us all as soon as he was free enough. Also we made a quick search of him while he was struggling, and pulled him out of the jeep. We then made a thorough search, but could find no gun. I asked him where his gun was and he made a remark to the effect that he was too smart for the Provost. He said "I threw it away miles from here". He was still very abusive and insulting in his remarks to Provost present. He continued to say "Let my wrists free and plug the works of you". I then ordered him to be put in the jeep and taken to #3 Provost Coy HQ in Amersfoort. The struggle continued while we were putting him in the jeep but finally we got him in the jeep, with three men holding him down. His attitude remained threatening towards the Provost. I then started to get my own jeep out of the hole with the assistance of Lieut. Rintoul, 3 Pro Coy. Who had then arrived on the scene. I got it out and proceeded back to Amersfoort to #3 Provost Coy HQ to pick up the man in custody. I searched him for identification, but found only a civilian card bearing the name Gnr. Toner, W.F., Regt'l No. C79675. He had no MBM-1, no Army Identity Card and was wearing no tunic. In lieu of his tunic, he was wearing a short fur jacket. I had his shoe laces removed and his braces taken off and taken to a special cell in the Amersfoort Police Station. I told the police that I would pick him up in the morning at 0900 hrs. This morning, 12 Nov 45, he was picked up and removed to the Civil Police Stn., Hilversum. He was interrogated as to name, number, and unit. His unit was phoned and the Adj. advised us that they had such a man on strength. Unit was advised that he was being held in close custody in the Hilversum Police Stn. and was given a brief resume of the circumstances.

(Cont'd on Page 4)

At no time did I actually see a gun in the hand of Gnr. Toner.

(Signed) D9518 RSM Brown, M V

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

Second Witness

A.J. Jansen, Dutch Interpreter, employed by #8 Cdn. Provost Coy., having been duly sworn states:

On 11 Nov 45, at about 2130 hrs, I was riding in a jeep with RSM Brown, returning to Hilversum from Amersfoort. Suddenly, in the middle of the road, I saw a soldier in a fur coat waving both arms. We stopped the jeep as the road was very narrow. The soldier came beside the jeep, in the meantime slapping the door and mumbling something. I could not understand him as the motor was still running. The RSM said "Wait a moment, son, you are talking to Provvost. His reply to this was "I don't give a damn if you are Provost or not". "Have you got a gun?" "No", said the RSM. "I am unarmed". The soldier then stated "Well, I have a gun. Stick 'em up". The RSM said, "Wait a moment, you can't do that". The soldier said, "You get out of the car or I'll pump lead into you". In the meantime, the RSM got out of the car and said something again, trying to quiet him. The soldier answered however "One word more and I'll pull the trigger". He then turned to me and said, "You get out of the car too. I'll take this over". I got out. He jumped quickly into the car, shifted into first gear and drove away. In the moment he started the jeep, the RSM jumped on the jeep and seized the two upright bars on the right side of the jeep. I saw that the jeep was going at high speed, swerving from side to side of the road. That is the last I saw the Sgt. Major. He was still holding on to the jeep. I ran to the round-about, about 500 yds away and asked people there if they had seen a jeep pass with a man hanging on the side. They all pointed in the direction of Amsterdam main road. I stopped the first passing car, a civilian vehicle, and standing on the running board, ordered them to drive me down to #3 Provost Coy HQ. I informed the Provost in the Orderly Room what had happened. Whereupon #8 Provost Coy was phoned up and asked to send a jeep down. They said that was all they could do as they had no jeep available at the time. I waited for about ten minutes, when a jeep with a cpl and 2 L/cpls from 8 Provost Coy came down. We started right away on the main road to look for the RSM and his jeep. About 500 yds from the round-about I asked two Dutch soldiers, hitch-hikers, if they had seen a jeep passing, swerving from side to side. They replied yes and pointed in the Utrecht road direction. About five miles from the same spot on the Utrecht highway, I asked another Dutch soldier and his girl the same question. Their answer was yes, pointing in the Utrecht direction. Coming to another round-about before Utrecht, we stopped by a Provost jeep and asked for their assistance in looking for a Provost jeep (ser 43). We turned back toward Amersfoort again and stopped at a dance hall marked Spot 2 on diagram attached, to look for the soldier with the fur jacket. Coming out of the dance hall, without finding the soldier, I saw RSM Brown sitting in a #3 Provost Coy jeep. He ordered us to follow him, because he knew where his jeep was. He also ordered his men to take off their white web and put their guns in their pockets, thus avoiding more trouble, as he expected the soldier to be still armed. We went back to a point on the road about fifteen miles toward Apeldoorn. Here we located the RSM's jeep, with the soldier in the fur jacket still at the wheel, bogged down by the road. After a struggle, the soldier was overpowered and was taken back to the Civil Gaol in Amersfoort.

(Cont'd on Page -5-)

At the point where the soldier first stopped us, I saw a dark object in his xxxxx hand, which appeared to me to be a gun, pointed at us. It was quite dark and I could not describe the weapon.

.....
(Signed) A.J. Jansen.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

13 Nov 45

Third Witness

At approx 2115 hrs 11 Nov 45 at "D" Section HQ in the town of Soest, I received a phone call from 8 Cdn Pro Coy HQ to report to 3 Cdn Pro Coy HQ in Amersfoort, on a case of theft of a car 5 cwt. WD No. M-5844537. Accompanied by L/Cpl Hume, E.I. and Pte. Perrine, J., I proceeded to 3 Cdn Pro Coy HQ where I contacted A. J. Jansen, a Dutch interpreter, from 8 Cdn Pro Coy. He had been travelling in the a/m WD vehicle accompanied by RSM Brown. A.J. Jansen informed me of what happened and accompanied by L/Cpl Hume, Pte. Perrine, and the Interpreter, we proceeded to search for the vehicle and driver. At approx 2230 hrs, I contacted RSM Brown at the entrance to the SUNGLOW DANCE HALL, Amersfoort, who instructed us to remove our white web and place our pistols in our pockets, as the man who stole the car 5 cwt was arm ed. We then followed RSM Brown and the Orderly Cpl. from 3 Cdn Pro Coy to where the stolen veh was sitting on the Amersfoort - Apeldoorn highway approx six (6) Kms from Amersfoort. On approaching the veh, Gnr Toner was still sitting in the veh trying to start the motor. Accompanied by L/Cpl Hume and Pte Perrine, we approached the car 5 cwt and removed Gnr. Toner from the veh. While doing so, Gnr Toner struggled quite a lot and stated that if he had his gun he would shoot all of us. He also stated that if we wanted his gun, we would find it in the river. After removing him from the veh, he was searched for fire arms but we could not find any. We then escorted him to 3 Cdn Pro Coy HQ in Amersfoort, where he was thoroughly searched again but nothing was found. While at 3 Cdn Pro Coy HQ, Gnr Toner talked a lot of shooting us if he had his gun. On the arrival of RSM Brown at 3 Cdn Pro Coy HQ, I was instructed to escort Gnr Toner to the Civil Police Stn in Amersfoort to be held in safe custody until the morning of 12 Nov 45. At approx 0900 hrs, 12 Nov 45, accompanied by L/Cpl Hume and Pte Perrine, we proceeded to the Civil Police Stn in Amersfoort and escorted Gnr Toner to 8 Cdn. Pro Coy HQ.

(Signed) B81229, L/Cpl Roberts, H.
8 Cdn Pro Coy.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

14 Nov 45.

At approx 1000 hrs, 12 Nov 45, I was instructed by RSM Brown 8 Cdn Pro Coy, to proceed to the place where Gnr Toner was apprehended and recover the car 5 cwt. I was also instructed to search the surrounding area for fire arms which Gnr Toner might have had in his possession at the time he stopped the jeep on the Amersfoort - Apeldoorn highway. At approx 1330 hrs, 12 Nov 45, I proceeded to the spot where the jeep was stopped and searched the area, but could find no trace of any fire arms. I returned to "D" Section HQ and reported the results of the search by telephone to 8 dn Pro Coy HQ. At approx 1030 hrs, 13 Nov 45, I was instructed by RSM Brown to proceed to 5 Cdn A/Tk Regt.RCA to search the kit of Gnr Toner for fire arms.

(Cont'd on Page -6-)

At approx 1400 hrs, 13 Nov 45, accompanied by L/Cpl Hume, E.I. I proceeded to the Orderly Room, 65 Bty., 5 Cdn A/Tk Regt.RCA and informed them that I had come to check the kit of Gnr Toner. Accompanied by L/Sgt. McInnes, A.M., of that unit, we checked Gnr Toner's kit and could find no trace of any fire arms.

(Signed) B51229 Cpl Roberts, H
8 Cdn Pro Coy.

THE ACCUSED DECLINES TO CROSS EXAMINE THIS WITNESS.

Fourth Witness — F77487, Cpl. Buchanan, H., #3 Cdn Pro Coy., Cdn Army Overseas, having been duly sworn, states:

On the night of 11 Nov 45, at approx 2200 hrs., I went to the SUNGLOW where I met RSM Brown of #8 Cdn Pro Coy, who informed me that he had been held up on the road by a Cdn soldier and relieved of his jeep at the point of a gun. While in conversation with RSM Brown, I observed an 8 Cdn Pro Coy jeep passing by and remarked to him that one of their jeeps was passing by, to which the RSM observed was his own jeep. Accompanied by RSM Brown, we gave chase in my jeep through Amersfoort on to the Apeldoorn Road where it was run off the road and ditched. Later, the driver was removed by four men from #8 Pro Coy and taken [illegible] to Amersfoort where he was put in the civilian jail for the night. Obtaining his particulars at the civilian jail, it proved him to be: C75675, Gnr Toner, W.F., 5 Cdn Anti-Tank Regt.RCA. Gnr. Toner was placed in the civilian jail by RSM Brown, who informed me he would escort him to his unit and lay the necessary charges himself.

F Buchanan
(Signed) F77487, Cpl Buchanan, H.
#3 Cdn Pro Coy.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

Fifth Witness — G. Doornekamp, Police Brigadier of Amersfoort, having been duly sworn, states:

The soldier, Gnr Toner W.F., C75675, who had been locked up in the insane cell by RSM Brown, M.V., 8 Pro Coy, Hilversum, has broken up, between the hours of 2230 and 2355, the bed in the a/m cell, and has thrown the pieces through his cell. The undersigned tried to report this by telephone to the Provost in Hilversum, but because there was no Interpreter around, did not succeed.

(Signed) G. Doornekamp,
Police Brigadier.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

Sixth Witness — L101373, Gnr Huck, A.J. 5 Cdn A Tk Regt.RCA, Cdn Army Overseas, having been duly sworn, states:

I, L101373, Gnr Huck, A.J., hereby state that Gnr Toner was in my company from 1700 hrs 11 Nov 45 to about 22 00 hrs or 2230 hrs 11 Nov 45. I found Gnr Toner sober and orderly. At approx 2230 hrs, Gnr Toner was last seen leaving the cafe.

A J Huck
(Signed) L101373 Gnr Huck, A.J.
5 Cdn A/Tk Regt.RCA

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

Seventh Witness — K71842, Gnr Foster, P.J., 5 Cdn A/Tk Regt.RCA, Cdn Army Overseas, having been duly sworn, states:

I, K71842, Gnr Foster, P.J. hereby state that Gnr Toner F. was in my company the night of 11 Nov 45 until 2200 hrs of the same evening. He had been drinking all day, and he left the cafe alone, as far as is known. I hereby state the above is true.

P.J. Foster

(Signed) K71842, Gnr Foster, P.J.
5 Cdn A/Tk Regt.RCA

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

Eighth Witness — G19795, Gnr Douthwright F.M., 5 Cdn A/Tk Regt.RCA, Cdn Army Overseas, having been duly sworn, states:

I was with this Gnr. Toner all day up until approximately 2200 hrs when he left me. He knew what he was doing to my knowledge. He had been drinking with me, but I didn't think he was too drunk.

Fm Douthwright

(Signed) G19795, Gnr. Douthwright, F.M.
5 Cdn Anti-Tank Regt.R CA

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

THE ACCUSED WAS WARNED AS FOLLOWS:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you should give will be taken down in writing and may be given in evidence.

ACCUSED — C75675, Gnr Toner, W.F., 5 Cdn Anti-Tank Regt. RCA Cdn Army Overseas, having been duly sworn, States:

Yesterday, 11 Nov 45, I left my billets in Amersfoort at about 1900 hrs, with three friends. We went to a cafe in Amersfoort, which is behind the SUNGLOW RECREATION CENTRE. We were drinking gin there. I don't remember leaving there. The next thing I remember was waking up in the Amersfoort jail this morning 12 Nov 45. I do not own a Lugar pistol or any other fire arms. I don't remember driving a jeep at all last night.

W. F. Toner

(Signed) C75675, Gnr Toner, W.F.
5 Cdn Anti-Tank Regt.RCA

Certified that RP 4 (c)(d)(e)(f) and (g) have been complied with.

"I certify that the foregoing summary of evidence consisting of Seven (7) pages was taken down by me in the presence and hearing of the accused this 16th day of November 1945.

In the Field
this 16th day of November,
1945.

(D.A. Burbidge) Capt. RCA
Officer detailed to take
the Summary of Evidence.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 75675	Gnr	TONER, William Frank	5 CDN A TK REGT RCA.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Insubordination.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Disobeying Lawful Command AA Sec 9(2)	0 times	one times.
For AWL, AA Sec 15(1)	one times	nil times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry meriting mention in conduct~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, multiple convictions with trial under section 76 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence (or~~

~~sentences) of ... imposed by the ... day of ...~~

4. The accused has been in confinement, awaiting trial on the present charges, for one days in civil custody, and 19 days in military custody, making a total of 19 days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service ~~last birthday~~ is ...

6. The date of his ~~attestation~~ specified in his record of service is 17 Mar 42

~~7. The service which the accused is allowed to reckon towards pension or bounty is ... D ...~~

~~8. The accused is entitled to deferred pay or gratuity at the rate of ... per ...~~

~~9. The accused is entitled to count ... service in the assessment of pension, etc.~~

10. The accused is in possession of, or entitled to, ~~no military decoration or military award~~ *or* is in possession of *or* entitled to (*state any military decoration or reward*) CVSM&Clasp,1939-45 Star,France-Germany Star Defence Medal.

~~11. If the accused is a warrant officer, the accused before he was made a warrant officer last held the regimental rank of ...~~

~~12. If the case of an officer) The accused holds (or has held) the rank of ... dated ...~~

~~and in the regiment (or corps or department) the rank of ... dated ...~~

(*53500) W1.24898/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(50000) W1.15024/1820 15,000 5/44 " "

Exhibit X
C McKara.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C 75675 Rank Gunner Name TONER W.P. of 5 Cdn A tk Regt RCA Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of November 1945

(W R deGruchy) Capt & Adjt
Offr I/C Regtl Books
5 Cdn A tk Regt RCA

49—The record has served as a non-commissioned officer's testimonial. Reason for discharge, date.

In the rank of , Date of Promotion.

In the rank of , years, .

In the rank of , years, .

(INSTRUCTIONS—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

No C75675 Name TONER W F | Sqn. Battery or Company | Corps R C A | Date of enlistment 17 Mar 42 | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
field	17 Feb 43	Gnr	nil	Disobeying a lawful command AA Sec 9(2).	Bdr Gerbrandt LA	28 days FP Forf 28 days pay.	26 Feb 43	Major C W Parker	
field	20 Jun 45	Gnr	nil	AA Sec 15(1). AWOL 0800 hrs 20 Jun 1800 hrs 21 JUN 45. 1 day 10 hrs.	Sgt Holkestad E	14 days FP 14 days forf of pay. 2 days autom forf of pay	28 Jun 45	Lt Col RM Quigley	FR&I 149(2) FR&I 149(1)

EXHIBIT X

Certified a True Copy:

(W R deGruchy) Capt & Adjt
Offr i/c Regtl Books 5 Cdn A tk Regt RCA

26 Nov 45

(PTO)

Life of Pte Tyler on Half of Pte. Toner

Pte. Toner joined the Belgian Army on 17 March 1942 at the age of 19 years. He came overseas 28 Dec. 1942. On the 28 July 1944 he landed in France with the 5 A/TK. and with that regiment saw thru out the N. W. European campaign. During this campaign I (Lt. J. H. Hagan R.C.) had Pte. Toner under my command. There was no man in my troops who served more bravely, more cheerfully, or more willingly than Toner. In the capacity of a Dr. D/C. Toner carried out any tasks assigned to him most willingly and with the utmost regard to duty. At the ~~conclusion~~ cessation of hostilities he was awarded the 39-45 Star, F.S. Star, and C.V.S.M. & Clasp. ~~Up until the present time Toner had no Crime other than one of the latter~~. During that difficult period between V-E Day and the departure of our troops Toner's behaviour had been exemplary until that unfortunate night of 4 Nov. 45.

On the night of 8 Nov. Lt Toner accompanied by a few of his close friends went out to celebrate his departure for Canada in the very near future. During the evening he became involved in several very unfortunate incidents. and I ask the court when passing judgement to please bear in ~~my~~ mind that any acts committed by Lt. Toner of on that evening were done so while he was ~~unconsciously~~ under the influence of liquor.

In view of this mans excellent qualities as a fighting solder and bearing in mind his record during 4 yrs. service in the army I humbly beg the mercy of this Court in passing judgement.

J. H. Hargrave R. C. Lieut

52-47 Tongue E.2.

[redacted]

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K75688 Pte Eugene Hiram TONGUE 3 C.T.C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 80, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ w/s

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 89 days, of which 31 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for ~~three~~ w/s ~~months~~ ninety days.

(Sgd) ..... Judge-Advocate, if any. 13 Mar 46 Date awarded. (Sgd) W.W. Lockhart Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

~~I remit~~ the sentence to undergo detention for a period of ~~forty days~~ ninety days and to forfeit all ordinary pay for a period of ~~forty days~~ ninety days and I confirm the finding and the sentence as ~~so~~ mitigated

I direct that the accused be ~~imprisoned~~ to undergo detention barracks until further ordered.) appl

(1. AA 57A. Delete if not used.)

(Sgd) J.F. Rutherford Brig

Date 14 Mar 46 Commanding Deputy Comd C.A.N. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. K-75688 Pte Eugene Hiram TONGUE

Date. 16 Mar 46

Signature of Offr. R.P. Stewart Capt. (R.P. Stewart) Capt. 2 i/c

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 S 2-47

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA31) 40/1 & 8/1608 (61144) 4/388

RECEIVED 20 MAR 1946 JAG BRANCH C.M.H.Q.

Convened by Order of Brig T.J. Rutherford CBE Dep/Comd. HQCFN dated 12 Mar 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apppmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K75688	Pte.	Eugene Hiram	TONGUE	3 Canadian Transit Camp.

PROCEEDINGS REVIEWED 27 Mar 46 C.H. Tait Maj REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 13 Mar 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~ w/s, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet w/s attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ w/s brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ w/s fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ w/s

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans ..... w/s~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... w/s~~

~~The shorthand writer is sworn.(1)~~ w/s

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

~~A Prosecutor~~ ~~A Judge-Advocate~~ w/s

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ w/s, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	W.W. LOCKHART	RCCS	3 C.T.C.
Member	Lt Col	E.L. de PENCIER	RCA	3 C.T.C.
Member	Lt Col	A.P. DODDS	RCA	3 C.T.C.
~~Judge-Advocate~~ w/s				
Prosecutor	Maj	E.R. WOOD	C.I.C.	3 C.T.C.
Defending Offr	~~Capt~~ Lieut w/s	W.O. CALLAGHAN	C.I.C.	3 C.T.C.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused Pte Eugene Hiram TONGUE before arraignment make(s) (no) ~~his~~ w/s plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~was~~ w/s arraigned ~~separately~~ w/s on all charges in the charge sheet.(1) The accused does ~~not~~ w/s not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ w/s considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here ... Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes. I have with a statement (Appx 1 attached).(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

W of

(Art(Conn) Turn 357)
(CSMC GL 173)

I certify that I have this day examined A 756[illegible] (no.)

Lt (rank) Tongue E H (name) and in my opinion he is

fit to be under go trial by Court-Martial.

Station Ft. McHenry

Date 13 Mar 46

(Sgd), Medical Officer

(Unit) 32 FDS

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40 PAM/1667 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-75688	Pte		Eugene Hiram	TONGUE	3.Canadian Transit Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 12 March 46 endorsed by me, [redacted]. To be tried by Field General Court-Martial.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)		(Unit.)
Lt.Col.	W.W. Lockhart		R.C.C.S.	3 C.T.C.

MEMBERS.

Lt.Col.	E.L.de Pencier E.D.	R.C.A.	3 C.T.C.
Lt.Col. (Rank.)	A.P. Dodds (Named or detailed. RP 106.)	R.C.A.	3 C.T.C. (Unit.)

WAITING MEMBER.

Lt.Col. (Rank.)	R.G.L. Parker, C.B.E., E.D. C.I.C. (Named or detailed, if any. RP 106.)		3 C.T.C. (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dated 12 Mar 46

(Signed personally. RP 105 fn 2.)

(Rank.)

Commanding [signature] Brig
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, K-75688 Pte Eugene Hiram TONGUE, (X-4 List) Royal Canadian Army Service Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas, is charged with:-

Sec. 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field at 0930 hrs on 17 September 1945 absented himself without leave until surrendering himself at 2300 hrs on 14 December 1945.

(Absent 88 days 13 hrs 30 mins)

In the Field
12 March 1946

M.A. Frank

(M.A. Frank) Major
Officer Commanding
3 Cdn Transit Camp
C.F.N.

To be tried by Field General Court Martial

T.J. Rutherford

(T.J. Rutherford) C.B.E. Brigadier
Deputy Comdr. H.Q., C.F.N.

In the Field
12 Mar 1946

APPENDIX 1 wf

With reference Pte LR Longue K 75688 plea in mitigation of sentence.

This soldier sir has a good record of service he joined June 19/1941 Conv overseas Aug 27/42 went to Italy 13 June/43 served through the Sicilian campaign and came with the first Div when they came to Holland & Germany 20 Sept 45 and has served in this theatre ever since. When in Italy he received word from his wife that she wanted to divorce him. This news coupled with the strain of service in this theatre caused him to suffer from nervous fatigue so he was removed from the front line. He tried through the Padre & straighten out his family life but could find out nothing definite. When he came to France he received no word at all from his wife in Canada. When the war was over and there was nothing to do this played on his mind and when units started to go home he felt he would rather go on the boat then go home to his wife assuredly he was wrong in this reasoning gentelmen but consider his predicament. He had been working under a nervous strain for months and inactivity only intensified the nervousness so he went AWOL as a means of relief for his feelings. This soldier is repentent

now gentlemen as shown by his surrender is
timely his only thought now is to return to
canada and straighten out his life True
gentlemen his past record is not good but
I would point out that all his past crimes
spring from the same cause. Therefor gentlemen
I would ask that you be as lenient as
possible when you sentence this man,
give him a chance to return to canada as
at an early a time as possible so he
may become the good canadian citizen
it is our hope every soldier will become

O'Callaghan K.C.

EXHIBIT 'A' WJ

SUMMARY OF EVIDENCE

In the case of K-75688 Pte Eugene Hiram TONGUE, (X-4 List) Royal Canadian Army Service Corps, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

The following documents were laid before the Officer detailed to take the Summary of Evidence and initialled by him for the purpose of identification and pertaining to the accused.

"A" A certified true extract of 1 Canadian Rehabilitation Training Centre Part II Daily Order No. 5 dated 29 December 1945, showing the accused as AWL from 0930 hrs 17 September 1945.

"B" A certificate of the surrender of the accused at 2300 hrs on 14 December 1945.

The accused does not question the documents.

D R Saunderson

(D.R. Saunderson) Lieut.
Officer detailed to take
Summary of Evidence

The accused was cautioned as follows:-

Do you wish to make a statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you may give will be taken down in writing and may be given in evidence.

The accused reserves his defence.

Certified that all the provisions of R.P.4(c)(d)(e)and (f) have been complied with.

Taken down by me in writing in the hearing and presence of the accused, this 12 day of March 1946.

D R Saunderson

(D.R. Saunderson) Lieut.
Officer detailed to take
Summary of Evidence.

EX "A" Bk 8 WJ

PART II ORDER EXTRACT FORM

TO: A 8

99/20/1CRTC/1 (A5)

2 JAN 46 19

EXTRACTS FROM: Unit 1 CDN REHAB TRG CENTRE

Part II Order No. 5/45 dated 29 Dec 45

ABSENT WITHOUT LEAVE

AWL from 0930 hrs 17 SEP 45
K75688 Pte TONGUE EH Cook "C" RCASC

The following documents are attached. Please acknowledge receipt on attached duplicate
required. Please forward same.

Originating Clerk's Initials

Certified to be a true extract from the regimental books and documents in my custody.

Officer in Charge RECORDS 'B'
Canadian Section, 2nd [illegible] HQ(CAOF)

EGH—6
40/P & S/1276 (5757)

Ex "3" W.J.
D.S.

CERTIFICAT OF SURRENDER

IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (i)

I, Capt E.V. Carter Certify that Regt. No. K-75688

Rank PTE Name TONGUE E.H. Unit 1 Cdn Army Catering Pool RCASC

Stationed at in the field surrendered himself to No. H-17374

Rank S GT Name BAIN G.R. of 8 Cdn Pro Coy

the 14 day of December 1945 at approx 2300 hrs.

AS AN ABSENTEE WITHOUT LEAVE. At the time of surrender he was wearing (military uniform) or (~~XXXXXXXXXXXXXXXXXXXXXXXX~~)

(E.V. Carter) Capt
Officer Commanding
8 Cdn Pro Coy

EXHIBIT 'B' WSL

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-75688	Pte	TONGUE E.H.	3 Cdn Transit Camp CFN

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sect. 15(1) 7 times.

For Sect. 19 1 times.

For - - -

EXHIBIT 'B' WL

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 15 Aug 1944	(1) A.A. Sec 15(1) AWL from 2200 hrs 2 May 44 to 2200 hrs 20 May 44 (Absent 18 days) (2) A.A. Sec. 15(1) AWL from 0200 hrs 3 Aug 44 to 1000 hrs 3 Aug 44 (Absent 8 hrs)	90 days F.P.	27 days remission on 16 Oct 44

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 13th day of March 1946

J H Waterer Lieut

EXHIBIT 'C' wf

3/17 MFM 6 (AFB 122) 40/TAS/1356(5419)

K-75688 TONGUE, E.H.
No. Name

Sqn, Battery, or Company 1st.

Corps RCASC

Date of enlistment 19 June 41

GC Badges

Service or Proficiency Pay

Character

No. and date of last drunk 4 Jun 42

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc (LJ Paulson) Capt.

Date of last entry in Company Conduct Sheet

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet Destroyed 19 Dec.41. Last entry 25 Sept.41 No & Data of Last Drunk NIL AA Sec 19 DRUNKENNESS	Cpl.Landrey RSM Gotdel	ADMONISHED (1st Offence)	6 June 42	Major MR. Caverhill	
CANADA	4 June 42	Pte.		AA Sec 15(1) AWL from 0500 hours, 4 June 42 to 1227 hours, 5 June 42 Total time Absent 1 Day, 7 Hours 27 minutes.	Cpl. Landrey RSM Gotdel	10 days C.B.	6 June 42	Major M.R. Caverhill	Forf 2 days pay FRI 149-1a
CANADA	4 June 42	Pte.		AA Sec 15(2) Failing to appear at the place of parade appointed by his C.O.	Cpl Neal	14 days C.B.	3 Aug 42	Major MR Caverhill	Forf 1 days pay FRI 149-1 a
CANADA	31 July 42	Pte.		AA 15(1) AWL 22 hrs 50 min.	Documentary	7 days F.P. W.	9-3-43	Major R.J Dufresne	FRI 149)1(b) Forf 1 days pay FRI 149(1)a)
Field	6-3-43				Sgt. Brown	forf 7 days pay			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Nov 43	Pte.		(1) AA Sec 15(1)AWL from 2300 hrs 23 Nov 43 until 1700 hrs 19 Jan44 (Absent 56 days 18 hrs)Close arrest from 19 Jan 44(1700hrs)until2400 25 Jan 44(Under arrest 6 day 7 hrs)	Documentary SSM Christopher	28 days F.P. 28 days pay	26 Jan 44	Lt-Col. EL.Booth	FRI 149)1)(a) 57 days FRI 149(1)(c)(ii)7 days FRI 149(2) 28 days Total forfeiture: 92 days pay and $18.03 under FR&I 158(2)
Field	2 May 44	Pte.		AA Sec 15(1)AWOL from 2200 hrs 2 may 44 to 2200 hrs 20 may 44(Abs. 18 days) AA Sec 15(1) AWOL from 0200 hrs 30 aug 42 to 1000 hrs 3 aug 44(Absent 8 hrs) Close arrest from 1000 hrs 3 Aug 44 to 1000 hrs 5 Aug 44(12 days)	Summary of Evidence	90 days F.P. Forfeits 195 days pay	15 Aug 44	FGCM	FR&I 149(1)(a) 19 days FR&I(1)(c)(ii 86 days FR&I 149(1 (b) 90 days Toral Forf: 195 days

RELEASED FROM THE NO 2 Cdn FIELD PUNISHMENT CAMP 16 OCTOVER 1944 SENTENCE HAVING ESHIRED. REMISSION EARNED UNDER "Rules for Detention Barracks and Military Prisons" 27 days. (W.D.)

COMMANDANTS Initials

K-75688 TONGUE, E.H. — Sqn, Battery, or Company: 1st — Corps: RCASC — Date of enlistment: 19 June 41 — GC Badges: — Service or Proficiency Pay: — 3/17 MFM 6 (AFH 123) 40/TAS/126(3413)

No. — Name — No. and date of last drunk: 4 Jun42 — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Date of last entry in Company Conduct Sheet

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of other dissimilar offence with trial	By whom awarded	Remarks
Field	11 Mar 45	Pte.	1.	WOAS, AWL from 2200 hrs 11 Mar45 to 2200 hrs 12 Mar 45 Absent 1 Day AA Sec 15(1)	Sgt.Philip, GP Sgt. Mac-Naughton, Cpl. (Baker)	28 days FP 28 days pay. 28 May 45	13 Mar 45	RC Ryan Major	Automatic forf 1 days pay Total FORF: 29 day Pay
Field	28 Mar 45	Pte.		WOAS? AWL from 2300 hrs 25 May45 to 0100 hrs 27 May 45 Absent 26 hrs. AA Sec 15(1)	A/Sgt.Swann JC	14 days FP 14 days Pay		JT Mac Dougall Major	FR&I 149 (1(b)14 days FR&I 149(1(a) 1 days Total 15 days.
Field	20 Jul 45	Pte.		WOAS AWL from 0800 hrs 20 Jul 45 to 0030 hrs 21 Jul 45 (Absent 16 hrs 30 mins) AA Sec 15(1)	A/Sgt Wolfman A.B. Cpl.Maddeaux R. Cpl. Smith, RA.	Forf 28 days Pay	21 Jul 45	H. Reid Capt.	Forf 1 days FR&I 149(1), 28 days pay FR&I 149 (1)(b)

CERTIFIED TRUE COPY OF THE ORIGINAL IN MY POSSESSION

(J.H. Watson) Lieut.

Officer having custody of the original

(PTO)

LIST OF WITNESSES

In the case of K-75688 Pte TONGUE, E.H.

(For the Prosecution)

None

(For the Defence)

None

LIST OF EXHIBITS

In the case of K-75688 Pte TONGUE, E.H.

(For the Prosecution)

(A) A certified true extract of 1 Cdn Rehab Trg Centre, Pt II D.O. No. 5 dated 29 Dec 45, showing the accused as AWL from 0930 hrs 17 Sep 45.

(B) A certificate of the surrender of the accused at 2300 hrs on 14 Dec 45.

(For the Defence)

None

CERTIFICATE OF ACCUSED

I, K-75688 Pte E.H. TONGUE, hereby acknowledge that I have received, free of charge, a copy of the Summary of Evidence with a copy of the Charge Sheet therein.

I also request that an officer be appointed to act as my defending officer at my forthcoming court martial.

E.H. Tongue

(E.A. Tongue)

XXX-47

PTE TONGUE, E.H.

RECORDED AT CMHQ IN AB 160 XXX-47

FIELD GENERAL COURT-MARTIAL

4/38B

RECEIVED 26 SEP 1944 JAG BRANCH

Convened by Order of Brigadier W.O. Murphy Comd 1 Cdn Armd Bde dated 14 Aug 44

ACCUSED.

(For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) Appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number (N.R.Os)	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
K-75688	Private	Eugene Hiram	TONGUE	12 Can Armd Regt (THR)

PROCEEDINGS REVIEWED

JAG Evan Gerrard Capt 27 Sep 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 15 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	B.H. Ingram	1 Cdn Armd Bde Ord Fd Pk, RCOC
Member	Capt	D.E. Green	1 Cdn Armd Bde Sig Regt
Member	Capt	J.T. Wilson	14 Cdn Armd Regt
Judge-Advocate	Major	E. Gerrard	DJA 1 Cdn Corps
Prosecutor	Capt	D.G. Wyllie	12 Cdn Armd Regt
Defending Offr	Capt	F.W. Sinnard	12 Cdn Armd Regt

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making (the) plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 1

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-75688 Pte Eugene Hiram Tongue 12 Can Armd Regt

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 15(1) AA	Guilty	Guilty	
2nd	Sec 15(1) AA	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 67 days, of which Nil days were spent in hospital.(1)

(1: See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer Field Punishment for 90 days and to forfeit 90 days pay.

(Sgd) E. Gerrard Maj 15 Aug 44 (Sgd) B.H. Ingram
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) (W.C. Murphy) Brig
Date 18 Aug 44 Commanding 1 Cdn Armd Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 75688 Pte E.H. Tongue	28 Aug 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr.* *If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 4, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 415.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. K-75688 Pte. Eugene Hiram TONGUE, 12 Canadian Armoured Regiment (TRR), a soldier of the Canadian Army, is charged with:

FIRST CHARGE
Sec 15(1) A.A.

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, absenting himself without leave from 2200 hrs 2 May 44 until 2200 hrs 20 May 44, when apprehended by the C.M. Police at SAN SEVERO.

(TOTAL ABSENCE 18 DAYS)

SECOND CHARGE
Sec 15(1) A.A.

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, at about 0200 hrs 3 August 1944, when in close arrest, absented himself without leave until he was re-arrested by Sgt. R. Huard, 12 Canadian Armoured Regiment (TRR), at SIENNA at 1000 hrs 3 Aug 44.

(TOTAL ABSENCE 8 HOURS)

(F. L. Caron) Lt-Col.,
Commanding,
12 Cdn Armd Regt (TRR)

In the Field, ITALY.
12 Aug 44.

To be tried by Field General Court Martial.

(W.D. Murphy) Brig
Comd 1 Cdn Armd Bde

14 Aug 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40(FAS)1697 (S868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
K-75688	Private	Eugene Hiram	TONGUE	12 Cdn Armd Regt (TRR)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Aug 44 endorsed by me (or by an offr of my staff for me), To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial [and that it is not practicable to delay the trial for reference to a superior qualified offr.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	B.W. Ingram	1 Cdn Armd Bde Ord Fd Pk, RCOC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D.G. Green	1 Cdn Armd Bde Sigs, RCCS
Capt	J.F. Wilson	14 Cdn Armd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J.M. Pratt	12 Cdn Armd Regt
Capt	D.C. Matthews	14 Cdn Armd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	G.R. Morrison DJA	1 Can Corps

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 14 Aug 44

Commanding 1 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

K 75688 Pte Tongue E.H.
12 C.A.R.

—

Field
15 August 1944

with Chase Capt.

Summary of Evidence in the case of [illegible]

K-75688 Pte Tongue, E.H. 12 Canadian Armoured Regiment (RR)

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution – D-36410 Cpl. Waywell, T., 12 Canadian Armoured Regiment (1RR) having been duly sworn, states :-

I am Corporal Cook in charge of the Mens' Kitchen at HQ Squadron 12 Canadian Armoured Regiment. K-75688 Pte Tongue, E.H. was one of my cooks. On the evening of the 2 May 1944 at or about 2200 hours, I noted that Pte Tongue was absent. I recognize the accused as Pte Tongue, E.H. my former cook.

It was customary for the cooks to be in the vicinity of kitchen or in the camp area. If they were leaving the area, they were to let me know where they were going. I notified S.S.M. Davy of HQ Sqn at or about 2200 hrs 2 May 44 that Pte Tongue was absent.

The accused declines to cross-examine this witness

T. Waywell

2nd Witness for Prosecution D-71030 Sgt Major Davy, J.H. HQ Sqn 12 Can Armd Regt. having been duly sworn states :-

I am D-71030 Sgt. Major Davy. J.H. of HQ Sqn 12 C.A.R. On 2 May 1944 at or about 2200 hrs it was reported to me that Pte Tongue, whom I recognize had absented himself. The following morning at breakfast parade, I checked, with the assistance of Cpl Waywell and the accused was not on the parade. and was not to be found on the Regimental lines. ~~From 2 May 44 to 14 June 44, four~~ Fifteen Parades were held and

~~Pte Tongue was absent on these parades.~~ I checked the Kitchen and Right lines daily and Pte Tongue was not to be found until he was returned to this Unit on 14 June 1944, in close arrest.

The accused declines to cross-examine this witness.

J.H. Davis S.S.M. 12 C.A.R. A.D.Sgt.

The Accused was cautioned as follows:-
"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence"
After the above caution the accused declines to say anything or to give evidence.

1st Witness B-36619 Capt Webber, R.W. 12 Edm Armd Regt (1 CR) having for Defence. Sworn duly affirms, states:-
I am Administration Corporal in HQ Sqn 12 C.A.R. On 2 May 1944 at or about 1800 hrs, the accused and myself started to have a friendly talk and a few drinks of wine and cognac. We drank for approximately two hours and had consumed between us about two 40 oz bottles of wine and a bottle, the size of a beer bottle, of Cognac. I went to bed around 2000 hours to 2030 hours. When I left Pte Tongue, he said, "I am going to the Kitchen." So I presumed he was going to bed also. He was drunk, as he did not talk very coherently and couldn't walk straight. He had consumed much more of the wine & cognac than I had.
Q. Had I been drinking at all before 1800 hrs?
A. Not that I know of.

Capt R.W. Webber B-36619 - 12 A. Sqn.

The Accused does not call any further witness for the Defence.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 106 (1)(d)(e) and 22 Edm Garr Compliance with.

Lt Col Commanding 12 C.A.R.

SUMMARY OF EVIDENCE

In the case of No. K-75688 Pte. TONGUE, Eugene, Hiram, 12 Canadian Armoured Regiment (TRR), a soldier of the Canadian Army on Active Service.

The Commanding Officer directs that the Evidence be taken on Oath.

First Witness (Prosecution)

D-36410 Cpl WAYWELL, F., 12 Canadian Armoured Regiment (TRR) having been duly sworn, states:-

"I am corporal cook in charge of the mens kitchen in HQ Squadron 12 Canadian Armoured Regiment. K-75688 Pte. TONGUE, E.H. was one of my cooks. On the evening of the 2nd May 1944 at or about 2200 hrs, I noticed that Pte. TONGUE was absent. I recognize the accused as Pte. TONGUE, E.H. my former cook.

It was customary for the cooks to be in the vicinity of the kitchen or in the camp area. If they were leaving the area they were to let me know where they were going. I notified S.S.M. DAVY of HQ Sqn at or about 2200 hrs 2 May 44 that Pte TONGUE was absent."

The accused declines to cross-examine this witness.

Sgd.
F. Waywell

Second Witness (Prosecution)

D-71030 Sgt. Major DAVY, J.H. HQ Sqn 12 Cdn Armd Regt having been duly sworn, states:-

"I am D-71030 Sgt. Major DAVY, J.H. of HQ Sqn 12 C.A.R. On 2 May 1944 at or about 2200 hrs it was reported to me that Pte TONGUE, whom I recognize, had absented himself. The following morning at breakfast parade, I checked, with the assistance of Cpl WAYWELL and the accused was not on the parade and was not to be found in the Regimental lines. I checked the Sqn and Regtl lines daily and Pte TONGUE was not to be found until he returned to this unit on 14 June 1944, in close arrest."

The accused declines to cross-examine this witness.

Sgd.
J.H. Davy
SSM HQ Sqn 12 C.A.R.

The accused was cautioned as follows:-

Do you wish to make any Statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence.

After the above caution the accused declines to say anything or to give evidence.

First Witness (Defence)

D-36619 A/Cpl WEBBER, R.W. 12 Cdn Armd Regt (TRR) having been duly sworn, states:-

"I am administration corporal in HQ Sqn 12 C.A.R. On 2 May 1944 at or about 1800 hrs, the accused and myself started to have a friendly talk and a few drinks of wine and cognac. We drank for approximately two hours and had consumed between us about two 40oz bottles of wine and a bottle, the size of a beer bottle, of cognac. I went to bed around 2000 hours to 2030 hours. When I left Pte. TONGUE, he said "I am going to the kitchen" so I presumed he was going to bed also. He was drunk, as he did not talk very coherently and couldn't walk straight.

...../2.

First Witness (Contd)
(Defence)

He had consumed much more of the wine and cognac that I did."

Q. Had I been drinking at all before 1800 hrs?
A. Not that I know of.

Sgd.
Cpl R. Webber
D-36619 HQ Sqn

The accused does not call further witness for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

D.G. Wyllie Capt.
(D.G. Wyllie) Capt.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of K-75688 Pte TONGUE, E.H. 12 Cdn Armd Regt, Cdn Army Overseas, charged with, when in close arrest, escaping.

The Commanding Officer directs that the Evidence be taken on Oath.

First Witness (Prosecution)

F-65584 A/Cpl WALKER, C.J. 12 Cdn Armd Regt having been duly sworn, states:-

"I am F-65584 A/Cpl WALKER, C.J. Provost Corporal in charge of 12 C.A.R. Field Punishment Camp and was acting in that capacity on 2 August 1944 and still am. On 2 August 1944 at or about 2359 hrs the accused, was in the Field Punishment Camp area, while under arrest. I had made a tour through the area in search of vino. Earlier, I had been warned that one of the prisoners had a bottle of vino and during the search for it I saw Pte TONGUE in his tent. It was customary not to place a Provost on duty during the night as the prisoners went to bed and stayed there. At or about 0500 hrs 2 August 1944, on awakening the prisoners, I noticed Pte TONGUE to be absent. At or about 0600 hrs I sent a message to Sgt HUARD, Provost Sergeant, reporting the absence of the accused. At or about 1030 hrs 3 Aug 44 I saw the accused in the Provost Sergeant's jeep in SIENNA."

Cross-examined by the accused.

Q. Who conducted the search for the bottle of vino at 2359 hrs 2 Aug 1944?
A. Myself and L/Cpl THORNTON.

Q. Did L/Cpl THORNTON see me in the tent at that time?
A. I saw you, but I can't answer for L/Cpl THORNTON.

Q. Did you waken the prisoners on the morning of 3 August 1944?
A. Yes.

Sgd. F-65584 A/Cpl C.J. Walker

Second Witness (Prosecution)

D-36451 Sgt HUARD, R. Provost Sergeant 12 Cdn Armd Regt having been duly sworn, states:-

"On the 2 August 1944 I was Provost Sergeant for the 12 Cdn Armd Regt and still am. On the 3 Aug 44 at or about 0800 A/Cpl WALKER, C.J. 2 i/c Provost Section reported to me that Pte TONGUE, E.H. was absent, so immediately I instituted a search for the accused. I figured he might be in SIENNA which was near our harbour area. At approximately 1000 hrs 3 Aug 44 I found Pte TONGUE on a back street in SIENNA and told him to get into the jeep, which he did. I brought him back to camp.

The accused declines to cross-examine this witness.

Sgd. D-36451 Sgt Roger Huard

The accused was warned as follows:-

"Do you wish to make any statement or to give Evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any Evidence you give will be taken down in writing and may be given in Evidence".

The accused: I desire to make an unsworn statement.

...../2.

The accused K-75688 Pte TONGUE, E.H. 12 Cdn Armd Regt states:-

"At or about 0200 hrs 3 Aug 44, I judge this time by the moon, I was awakened by Tpr MURRAY, J.J. and handed a full bottle of wine. Tpr MURRAY asked me "Have a drink". I took a drink and handed him the bottle. He took a drink and handed the bottle to me again and said "Finish it". I finished the bottle then. We sat around and chatted for about ten to fifteen minutes and then Tpr MURRAY suggested that we leave the camp. I hesitated at first but later decided to do so. We picked up cigarettes and I took my razor and soap and left camp. We had proceeded quite a ways and as yet had not decided on a destination when Tpr MURRAY passed out in a ditch by the road-side. I went to a farm house about 75 yds away and got a bucket of water which I poured on his face. I shook him but all he would say was "Leave me alone, I want to sleep." After that I left him and went to SIENNA as I figured it was too late to redeem my mistake. I stayed around SIENNA as I knew our own Provost would sooner or later pick me up, knowing that they patroled the town. Sgt HUARD picked me up at 1000 hrs the 3 Aug 1944.

Sgd.
K-75688 Pte Eugene H. Tongue

The accused declines to call witness in his own behalf.

I certify that R.P. 4 has been complied with.

Taken by me In the Field in the presence and hearing of the accused, this 9th day of August 1944.

D.G. Wyllie Capt.
(D.G. Wyllie) Capt.,
12 Cdn Armd Regt (TRR)

ADDITIONAL SUMMARY OF EVIDENCE

In the Case of K-75688 Pte. TONGUE, E.H. 12 Cdn Armd Regt (TRR) Cdn Army Overseas.

The accused was warned as follows:-

Do you wish to make any Statement or to give Evidence on Oath? You are not obliged to say anything or to give Evidence, but whatever you say or any Evidence you give will be taken down in writing and may be used as Evidence.

The accused desires to give the following Evidence on Oath.

"I am K-75688 Pte. TONGUE, E.H. On the 20 May 1944 at 2200 hrs I was apprehended at SAN SEVERO by C.M. Police after absenting myself without leave from the 12 Cdn Armoured Regiment at 2200 hrs 2 May 1944. From SAN SEVERO I was sent by the C.M. Police to FOGGIA and later was returned to my Unit, the 12th Canadian Armoured Regiment (TRR)

Sgd.
K-75688 Pte. Eugene H. Tongue

I certify that R.P. 4 have been complied with.

I certify that the foregoing Additional Summary of Evidence was taken down by me in the presence and hearing of the accused.

(D.G. Wyllie) Capt.,
12 Cdn Armd Regt (TRR)

Abstract & Summary of Evidence in the case of K-75688 Pte Tongue, E. H. 12 Edn. Armd Regt, 1 Edn Army overseas, charged with "Having arrest, escaping.

The Commanding Officer directed that the Evidence be taken on oath.

1st Witness for prosecution F-65584 A/Cpl. Walker, C.J. 12 Edn Armd Regt having been duly sworn, states:-

I am F-65584 A/Cpl Walker, C.J. Provost corporal 12 C.A.R.C. in charge of ~~Provost~~ Field Punishment Camp and was acting in that capacity on 2 August 1944 and 3rd inst. On 2 August 1944 at or about 2359 hours, the accused was placed in the Field Punishment Camps area, under close arrest by me, as I had made a search through the area in search of vino. Earlier I had been warned that one of the prisoners had a bottle of vino and during my search I saw Pte Tongue in his tent. It was customary not to place a Provost on duty during the night as the prisoners went to bed and stayed there. At or about 0500 hrs 3 August 1944, on awakening the prisoners, I noticed Pte Tongue to be absent. At or about 0800 hours I sent a message to Sgt Huard, Provost Sergeant reporting the absence of the accused. At or about 1030 hrs 3 August 1944 I saw the accused in the Provost Sergeant Jeep in Sienna.

Cross-examined by the accused.

Q- Who conducted the search for the bottle of vino at 2359 hrs. 2 aug 1944.

~~Q- Who found the vino~~ ~~and where~~ ~~did you find the bottle of vino to be hidden~~

A- Myself and A/Cpl Thornton.

Q- Did A/Cpl Thornton see me in the tent at that time.

A- I saw you, but I can't answer for A/Cpl Thornton.

Q- Did you waken the prisoners on the morning of 3 August 1944

A- Yes.

F65584 A/Cpl C J Walker

2nd witness for prosecution

D-36451 Sgt. Huard, R. Provost Sergeant 12 Can Arm'd Regt having been duly sworn states:-

On the 2 August 1944 I was Provost Sergeant for the 12 Can. Arm'd Regt and still am. On the 2 Aug 44 at or about 0800 Hrs Pte Walker, C.S. 2 i/c Provost Section reported to me that Pte Tongue E.H was absent. So immediately I instituted a search for the accused. I figured he might be in Sienna which was near Ortona Harbour Area. At approximately 1000 hrs 3 Aug 44 I found Pte Tongue on a back street in Sienna and told him to get into the Jeep, which he did. I brought him back to camp.

The accused declines to cross-examine this witness.

D36451 Sgt Roger Huard

The Accused was warned as follows "Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

The accused: I desire to make an unsworn statement.

The accused K-76688 Pte Tongue, E.H. 12 Can. Arm'd Regt states:

At or about 0200 hrs 3 Aug 44, I judge this time by the moon, I was awakened by Tpr Murray, J.J. and handed a bottle of wine. Tpr Murray asked me "Have a drink." I took a drink and handed him the bottle. He took a drink and handed the bottle to me again and said "Finish it." I finished the bottle, then. We sat around and chatted for about ten to fifteen minutes and then Tpr Murray suggested that we leave the camp. I hesitated at first but later decided to do so. We picked up cigarettes and I took my razor and shaving soap and left camp.

We had proceeded quite a ways and as yet had not decided on a destination Tpr Murray passed out in a ditch by the road-side. I went to a farm-house about 75 yds away and got a bucket of water which I poured on his face. I shook him but all he would say was, "Leave me alone, I want to sleep." After that I left him and went to Sienna as I figured it was too late to redeem my mistake. I stayed around Sienna as I knew our own Provost would sooner or later pick me up, knowing that they patrolled the town. Sgt Huard picked me up at 1000 hrs the 3 Aug 1944.

K-76688 Pte Eugene H. Tongue

The Accused declines to call witnesses in his own behalf.

I certify that K.R. 4 has been complied with.

Taken by me in the Fields in the presence and hearing of the accused, this 4th day of August 1944.

D.H. Wyllie Capt
12 Can Arm'd Regt (TRR).

Additional Summary of Evidence in the case of K-75688 Pte Tongue, E.H. 12 Can. Armd Regt (1 R R) Can. Army Overseas.

The accused was was warned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence.

The accused desires to give the following evidence on oath:-

I am K-75688 Pte Tongue, E.H. On the 20 May 1944 at 2200 hrs I was apprehended at San Severo by C.M. Police after absenting myself without leave from the 12 Can Armoured Regiment at 2200 hrs 21 May 1944 at San Severo I was sent by the C.M. Police to Foggia and later was returned to my Unit the 12th Canadian Armoured Regiment. (1 R R)

K-75688 Pte Eugene H. Tongue

I certify that R.P.4 have been complied with.
I certify that the foregoing additional summary of evidence was taken down by me in the presence and hearing of the accused.

D.H.Ly the Capt
12 Can. Armd Regt (1 R R).

Exh

M.F.R. 332
40/P & S 576

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number K-75688 Rank Private Name TONGUE, Eugene, Hiram Regiment (or unit) 12 Canadian Armoured Regiment (TRR)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For A.A. Sec 15 (1)	1 times	3 times
For A.A. Sec 15 (2)	times	1 times
For A.A. Sec 19	times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 87 days in military custody, making a total of 87 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 yrs 5 mos

6. The date of his attestation specified in his attestation paper is 19 June 41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any military decoration or reward. C.V.S.M. & Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the ~~Royal Canadian Air Force~~ Permanent Force the rank of unit

N/A dated N/A, and in his regiment (or corps), the rank of

" dated "

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of " years.

In the rank of " years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~ Army

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number K-75688 Rank Pte

Name of 12 Cdn Armd Regiment (TRR)

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~12th~~ 15th day of ~~August~~ August 1944 [signature] Capt
12 C Sig (TRR)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

MFM 6
(AFB 122)
40/P&R/186 (5438)

No K75888 Name TONGUE, E.H. | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 19 June 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet Destroyed 19 Sep 41 Last Entry 25 Sep 41. No. Date Last Drunk NIL					
Canada	4 Jun 42	Pte		A.A. Sec 19	Cpl Landrey RSM Gotdel	ADMONISHED 1st Offence	5 Jun 42	Major M.R. Caverhill	
Canada	4 Jun 42	Pte		A.A. Sec 15(1)AWL from 0500 hrs 4 Jun 42 to 1227 hrs 5 Jun 42 Total Time absent 1 day, 7 hrs 27 mins.	Cpl Landrey RSM Gotdel	10 days C.B.	5 Jun 42	Major M.R. Caverhill	Forf 2 days pay PRI 1491
Canada	31 Jul 42	Pte		A.A. Sec 15(2) Failing to appear at the place of parade appointed by his C.O.	Cpl Neal	14 days C.B.	5 Aug 42	Major M.R. Caverhill	Forf 1 day's pay PRI 149 (1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FField	6-3-43	Pte		A.A.15(1)AWL 22 hrs 50 mins.	Documentary Sgt Brown	7 days F.P. forf 7 days pay	9-3-43	Major R.J. Dufresne	FRI 149 (1)(b) Forf 1 day's pay FRI 149 (1)(a)
Field	23 Nov 43	Pte		A.A. Sec 15(1) AWL from 2300 hrs 23 Nov 43 until 1700 hrs 19 Jan 44 (Absent 56 days 18 hrs.) Close arrest from 19 Jan 44(1700 hrs) until 2400 hrs 25 Jan 44 (under arrest 6 days 7 hrs)	Documentary SSM Christoffer-son	28 days F.P. 28 days pay	26 Jan 44	Lt-Col., R.L. Booth	FR&I(1)(a) 57 days "(1)(c)(ii)7 " " 149(2) 28 days Total forf 92 days pay and $18.03 under FRI 158(2)

CERTIFIED TRUE COPY of the regimental record as per my possession this [illegible]

(J.B. McLaughlin) Capt & Adjt
12 Cdn Armd Regt (TRR)

12 Canadian Armoured Regiment (TRR)

In the Field
24 Jun 44

To:- Comd Offr
12 Cdn Armd Regt (TRR)

With reference to my pending trial by Field General Court Martial.

I ~~propose~~ intend to employ ~~counsel~~ an officer for the purpose of conducting my defence.

If Capt F.W. Simard, 12 Cdn Armd Regt (TRR) is available, I wish that he may assigned for this purpose.

Eugene A. Tongue
(E.A. Tongue) Pte.
12 Cdn Armd Regt (TRR)

12 Canadian Armoured Regiment (TRR)

In the Field
24 Jun 44.

The Commanding Officer directs that Capt D.G. Wyllie, 12 Cdn Armd Regt (TRR) act as prosecutor at the coming trial by Field General Court Martial of No. K-75688 Pte. TONGUE, E.H., 12 Cdn Armd Regt (TRR).

(J.R. McLaughlin) Capt & Adjt
12 Cdn Armd Regt (TRR)

LIST OF WITNESSES

PROSECUTION

D-36410	Cpl	WAYWELL, F.	- 12 Cdn Armd Regt (TRR)
D-71030	SSM	DAVY, J.H.	- 12 Cdn Armd Regt (TRR)
F.C.5584	A/Sgt	~~Walker~~ Walker, C.A.	" " " " "
D.36451	Sgt	Guard R.	

DEFENCE

D-36619	A/Cpl	WEBBER, R.W.	- 12 Cdn Armd Regt (TRR)

EE-49

GNR TONTI P.

B-8250 Gnr. Paul TONTI
2 Cdn Gen Pioneer Coy

EE-49

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this 11th day of APRIL, 1943.

Whereas it appears to me, the undersigned, an officer in Command of A/"A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). A/, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—

*(1. Three Officers to form the Court.]

*(2. A Field Officer as President.]

for the following reasons, namely :—]

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
MAJOR	W. McLEOD (L.Sup.R.)	2 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Lieutenant	J.B. Martin (Camerons of C.)	2 C.I.R.U.
Lieutenant	D.J. Glasgow (R.Wpg.Rif.)	2 C.I.R.U.
Waiting Member Lieutenant	G.E. Walker (R.C.R.C.)	2 C.I.R.U.

***Signed** [signature]

Colonel,
A/***Commanding*** "A" Group Cdn Rft Units, C.A.(O).
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-8250 Gnr. Paul TONTI 2 Cdn Gen Pioneer Coy	First Charge: A.A. Sec. 15(1)	Guilty	Guilty. To undergo detention for a period of 180 days. SEE CHARGE SHEET ATTACHED.	I confirm the finding and sentence of the Court. G Kitchener Barker Lieut-Gen Comdg 1 Cdn Corps 12 April 43

"I have satisfied myself that none of the Officers detailed as members of this Court have previously, sworn upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial."

W W Leod major
President of the Court.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] (Signed) W W Leod major
Colonel,
A/Commanding "A" Gp Cdn Rft Units, 2 C.I.R.D.
Convening Officer (*e*) C.A.(O). *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twelfth day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) n/c
*(4. ~~The officers under instruction~~) n/c

were duly sworn.

* Omit if not applicable.

Signed this 12th day of Apr. 1943.

W W Leod major
President of the Court Martial.

C. Certificate in case of death sentences.

*~~See footnote (*b*) on page 762 M.M.L. 1929.~~

I certify that the terms of *A.C.I. 570 of 1918 have been ~~complied with~~. n/c

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ n/c

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 13 day of Apr. 1943.

G Kitchener Barker Lieut.
Confirming Officer
Canad. A Gp Corps

Promulgated and extracts taken in the case of B-8250 Paul Tonti, 2 Cdn.Gen.Pnr.Coy.
Part II No.27 dated 14 Apr.43.para.9(b)

(*a*) (Dated) 14 April 43. (Signed) J H Keary MAJOR
2 CDN. GEN. PIONEER COY

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.U. 47787/1937 25 M. 5-41 K.J.L./5165(2) Gp. 598-3

CHARGE SHEET

The accused No. B-8250 Gunner Paul Tonti, of No. 2 Canadian General Pioneer Company, a soldier of the Canadian Army (Overseas)

While on Active Service is charged with:

SEC. 15 (1) ARMY ACT

Absenting himself without leave

in that he

at Jasper Camp, Witley, Surrey was absent from 2130 hours 5 Dec 42 until surrendering himself to the civil power at London, dressed in civilian clothes at 0900 hours 4 Apr 43.

Total time absent: 119 days, 11 hours, 30 minutes.

J.H. Craig Major

(J.H. Craig) Major,
Commanding,
No. 2 Cdn Gen Pioneer Coy.

Jasper Camp,
Witley, Surrey
7 Apr 43.

To be tried by Field General Court Martial.

M.K. Greene

(M.K. Greene) Colonel,
A/Commander,
"A" Group Cdn Rft Units,
C.A.(O).

Convening Officer.

11 Apr 43

W.W. Lewis Major
Pres.

12 April 43.

B 8250 Gnr. Tonti, P. No. 2 Cdn. Gen Pioneer Coy.

I CERTIFY the a/m soldier is medically fit to undergo trial by Court Martial.

H.G. Metcalf Capt RCAMC

(H.G. Metcalf) Capt, RCAMC,
Medical Officer No. 2 CARU.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ~~[illegible]~~ ON THE 12 DAY OF April 43
2 Cdn. Lt. Rgt. Coy.

TRIAL OF:-No. B 8250 GNR. TONTI, Paul. Unit

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) CAPT. W.D. HAY 2 Cdn. Lt. Rgt. Coy. (Unit)

Defending Officer:- (Name) CAPT. A.E. KELSEY " (Unit)

At hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President MAJOR W. McF. D. (L. Sup. R.) (Unit) 2 C.I.R.C.

Members LIEUT. J.R. MARTIN (Canadian S.C.) (Unit) 2 C.I.R.C.

LIEUT. D.J. GLASGOW (R. Regt. R.F.) (Unit) 2 C.I.R.C.

~~The officers under instruction are duly sworn~~ NIL

Q2 ~~Do you object to.....acting as shorthand writer?~~ A2 NIL

~~The shorthand writer is duly sworn~~ NIL

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name CPL. W.D. H.Q. (Unit) 2 Cdn. Lt. Rgt. Coy. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes.

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

TO THE PRESIDENT & MEMBERS OF THE COURT

In asking the mercy of the Court for the accused, Gnr. Tonti, there are a few points I wish to plead in mitigation of his offence in absenting himself without leave.

This man is not of our tongue. He is a Maltese - and prior to the war was a merchant seaman. Finding himself in Canada after the outbreak of war he enlisted in the Artillery with the set purpose of fighting Germans. He came overseas to England and, with the exception of a few lapses due to a restless desire to be at the job he enlisted to do, was a good honest soldier.

A domestic angle then introduced itself. Tonti has a wife in Malta, with two small children. He has been the only means of support for years and continued this support by assigning $20.00 a month to his wife. But apparently something went wrong with the Pay Office machinery and she never has received more than the bare assignment which is insufficient to keep them in proper food and comfort.

With his poor command of the English language he was unable to express himself, it would seem, to the point where the matter could be adjusted. And it was then, in his queer, bewildered way that he took "French Leave" with the foolish idea of earning money in a civilian capacity and sending it back to Malta. While A.W.L. he managed to scrape £12.0.0 together and send to his wife.

It was finally borne in upon his confused mind that he was going about things the wrong way and he decided to surrender himself and face the music.

Now, Gentleman, it is unfortunate for all concerned that this man could not have served where he really belongs - in the Merchant Navy. He tells me he has tried on several occasions to secure a transfer to the Merchant Service, where he could join the Malta convoys, which would enable him to visit his home town and see for himself how matters stood regarding his family.

I ask you to take all this into the fullest consideration and readjust this soldier's mental outlook, already warped by his domestic troubles. Send him, if you can, back to the Merchant Navy where he belongs - where he can and will make a valuable contribution to the Allied war effort. Again I ask you to be lenient - not punitive.

A.R. Kelsey Capt
12 Aug. 43

SUMMARY OF EVIDENCE

Jasper Camp,
Witley, Surrey
7 Apr 43.

(The accused was present at the Summary of Evidence when evidence of the Witnesses was taken in writing).

Summary of Evidence,
in the case of B-8250 Gnr. Paul Tonti, No. 2 Canadian General Pioneer Company.

R.P.(F) The Commanding Officer directs that the evidence be taken under oath.

1ST. WITNESS FOR THE PROSECUTION

M-11368 Sgt. Surtees, J., No. 2 Canadian General Pioneer Company, Witley, Surrey., having been duly sworn states:-

I am M-11368 Sgt. Surtees, J., of No. 2 Canadian General Pioneer Company. On the 6 Dec 42 I was Coy. Orderly Sergeant. On the morning of the 6 Dec 42 Cpl. Tomlinson the Section N.C.S. reported to me that B-8250 Gunner Tonti, P. was missing at Tattoo 5 Dec 42 and had not returned.

I reported this fact on the Absentee Report dated 6 Dec 42.(Ex."A")

J. Surtees Sgt.
M-11368 Sgt. Surtees, J.

The accused declined to cross examine the witness.

2ND WITNESS FOR THE PROSECUTION

Lieut. R.W. Spurr of No. 2 Canadian General Pioneer Company having been duly sworn states:-

I am Lieut. R.W. Spurr of No. 2 Canadian General Pioneer Company. I hereby submit the original copy of the Absentee Report 6 Dec 42. (EXHIBIT "A")

A true copy of Declaration of Court of Inquiry held at Jasper Camp 30 Dec 42 in respect to the illegal absence without leave of B-8250 Gunner Tonti, P. and list of deficiences of kit.(EXHIBIT "B"

The original copy of Certificate of Surrender to the Civil Police of a Deserter or absentee without leave. (Army Form C.1617) dated 4 Apr 43. (EXHIBIT "C")

R.W. Spurr Lieut.
Lieut. R.W. Spurr,
No. 2 Cdn Gen Pioneer Coy

2nd WITNESS FOR THE PROSECUTION

B-6258 Sgt. Nicholls, L.W., No. 2 C.A.R.U., Japper Camp, Witley, Surrey, having been duly sworn states:-

I am B-6258 Sgt. Nicholls, L.W., Provost Sergeant of No. 2 C.A.R.U. The accused, B-8250 Gnr. Tonti, P., whom I now recognize, was turned over to me by No. 9 Provost Coy., at 1620 hours 6 Apr 43. He was wearing civilian clothing at the time. I took the documents from the escort, placed the accused under close arrest, then brought the documents to the Office of No. 2 Canadian General Pioneer Company.

L W Nicholls

B-6285 Sgt. Nicholls, L.W.
No. 2 C.A.R.U.

The accused deleined to cross examine the witness.

The accused having been duly cautioned in accordance with Rules of Procedure 4(E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence of the accused at Jasper Camp, Witley, Surrey on the 7th. day of April 1943 and that Rules of Procedure 4(C),(D),(E),(F) and (G) have been duly complied with.

T.H. Reid Capt.

(T.H. Reid) Captain,
Officer taking the Summary.

Jasper Camp,
Witley, Surrey
7 Apr 43.

W.W. Lord major Pres.
2 C.I.R.U.

Exhibit B

RECORD of the Declaration of a Court of Inquiry assembled at Jasper Camp, Nitley on the 30th. day of December 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-8250 Gnr. TONTI, P.

DECLARATION

The Court declare that No. B-8250 Gnr. TONTI, P.
No. 2 Canadian General Pioneer Coy., Canadian Army, Overseas.
illegally absented himself without leave from 2130 hrs 5 Dec 42
at Jasper Camp, Nitley on the 5th. day of December 42,
that he is still so absent, and that on the 7th Dec 42 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES		VALUE
Anklets, web, prs	1	£0-3-5½	Anklets, web, prs	1	£0-2-7½
Boots, ankle, prs	1	1-1-6	Boots, ankle, prs	1	0-16-1½
Brushes, tooth	1	0-0-4½	Brushes, tooth	1	0-0-3½
Braces, prs	1	0-1-5½	Braces, prs	1	0-1-0
Greatcoat	1	3-17-0½	Greatcoat	1	2-17-9½
Comb hair	1	0-0-2	Combs, hair	1	0-0-1½
Holdalls	1	0-0-5	Holdalls	1	0-0-7
		£5-4-7			£5-10-0½

Signed at Jasper Camp, Nitley
this 30th day of Dec 19 42

[signature] President
[signature] Member
[signature] Member

Signature of Commanding Officer J.H. Craig Major
(J.H. Craig) MAJOR.
Certified true copy J.H. Craig major
Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 115
(OM—9-41 (1000))

ABSENTEE REPORT. #Can. Gen. Pion Coy. (Squadron, Battery, Troop, Company.) Army Form B 200 (In sheets of 2)

Army No.	Rank and Name	Hour of Absence	Hour of Return	In what state	Remarks
B826-0	GNR. TONTI. P.	2130 hrs. 5/12/42.	Still Away		

Date 6/12/42 J. Buttars Orderly Sergeant

.TOTTI .P. . . . . .

.B-8250. . . .Opr. . . . . .London. . .(Place)

Unit . .#3 C.A.R.U.. . . . . .

at .0900. . .(hour) on 4-Apr.1943 .(date)

Signature of Provost-
Officer or the Officer
Forces or the officer,
in charge of the Aft
army unit where curboy

(Strik

London.
4-Apr.43

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; e.g., such persons will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 480/1940).

(20939) Wt.49432/452 25,000 3/42 A. & E. W. Ltd. Gp.698 Forms O.1617/18.

I CERTIFY that the man whose personal description is given below surrendered himself to* Police Sergeant 48"H"

at Enslen Street, E.I. at (hour) 9.am Euston on

the 4th day of April/43 as being No. B.8250

(Rank and Name) Gnr. Paul TONTI

a deserter ~~absentee without leave~~ from 3rd. R.C.A.U.

and it appears to me from his confession that he is a deserter ~~or absentee without leave~~.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 28 Height 5 Feet 6. Inches

Complexion fresh Hair black

Eyes brown

Marks Tattoo marks covering both arms.

In uniform or plain clothes Plain Clothes.

Probable Date and Place of Attestation	June, 1941. 7. Toronto. Canada.
Probable Date of Desertion ~~or absence~~ beginning, and from what place	2nd December, 1942. Bramshott. Surrey. ??

L. Rawlins 861H

Signature of Officer of Police in charge of Leman Street Station.

4/4/43. Date of Signature.

Army Form O.1617.
R.A.F. Form 1617

PART 2

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds

incurred by the ..... Police in the case

of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Jasper Camp, Witley, Surrey, prelimary to my Court-Martial. I further acknowledge that I am being brought to Court-Martial.

Dated at Witley, Surrey
this 8 day of
April, 1943.

P Tonti

B-8250 Gnr. Tonti, F.

(2) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of ——

if he is available.

~~I hereby request that an Interpreter (Maltese) be present at the trial.~~ I Hereb. Capl..

Dated at Witley, Surrey,
this 8 day of
April, 1943.

P Tonti

B-8250 Gnr. Tonti, F.

LIST OF WITNESS FOR THE PROSECUTION AND DEFENCE

M-11368 Sgt. Surtees, J.	No. 2 Cdn Gen Pioneer Coy
Lieut. R.W. Spurr	No. 2 Cdn Gen Pioneer Coy
B-6285 Sgt. Nicholls, L.W.	No. 2 C.A.R.U.

LIST OF EXHIBITS

"A" - - - Absentee Report dated 6 Dec 42.

"B" - - - Declaration of Court of Inquiry respecting B-8250 Gnr. Tonti, P., held at Jasper Camp, Witley, 30 Dec 42.

"C" - - - Certificate of Surrender to the Civil Police.

Sheet made up from M.F.M. 4 and M.F.M. 6.

No. B-8250 Name Tonti, Paul | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 14 May 41. | G.C. Badges | Service or Proficiency Pay

M.F.M. 5
A.F.B. 1727
175M—7-41 (2235-20)
H.Q. 1772-99-1672

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. J.H. Craig Major
2 CDN. GEN. PIONEER COY.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 11 Dec 41; Last entry 19 Nov 41 when awarded 21 days det; Cases of drunkness - Nil									
Field	12 Mar42	Gnr		Neglected Hospital Fires.		5 days C.B.			JHC.
Field	11 May 42.	Gnr		WOAS AWL 0730 hrs 11 May 42 until 2200 hrs 12May42. Absent 1 day, 14 Hrs, 30 Mins. Sec 15(1)A.A.	Bdr.Cole,C. Bdr.Charlton	7 days C.B.	12May42	Maj.E.D.J. Edmonds	Forf 2 Days FRI 149(1)(a) JHC.
Field	17 Jul. 42.	Gnr		WOAS AWL from 0800 hrs 17 Jul42 until 1900 hrs 18Jul42. Absent 1Day, 11Hrs, Sec 15(1)A.A.	Documentary	7 days C.B.	20Jul42.	Maj.J.F. Dobson	Forf 2Days Pay FRAI 149 (1)(a) JHC.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of of order dispensing with trial	By whom awarded	Remarks
Field	3 Aug 42.	Gnr		WOAS AWL from 2315Hrs 2Aug42 until 0600Hrs 4 Aug42. Absent 1Day 6Hrs.45Mins. Sec 15(1)A.A.	Bdr.Charlton L/Bdr Boudreau J.N.	To forfeit 7Days Pay FR&I 149 (2)	4Aug 42	Maj.A.M. Clarke	Forf.2 Days pay FR&I 149(1)(a)
Field	6 Oct. 42.	Gnr		WOAS AWL from 2215Hrs 6 Oct 42 until 1300Hrs 13.Oct42. Absent 6 Days,14Hrs,45Mins. Sec15(1)A.A.	Documentary Bdr.Clarke Bdr.Marier	Forf.10Days Pay. FR&I 149 (2)	14 Oct42	Col. W.E. Huckvale	Forf.7Days Pay FR&I 149(1)(a)
Field	8 Nov. 42.	Gnr		A.A.Sec15(1)AWL from 0200Hrs 8 Nov42 to 1500Hrs 9Nov42. Absent 1 Day 15 Hrs.	Gnr.Bohon,P Bdr.Ceveyard Documentary	7 Days F.P. 7Days Forf. Pay FR&I 149 (2)	11 Nov 42	Lt.Col.R.M. Bishop	Auto.Forf 2Days Pay FR&I 149 (1)(a)
Field	21 Nov 42.	Gnr.		A.A.Sec.15(1)AWL from 2215Hrs 21 Nov42 to 2030Hrs 22Nov42. Absent 22 Hrs. 15 Mins.	Bdr.Marier Bdr.MacDonald J.D. Documentary	14Days F.P. 14Days Forf of Pay	23 Nov42	Lt.Col.R.M. Bishop	Auto.Forf 1 Days FR&I 149 (1)(a).

Certified true copy d/9 April 43.

A.F.B.296

STATEMENT as CHARACTER & PARTICULARS of SERVICE of ACCUSED.

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
A.A. Sec.15(1)	- 6	A.A. Sec.15(1) - 6
A.A. Sec.40	- 1	A.A. Sec.40 - 1

Number of instances of gallantry or distinguished conduct. Nil

2. The accused is not under sentence a t the present time. Nil

3. The accused has not been previously convicted by a court-Martial or a civil Court. Nil

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and 2 days in military custody, making a total of 4 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 29 years.

6. The date of his attestation specified in his attestation paper is 14 May 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr. 10 months 25 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr. 10 mons 25 days. Service

9. The accused is entitled to reckon 1 yr. 10 mons. 25 days Service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward. Nil

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J.H. Craig major

(J.H. Craig) Major.
Commanding,
No. 2 Can San Pioneer Coy.

Extractum ex Libris Baptizatorum Ecclesiae Paroccialis , Gaudisii.

An Extract of Baptismal Note Existing in the Registry of the Parish Church of Victoria , Gozo.

Dies Nativitatis *Date of Birth*	Dies Baptismi *Date of Baptism*	Nomen Infantis *Child's Name*	Nomen et Cognomen Parentum *Name and Surname of Parents*	Minister Baptismi *Minister of Baptism*	Patrini *Sponsors*
22 Feb. 1939	24 Feb. 1939	Germana In Antonia Giovanna	Paul Tanti and Rita Pace	Right Rev. Alb. Sn Hili Archpriest	John Pace and In a Antonia Bezzina

Ex Paroeciali Officio

From the Parish Priest's Office of Victoria

Datum Die Anni

This 26th day of April 1942.

Mech Can Cefaro Vic. Gen

Extractum ex Libris Baptizatorum Ecclesiae Paroccialis

, Gaudisii.

An Extract of Baptismal Note Existing in the Registry of the Parish Church of Victoria , Gozo.

Dies Nativitatis *Date of Birth*	Dies Baptismi *Date of Baptism*	Nomen Infantis *Child's Name*	Nomen et Cognomen Parentum *Name and Surname of Parents*	Minister Baptismi *Minister of Baptism*	Patrini *Sponsors*
27th Feb 1937	24th Feb: 1937	John Joseph Grace	Paul Tanti and Rita Pace	Right Rev. Mgr. Hili Archpriest	Joseph Pace and Francesca Grech

Datum Die ..... Anni .....

This 2nd day of March 19 42

Ex Paroeciali Officio

From the Parish Priest's Office of Victoria

Archi Can Cefai Vic Ad

EXTRACTUM EX LIBRIS MATRIMONIORUM ECCLESIÆ PAROECIALIS _____, GAUDISII.

An Extract of Marriage Entry Existing in the Registry of the Parish Church of Victoria, Gozo.

Dies Matrimonii *Date of Marriage*	Personae contrahentes *Contracting Parties*	Parentes amborum *Parents of both*	Sacerdos assistens *Officiating Priest*	Ecclesia *Church*	Testes *Witnesses*	Notae *Notes*
10th Nov. 1934.	Paul Tanti and Rita Pace	Gaetano Tanti Rosa Bianco — John Pace Maria Beggina	Rev. Carmelo Hili	Parish Church of Rb George of Victoria	Joseph Grima and Paul Azzopardi	

Ex Paroeciali Officio _____

From the Parish Priest's Office of Victoria

Datum Die _____ Anni _____

Given this 26th day of April 1942

Arth Can Cesare Vic Ad

Series B.

No. 562
Nru.

PUBLIC REGISTRY.
REGISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true Copy of an Act of Birth registered in the Public Registry Office of ~~Valletta, Malta~~ Victoria Gharb
Jiena hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera Kopja ta' Att tat-Twelid registrat fl-Uffiċċju tar-Registru Pubbliku tal-Belt ~~Valletta, Malta~~.

ACT OF BIRTH. Date of the Act. Victoria Gharb - 25th February 1939
ATT TAT-TWELID. Data ta' l-Att.

Particulars respecting Tagħrif dwar	Birth Twelid: Place Lok	Birth Twelid: Hour, day, month and year Siegha, jum, xahar u sena	Sex Jekk tifel jew tifla	Names given Ismijiet mogħtija	Name or names by which the child is to be called Isem jew ismijiet li bihom it-tarbija għandu tissejjaħ
The child ... It-tarbija ...	Victoria Civil Hospital	7.30 a.m. 4th February 1939	Female	Gemma Mary Victoria Jane	Gemma

Particulars respecting Tagħrif dwar	Name and Surname Isem u Kunjom	Profession, trade, or other status Professjoni, sengħa jew stat ieħor	Age Eta' Years Snin	Place of Fejn: Birth Twieldu	Place of Fejn: Residence Joqgħodu	Name and Surname of the father, and whether living or dead Isem u kunjom tal-missier, u jekk hux ħaj jew mejjet
The father of the child ... Missier it-tarbija ...	Paul Caruana	Salesman	34	Rabat Malta	Rabat Malta	Gaetano Living
The mother ... L-Omm ...	Rita wife of the aforesaid Paul Caruana	Housewife	23	Victoria	Victoria	John Rose Living
The person making the declaration Il-persuna li tagħmel id-dikjarazzjoni	The ~~father~~ mother					

Date of the reception of the Act. The eleventh day of March 1939
Data tal-qbiul ta' l-Att.

Progressive number of the Inscription, No. 235
Numru li jmiss ta' l-Inarrazjoni.

Signature of the person making the declaration. Rita Caruana
Firma tal-persuna li tagħmel id-dikjarazzjoni.

Signature of the Director or other Officer appointed to act in his stead. (sd) Dr. Carmelo Sciberras
Firma tad-Direttur jew ta' Uffiċjal ieħor li jagħmel floku. Officer in charge.
Uffiċjal inkarigat.

P. Reg. 1—350s. 10.38. R.H. s.7.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—~~VALLETTA~~.
Uffiċċju tar-Registru Pubbliku—Valletta.
The 11th day of May 1942 (sd) Victoria Gozo
Director

Series B.

No 562
Nru.

PUBLIC REGISTRY.

REĠISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true Copy of an Act of Birth registered in the Public Registry Office of ~~Valletta, Malta.~~ Victoria Gharb
Jiena hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera kopja ta' Att tat-Twelid reġistrat fl-Uffiċċju tar-Reġistru Pubbliku tal-Belt Valletta, Malta.

ACT OF BIRTH. Date of the Act. Victoria Gharb - 25th February 1939.
ATT TAT-TWELID. Data ta' l-Att.

Particulars respecting Tagħrif dwar	Birth Twelid: Place Lok	Birth Twelid: Hour, day, month and year Siegħa, jum, xahar u sena	Sex Jekk tiflija jew tifla	Names given Ismijiet mogħtija	Name or names by which the child is to be called Isem jew ismijiet li bieb jew bihom it-tarbija għanda tissejjaħ
The child ... It-tarbija ...	Victoria Civil Hospital	7.30 a.m. 25th February 1939	Female	Gemma Mary Antonia Jane	Gemma

Particulars respecting Tagħrif dwar	Name and Surname Isem u Kunjom	Profession, trade, or other status Professjoni, sengħa jew stat ieħor	Age Eta' Years Snin	Place of Fejn: Birth Twielda	Place of Fejn: Residence Joqgħodu	Name and Surname of the father, and whether living or dead Isem u kunjom tal-missier, u jekk hux ħaj jew mejjet
The father of the child ... Missier it-tarbija	Paul Cauchi	Labourer	24	Rabat Malta	Rabat Malta	Gaetano Living
The mother ... L-Omm ...	Wife of the aforesaid Paul Cauchi	Housewife	23	Victoria	Victoria	John Pace Living
The person making the declaration Il-persuna li tagħmel id-dikjarazzjoni	The ~~mother~~ father mother A.					

Date of the reception of the Act. The eleventh day of March 1939
Data tad-dħul ta' l-Att.

Progressive number of the Inscription. No. 225
Numru li jmiss ta' l-iskrizzjoni.

Signature of the person making the declaration Alfred Cauchi
Firma tal-persuna li tagħmel id-dikjarazzjoni.

Signature of the Director or other Officer appointed to act in his stead. (sgd) Dr Eugene Pace Deputy
Firma tad-Direttur jew ta' Uffiċjal ieħor li jagħmel ħsiebu.

(sgd) Emanuel Camilleri
Officer in charge.
Uffiċjal inkarigat.

P Reg. 1—350s. 10.38. R.H. s7.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—~~VALLETTA.~~
Uffiċċju tar-Reġistru Pubbliku—Valletta. Victoria Gozo
the 11th day of May 1942

Series B.

No 561
Nru.

PUBLIC REGISTRY.

REĠISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true ~~Copy~~ of an Act of Birth registered in the Public Registry Office of ~~Valletta, Malta.~~ Victoria Gozo
Jiena hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera ~~kopja~~ ta' Att tat-Twelid registrat fl-Uffiċċju tar-Registru Pubbliku tal-Belt Valletta, Malta.

ACT OF BIRTH. Date of the Act. Victoria Gozo - 10th March 1937.
ATT TAT-TWELID. Data ta' l-Att.

Particulars respecting Taghrif dwar	Birth Twelid: Place Lok	Birth Twelid: Hour, day, month and year Siegha, jum, xahar u sena	Sex Jekk tidher jew tifla	Names given Ismijiet moghtija	Name or names by which the child is to be called Isem jew ismijiet li biex jew bihom it-tarbija ghanda tissejjah
The child ... It-tarbija ...	Victoria Civil Hospital	4.30 a.m. 27th February 1937	M/L	John Joseph George.	John

Particulars respecting Taghrif dwar	Name and Surname Isem u Kunjom	Profession, trade, or other status Professjoni, sengha jew stat iehor	Age Eta' Years Snin	Place of Fejn: Birth Twieldu	Place of Fejn: Residence Jeqghodu	Name and Surname of the father, and whether living or dead Isem u kunjom tal-missier, u jekk hux haj jew mejjet
The father of the child ... Missier it-tarbija	Paul Cauchi	Labourer	33	Rabat Malta	Victoria Gozo	Gaetano, living
The mother ... L-Omm ...	Rita wife of the said Paul Cauchi	Housewife	31	Victoria Gozo	Victoria Gozo	John Pace, living
The person making the declaration Il-persuna li taghmel id-dikjarazzjoni	The mother					

Date of the reception of the Act. The ninth day of April 1937.
Data tad-dhul ta' l-Att.

Signature of the person making the declaration. Rita Cauchi
Firma tal-persuna li taghmel id-dikjarazzjoni.

Progressive number of the Inscription, No. 234
Numru li jmiss ta' l-Iskrizzjoni.

Signature of the Director or other Officer appointed to act in his stead. (Sd) Dr Luigi Sacco Deputy
Firma tad-Direttur jew ta' Uffiċjal iehor li jaghmel floku.

(Sd) Luigi Camilleri
Officer in charge.
Uffiċjal inkarigat.

P Reg 1—35½. 10/38. R.H. &7.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—~~VALLETTA~~
Uffiċċju tar-Registru Pubbliku—Valletta. Victoria Gozo
the 11th day of May 1942
(Sd) Dr Deputy

Series B.

No 561
Nru.

PUBLIC REGISTRY.

REĠISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true Copy of an Act of Birth registered in the Public Registry Office of ~~Valletta, Malta~~ Victoria Gozo
Jiena hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera kopja ta' Att tat-Twelid reġistrat fl-Uffiċċju tar-Reġistru Pubbliku tal-Belt Valletta, Malta.

ACT OF BIRTH. Date of the Act. Victoria Gozo - 21st March 1937.
ATT TAT-TWELID. Data ta' l-Att.

Particulars respecting Tagħrif dwar	Birth Twelid: Place Lok	Birth Twelid: Hour, day, month and year Siegha, jum, xahar u sena	Sex Jekk tifel jew tifla	Names given Ismijiet mogħtija	Name or names by which the child is to be called Isem jew ismijiet li bihom jew tiħom it-tarbija għanda tissejjaħ
The child ... It-tarbija	Victoria Civil Hospital	4.30 a.m. 27th February 1937	M.	John Joseph George.	John

Particulars respecting Tagħrif dwar	Name and Surname Isem u Kunjom	Profession, trade, or other status Professjoni, sengħa jew stat ieħor	Age Età' Years Snin	Place of Fejn: Birth Twelidu	Place of Fejn: Residence Joqgħodu	Name and Surname of the father, and whether living or dead Isem u kunjom tal-missier, u jekk hux tal jew mejjet
The father of the child ... Missier it-tarbija	Paul Cauchi	Labourer	33	Rabat Malta	Victoria Gozo	Gaetano, living
The mother ... L-omm ...	Rita wife of the said Paul Cauchi	Housewife	31	Victoria Gozo	Victoria Gozo	John Pace, living
The person making the declaration Il-persuna li tagħmel id-dikjarazzjoni	The mother					

Date of the reception of the Act. The seventh day of April 1937
Data tad-dhul ta' l-Att.

Progressive number of the Inscription, No. 234
Numru li jmiss ta' l-iskrizzjoni.

Signature of the person making the declaration Rita Cauchi
Firma tal-persuna li tagħmel id-dikjarazzjoni.

Signature of the Director or other Officer appointed to act in his stead. (Sd) Luigi Camilleri
Firma tad-Direttur jew ta' Uffiċjal ieħor li jagħmel fisku.

(Sd) Luigi Camilleri
Officer in charge.
Uffiċjal inkarigat.

F Reg. 1—35/3. 10. 38. R.H. s.7.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—~~VALLETTA~~
Uffiċċju tar-Reġistru Pubbliku—Valletta. Victoria Gozo
the 11th day of May 1942
(Sd) Luigi Camilleri

Series C.

No. 330
Nru.

PUBLIC REGISTRY.
REGISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true Jien, hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera Translation of an Act of Marriage registered in the Public Registry Office of Valletta, Malta ta' Att taż-Żwieġ irreġistrat fl-Uffiċeju tar-Reġistru Pubbliku tal-Belt, Valletta, Malta.

ACT OF MARRIAGE. Date of the Act. Victoria Gharb[ex] – 20th November 1924
ATT TAŻ-ŻWIEĠ. Data ta' l-Att.

Particulars respecting Tgħarif dwar	Name and Surname Isem u Kunjom	Profession, trade or other status Professjoni, sengħa jew stat ieħor	Age Eta Years Snin	Place of Fejn: Birth Twieldu	Place of Fejn: Residence Joqgħodu	Parents of husband and wife Ġenituri tal-Miżżewġin: Name and Surname whether living or dead Isem u kunjom, jekk ħajjin jew mejtin	Parents of husband and wife Ġenituri tal-Miżżewġin: Profession, trade or other status Professjoni, sengħa jew stat ieħor
The husband Ir-raġel miżżewweġ	Paul Cauchi	Motor car driver	20	Rabat Malta	Rabat Malta	Cajetan Cauchi, alive Rosa nee Bianco, alive	Dealer. Housewife
The wife ... Il-mara miżżewġa	Helen Pace	Lace maker	18	Victoria Gozo	Rabat Malta	John Pace alive Maria nee Bajada, alive	Police at the Anglo Maltese Bank Lace-maker

Particulars respecting Tgħarif dwar	Name and Surname Isem u Kunjom	Profession, trade or other status Professjoni, sengħa jew stat ieħor	Age Eta Years Snin	Place of Fejn: Birth Twieldu	Place of Fejn: Residence Joqgħodu	Name and Surname of the father, and whether living or dead Isem u kunjom il-missier, u jekk ħaj jew mejjet
The Witnesses who attended at the solemnization of the marriage Ix-xiehda tat-tieġ	Joseph Norfond	Shopkeeper	35	Rabat Malta	Rabat Malta	Antonio Norfond dead
	Paul Bezzina	Dealer of Furniture	20	Rabat Malta	Rabat Malta	Anthony Bezzina alive

Declaration of the husband and wife, or of the Parish Priest, or other Ecclesiastic, or of the Notary.
Dikjarazzjoni tal-miżżewġin, inkella tal-Kappillan jew Qassis ieħor, jew tan-Notar.

I the undersigned do hereby declare that the above-said Paul Cauchi & Helen Pace were married by me in my presence & those of Giovanni Dod Cauchi & Rosa Bianco at the Parish Church of Saint George Victoria on the 19th day of November 1924

Date of the reception of the Act. The 25th day of November 1924
Data tad-dħul ta' l-Att.

(Sd) Can. Alfonso Maria Galea
Arch. Priest

Progressive number of the Inscription, No. 122
Numru li jmiss ta' l-Iskrizzjoni.

Signature of the Director or other Officer appointed to act in his stead. (Sd) Dr Luigi Pace
Firma tad-Direttur jew uffiċjal ieħor li jaġħmel fleku. Director

P. Reg. 3—¼. 8.38. R H.s.6.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—VALLETTA.
Uffiċeju tar-Reġistru Pubbliku—Valletta. Victoria Gozo
the 11th day of May 1942

Series C.

No. 330
Nru.

PUBLIC REGISTRY.
REGISTRU PUBBLIKU.

I, the undersigned, do hereby certify that the following is a true Translation of an Act of Marriage registered in the Public Registry Office of Valletta, Malta Helena Ghandour
Jien, hawn taht iffirmat, niċċertifika li din ta' hawn taht hija vera ta' Att taż-Żwieġ irreġistrat fl-Uffiċeju tar-Reġistru Pubbliku tal-Belt, Valletta, Malta.

ACT OF MARRIAGE. Date of the Act. Helena Ghandour 20th November 1914
ATT TAŻ-ŻWIEĠ. Data ta' l-Att.

Particulars respecting Tgħarif dwar	Name and Surname Isem u Kunjom	Profession, trade or other status Professjoni, sengħa jew stat ieħor	Age Età Years Snin	Place of Fejn: Birth Twelidu	Place of Fejn: Residence Joqgħodu	Parents of husband and wife Ġenituri tal-Miżżewġin: Name and Surname whether living or dead Isem u kunjom, jekk ħajjin jew mejtin	Parents of husband and wife Ġenituri tal-Miżżewġin: Profession, trade or other status Professjoni, sengħa jew stat ieħor
The husband Iż-żagel miżżewweġ	Paul Casha	Motor car driver	20	Rabat Malta	Rabat Malta	Baptist Casha, alive Rosa nee Camilleri, alive	Dealer Housewife
The wife ... Il-mara miżżewġa	Helena Pace	Lace maker	18	Helena Gozo	Rabat Malta	John Pace above Maria nee Bezzina, alive	Tailor at the Anglo Maltese Bank Lace-maker

Particulars respecting Tgħarif dwar	Name and Surname Isem u Kunjom	Profession, trade or other status Professjoni, sengħa jew stat ieħor	Age Età Years Snin	Place of Fejn: Birth Twelidu	Place of Fejn: Residence Joqgħodu	Name and Surname of the father, and whether living or dead Isem u kunjom il-missier, u jekk ħaj jew mejjet
The Witnesses who attended at the solemnization of the marriage Ix-xiehda tat-tieġ	Joseph Micallef	Shopkeeper	35	Rabat Malta	Rabat Malta	Lorenzo Micallef, dead
	Paul Bezzina	Dealer of Furniture	20	Rabat Malta	Rabat Malta	Anthony Bezzina, alive

Declaration of the husband and wife, or of the Parish Priest, or other Ecclesiastic, or of the Notary.
Dikjarazzjoni tal-miżżewġin, inkella tal-Kappillan jew Qassis ieħor, jew tan-Notar.

We, the undersigned, Paul Casha and Helena Pace were lawfully married by me, Rev. Dun Carmelo Bonnici at the Parish Church of Saint George Victoria on the 19th day of November, 1914

(Sd) Paul Casha (Sd) Helena Maria Pace
both present

Date of the reception of the Act. the 25th Day of November 1914
Data tad-dħul ta' l-Att.

Progressive number of the Inscription, No. 122
Numru li jgħodd ta' l-Iskrizzjoni.

Signature of the Director or other Officer appointed to act in his stead. (Sd) Dr Luigi Pace
Firma tad-Direttur jew uffiċjal ieħor li jaġixxi floku. Director

P. Reg. 3.—Ir. 8.38. R.H.s.6.

Fee paid 1s. 3d.

PUBLIC REGISTRY OFFICE—VALLETTA.
Uffiċeju tar-Reġistru Pubbliku—Valletta. Victoria Gozo
This 11th Day of May 1942
Deputy Registrar

QQQ-36
GNR TONTI P

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-2350 Gnr TONTI, Paul - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd	M		
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Nine (9) Months.

(Sgd) ... Judge Advocate, if any. 17 June 44 Date awarded. (Sgd) E.M. Mecred President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the sentence and findings of the court, but remit four months detention.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) Bk

(1. AA 57A. Delete if not used.)

(Sgd) B o L

Date 26 Jun 44 Commanding Commanding "C" Group, Can Reinforcement Units, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B2350 Gnr Tonti P.	28 June 44	R.A. Allely Capt RCASC

Promulgated DO 109 dtd 29 June 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED IN CANADA AD 160 44436

RECEIVED 6 JUL 1944 JAG BRANCH

CFAO 9 (In lieu of AFAO) 47/P & R/1698 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel B.R. Ker, E.D. Comd "C" Gp CRU dated 15 Jun 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-2350	Gnr		Paul	TONTI	2 CARU

PROCEEDINGS REVIEWED

6 Jul 44

A.R. Marshall Capt

REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 17 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt P.A. Camileen R.C.M.P. as interpreter? Ans No Sir

The Interpreter is sworn.(1) ~~Do you object to ... as shorthand writer? Ans ...~~ ~~The shorthand writer is sworn.~~(1) The Interpreter Sworn on the matter Cross which he stated was the oath binding upon him.

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. McCRED	HQ CRU
Member	Capt	H.C. Turner	2 CaRU
Member	Lieut	B.J.M. Bake	1 CaRU
Judge-Advocate			
Prosecutor	Lieut	A.H. Marshall	2 CaRU
Defending Offr	Capt	J.M. Boyd	2 CaRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cons Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused ... before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1).~~ The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty, ~~on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP ~~155~~ 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes Sir Make a Statement myself.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him, ~~and the JA, if any.~~(2)
(1. When several accused tried separately see RP 94(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 8250 Gunner Paul TONTI, "P" Training Wing, No 2 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he

in the field, absented himself without leave from 1145 hours 2 Oct 43 until being apprehended by the Civilian Police in the Metropolitan Area at 2245 hours 14 Feb 44. Absent 135 days and 11 hours.

Huron Camp
Bramshott, Hants.,
13 Jun 44.

(Mackenzie Waters) Colonel, R.C.A.,
Commanding Officer,
No 2 Cdn Arty Rft Unit.

To be tried by Field General Court Martial,

Colonel,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
15 Jun 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA32) 40/PAR/1697 (22nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-8250	Gnr		Paul	TONTI	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 JUN 44 endorsed by me, ~~or by an offr of my rank or more~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reasons to be specified hereunder.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) an Offr as President, for the reasons I have stated below.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint a Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E.M. MILLER	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPTAIN	detailed by CO	2 CARU
LIEUTENANT	detailed by CO	1 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) Colonel, (Rank.)

Date 15 Jun 44

Commanding "C" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers Certificate
K.R. (Can) para 557

I certify that I have this morning examined No B 8250
Gunner TONTI, P. of No 2 C.A.R.U. and in my opinion he
is fit to undergo trial by Court Martial.

No 2 C.A.R.U.
17 Jun 44

.....RCAMC
(Medical Officer)

I. P. C. M. B 8350 ~~Pte~~ Pane Zonti 2 CAR

E3. accused through interpreter, states he wishes to make a statement on oath. Sworn on ~~Testament~~ Catholic Cross. Which he states is his oath and binding on him.

Last year I went absent because I had a letter from my wife that she was getting no money, had no money and that she & our 2 children were all starving. When I was in detention the Paymaster asked me if I was going to the guard Room & I said I wanted if my wife and children got the allowances. The P.M. at Detention Barks told me not to worry about them as the money wanted now be sent them. After 4 Months I received ~~him~~ a letter from my wife that she was not getting any allowances and a letter from my Mother too. She did get £4 back allowances for my children but nothing for herself and I don't Know if the childrens allowance was continued. I am worried about this and my family. I was a seaman in the Merchant Navy for 10½ years. went to Canada in 1939 and joined a Maltese Colony near Toronto. Worked on C.P.R Section Gang until I enlisted in 1941. I cannot read or write or speak English and when I enlisted the officer could not understand me nor my wifes address which I tried to give. I was asked if I was separated from my wife, which I took to mean was she with me in Canada and, I said yes as she was in Malta. When I was at Rea and working for C.P.R I sent her money by post. When I got into detention I showed letters from my people that my wife was not getting any money to the Major at No 2 Pioneer Coy. he took me to the Paymaster at No 2 Pioneer Coy and the P.M. said "don't worry its all been fixed and your wife is getting all her allowances". after 3 months I had another letter from my wife that she still was not getting any money and the children and she were suffering. I was then attached to H.Q. I.C.B.O.D and went to the Colonel adjt and showed them the letter, they sent me to the P.M who told

me to wait and see if my wife was getting the money. But I had waited for 3 years for these allowances and my wife and children were starving, so I told the adjt I was going absent and I went to try and get a job to send money to my wife. I could not get a job as I had no papers and got into trouble with the Police.

I cannot speak English very well. it is hard to understand. I have been to all the offices on the Canal where I have been to try and get a transfer to the Allied Forces or the Merchant Navy, and I have signed papers and been promised a transfer. A major whose name I don't know in 2 Cable at North Camp said I wanted be sent back to the Merchant Navy. She took and kept all my Merchant Navy papers. After ten weeks I was sent to Pioneer Coy ~~[illegible]~~ My only trouble is my wife and children are starving and the allowances which were promised have not been paid. My Merchant Navy papers have not been returned to me and after the war I must have them to get a job.

Read over (R.P. 83B)

Defending Officer.

I have endeavoured to find the accused papers but they seem to have been lost. R.T.O. are looking into the matter. Lieut Lobley the asst adjt has told me this. I understand there is a big file which indicates that this man has been trying to get these allowances for a long time. I have not been able to find this file. I ask the Court for consideration as the accused only went absent because he could not get money for his wife any other way.

SUMMARY OF EVIDENCE IN THE CASE OF B 8250 Gunner Paul TONTI, "P" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on Oath.

FIRST WITNESS for the prosecution

Lieut. G.W.Currie, Administrative Officer, "P" Training Wing, No 2 C.A.R.U., an officer of the Canadian Army Overseas, having been duly sworn states:-

" I Produce:

(a) CERTIFIED TRUE EXTRACTS from No 2 Canadian General Pioneer Company Part II Order No 62, purporting to be signed by Lieut. W.E.D. Oswald, Officer i/c Documentation, C.M.H.Q., relating to the accused whom I now recognize. These Certified True Extracts are marked Appendix "A" and annexed to the Summary of Evidence.

(b) CERTIFICATE IN ACCORDANCE WITH SECTION 163(1)(m) OF THE ARMY ACT 1881, purporting to be signed by C. Gallacher, S.P.S.1"H", in charge of Leman Street Police Station, relating to the accused whom I now recognize. This Certificate is marked Appendix and annexed to the Summary of Evidence.

G.W. Currie Lt

The accused declines to cross-examine this witness.

The accused was cautioned as follows. "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one-half page was taken down before me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

H.C. McWilliam Lieut

(H.C. McWilliam) Lieut., R.C.A.,
Assistant Admin Officer,
"P" Trg Wing, No 2 C.A.R.U.
Officer detailed to take the Summary of Evidence.

Huron Camp
Bramshott, Hants.,
13 Jun 44

A

Last Order No. 61
22 Oct. 43.

2 CANADIAN GENERAL PIONEER COMPANY
PART II ORDERS
ISSUED BY
MAJOR J. H. CRAIG
OFFICER COMMANDING

No. 62
Dated 29 Oct. 43.

Para 8(b) S.O.S. as a des. w.e.f. 23 Oct. 43 having been dec. illegally absent by a Ct.Inq. from 1145 hrs. 2 Oct. 43. Deficiencies in kit to the value of $15.63.
B8250 Gnr. TONTI P.

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2 CANADIAN GENERAL PIONEER COMPANY
Last Order No. 7
Dated 11 Feb. 44.
P A R T II O R D E R S
ISSUED BY
MAJOR J. H. CRAIG
OFFICER COMMANDING

No. 8
Dated 18 Feb. 44.

Para 2(a) T.O.S. on app. from des. w.e.f. 1940 hrs. 16 Feb. 44.
B8250 Gnr. TONTI P.

---

2 CANADIAN GENERAL PIONEER COMPANY
Last Order No. 10
Dated 3 Mar. 44.
P A R T II O R D E R S
ISSUED BY
MAJOR J. H. CRAIG
OFFICER COMMANDING

No. 11
Dated 10 Mar. 44.

Para 1(a) Ref. Part II No. 8 para 2(a) d/18 Feb. 44 insofar as it concerns B8250 Gnr. TONTI, P. is amended to read w.e.f. 2245 hrs. 14 Feb. 44.

Exhibit "B"

CERTIFIED TRUE EXTRACTS FROM PART II ORDERS

W. E. D. Oswald Lt.
.....
(W.E.D.OSWALD) Lieut.
Officer i/c DOCUMENTATION,
CANADIAN MILITARY HEADQUARTERS

C67

Any communication on this subject should quote the date and number hereon. Postage must be prepaid.

METROPOLITAN POLICE.

No. 144A. (Unruled)

DIVISION. STATION 104

REPORT for the Information of the

respecting

*To { S.D. Inspector. D.D. Inspector.

Exhibit "B"

.....C. Gallacher. 104th

*Delete as necessary. (Continue overleaf if necessary.)

LIST OF WITNESSES

FOR THE PROSECUTION

Lieut. G.W.Currie, Administrative Officer, "P" Training Wing, No 2 Cdn Arty Rft Unit.

FOR THE DEFENCE

- - - - - - - - - N I L - - - - - - - - - - - -

LIST OF EXHIBITS

(a) CERTIFIED TRUE EXTRACTS FROM No 2 Cdn Gen Pioneer Company Part II Orders No 62 d/29 Oct 43.

(b) CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(m) OF THE ARMY ACT 1881

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
13 Jun 44

Commanding Officer,
No 2 C.A.R.U.

F.G.C.M. B 8250 GNR. TONTI, P.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

Tonti P
B 8259 Gnr. Tonti, P.

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
13 Jun 44

Commanding Officer
No 2 C.A.R.U.

F.G.C.M. B 8250 GNR. TONTI, P.

1. I acknowledge having duly received this date a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my ofrthcoming trial by Field General Court Martial.

Tonti P

B 8250 Gnr Tonti, P.

No B 8250 Name TONTI, P. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 14 May 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12Mar 42	Gnr		Neglected hospital fires		5 days C.B.			
Field	11May 42	Gnr		Sec.15(1)AA WOAS AWL from 0730 hrs 11 May 42 until 2200 hrs 12 May 42 (1 day 14 hrs 30 minutes)	Bdr Cole C. Bdr Carlton	7 days C.B.	12 May 42	Maj.E.D.J. Edminds	Forf 2 days pay FRI 149 (1)(a)
Field	17Jul 42	Gnr		Sec.15(1)AA WOAS AWL from 0800 hrs 17 Jul 42 to 1900 hrs 18 Jul 42 (1 day 11 hours)	Documentary	7 days C.B.	20 Jul 42	Maj J.F. Dobson	Forf 2 days pay FRI 149 (1)(a)
Field	3 Aug 42	Pte		Sec.15(1)AA WOAS AWL from 2315 hrs 2 Aug 42 to 0600 hrs 4 Aug 42 (1 day 6 hrs 45 min)	Bdr Charlton L/B Boudreau J.W.	Forf 7 days pay FRI 149(2)	4 Aug 42	Major A.M. Clark	Forf 2 days pay FRI 149 (1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposing with trial	By whom awarded	Remarks
Field	6Oct 42	Pte		Sec.15(1)AA WOAS AWL from 2215 hrs 6 Oct 42 to 1300 hrs 13 Oct 42 (6 days, 14 hrs 45 min)	Documentary Bdr.Clarke Bdr.Marier	Forf 10 days pay FRI 149(2)	14 Oct 42	Col.W.E. Huckvale	Forf 7 days pay FRI 149(1)(a)
Field	8Nov 42	Pte		Sec.15(1)AA WOAS AWL from 0200 hrs 8 Nov 42 to 1500 hrs 9 Nov 42 (1 day 15 hrs	Gnr.Bohon P Bdr.Cevevard Documentary Bdr.Marier	7 days F.P. forf 7 days pay FRI 149(2)	11 Nov 42	Lt-Col R.M.Bishop	Forf 2 days pay FRI 149(1)(a)
Field	21Nov 42	Pte		Sec.15(1)AA WOAS AWL from 2215 hrs 21 Nov 42 to 2030 hrs 22 Nov 42 (22 hrs 15 min)	Bdr.MacDonald, J.D. Documentary	14 days F.P. Forf 14 days pay FRI 149(2)	23 Nov 42	Lt-Col R.M.Bishop	Forf 1 days pay FRI 149(1)(a)
Field	5Dec 42	Gnr		Sec.15(1)AA WOAS AWL from 2130 hrs 5 Dec 42 to 0900 hrs 4 Apr 43 (119 days 11 hrs 30 min) Close arrest (0900 hrs 4 Apr 43 to 2400 hrs 10 Apr 43 (6 days 16 hrs)	Sgt Surtees Sgt.Elphinstone Documentary	180 days Detn	12 Apr 43	F.G.C.M.	Forf 180 days pay FRI 149(1)(b) Forf 120 days pay FRI 149(1)(a) Forf 6 days pay FRI 149(1)(c)

MFM 6
(AFB 122)
10/PAM/126 (3458)

No B6250 Name TONTI, P. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 14 May 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20Aug 43	Gnr		Released from Detention Barracks on 20 Aug 43, sentence having expired. Remission earned under rules for detention barracks and military prisons - - 49 days.					
Field	3Sep 43	Gnr		Sec.40 AA,WOAS Conduct to the prejudice etc, engaged in a fight in the NAAFI	Documentary	7 days C.B.	4 Sep 43		
Field	11Sep 43	Gnr		Sec.15(1)AA,WOAS,AWL from 2200 hrs 11 Sep 43 to 2030 hrs 12 Sep 43 (22 hours, 30 min)	Sgt Flight, J.M.	5 days F.P. Forf 5 days pay FRI 149 (2)	13 Sep 43		Forf 1 days pay FRI 149 (1)(a)

(PTO)

No B6250 Name TONTI, P. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 14 May 41 | GC Badges | Service or Proficiency Pay | MFM 2 (AFB 152) 40/PAM/139 (Date)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20Aug 43	Gnr		Released from Detention Barracks on 20 Aug 43, sentence having expired. Remission earned under rules for detention barracks and military prisons - - 49 days.					
Field	3Sep 43	Gnr		Sec.40 AA,WOAS Conduct to the prejudice etc, engaged in a fight in the NAAFI	Documentary	7 days C.B.	4 Sep 43		
Field	11Sep 43	Gnr		Sec.15(1)AA,WOAS,AWL from 2200 hrs 11 Sep 43 to 2030 hrs 12 Sep 43 (22 hours, 30 min)	Sgt Flight, J.M.	5 days F.P. Forf 5 days pay FRI 149 (2)	13 Sep 43		Forf 1 days pay FRI 149 (1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14Feb 44	Gnr		An offence under Larceny Act 1916	Documentary	Four Months hard labour H.M.Prison Wormwood Scrubbs	28 Feb 44	Civil Court	Forf 14 days pay FRI 149(1)(c)(i) Forf 121 days pay FRI 149(1)(b) Total forf 135 days pay
					(In close arrest 13 days, 1 hr and 15 min)				

CERTIFIED TRUE COPY OF MFM 6

1944

(G.W. Currie) Lieut., R.C.A.,
Administrative Officer,
"P" Training Wing, No 2 C.A.R.U.

Officer having custody of original document.

MFM 6
(AFB 122)
40/PAM/136 (3838)

No B 8250 Name TONTI, P. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 14 May 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Neglected hospital fires		5 days C.B.			
Field	12Mar 42	Gnr		Sec.15(1)AA WOAS AWL from 0730 hrs 11 May 42 until 2200 hrs 12 May 42 (1 day 14 hrs 30 minutes)	Bdr Cole C. Bdr Carlton	7 days C.B.	12 May 42	Maj.E.D.J. Edminds	Forf 2 days pay FRI 149 (1)(a)
Field	11May 42	Gnr		Sec.15(1)AA WOAS AWL from 0800 hrs 17 Jul 42 to 1900 hrs 18 Jul 42 (1 day 11 hours)	Documentary	7 days C.B.	20 Jul 42	Maj J.F. Dobson	Forf 2 days pay FRI 149 (1)(a)
Field	17Jul 42	Gnr		Sec.15(1)AA WOAS AWL from 2315 hrs 2 Aug 42 to 0600 hrs 4 Aug 42 (1 day 6 hrs 45 min)	Bdr Charlton L/B Boudreau J.W.	Forf 7 days pay FRI 149(2)	4 Aug 42	Major A.M. Clark	Forf 2 days pay FRI 149 (1)(a)
Field	3 Aug 42	Pte							

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6Oct 42	Pte		Sec.15(1)AA WOAS AWL from 2215 hrs 6 Oct 42 to 1300 hrs 13 Oct 42 (6 days, 14 hrs 45 min)	Documentary Bdr.Clarke Bdr.Marier	Forf 10 days pay FRI 149(2)	14 Oct 42	Col.W.E. Huckvale	Forf 7 days pay FRI 149(1)(a)
Field	8Nov 42	Pte		Sec.15(1)AA WOAS AWL from 0200 hrs 8 Nov 42 to 1500 hrs 9 Nov 42 (1 day 15 hrs	Gnr.Bohon P Bdr.Cevevard Documentary Bdr.Marier	7 days F.P. forf 7 days pay FRI 149(2)	11 Nov 42	Lt-Col R.M.Bishop	Forf 2 days pay FRI 149(1)(a)
Field	21Nov 42	Pte		Sec.15(1)AA WOAS AWL from 2215 hrs 21 Nov 42 to 2030 hrs 22 Nov 42 (22 hrs 15 min)	Bdr.MacDonald, J.D. Documentary	14 days F.P. Forf 14 days pay FRI 149(2)	23 Nov 42	Lt-Col R.M.Bishop	Forf 1 days pay FRI 149(1)(a)
Field	5Dec 42	Gnr		Sec.15(1)AA WOAS AWL from 2130 hrs 5 Dec 42 to 0900 hrs 4 Apr 43 (119 days 11 hrs 30 min) Close arrest (0900 hrs 4 Apr 43 to 2400 hrs 10 Apr 43 (6 days 16 hrs)	Sgt Surtees Sgt.Elphinstone Documentary	180 days Detn	12 Apr 43	F.G.C.M.	Forf 180 days pay FRI 149(1)(b) Forf 120 days pay FRI 149(1)(a) Forf 6 days pay FRI 149(1)(c)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 8250	Gunner	Paul TONTI	No 2 Cdn Artv Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered in the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :— since within last 12 months- completion of 6 Mos service

For .... times.

For A.A.Sec.15(1) ONE SEVEN times.

For A.A.Sec.40 ONE TWO times.

For .... times.

Date of last entry in Field Conduct Sheet [redacted]

Date of first entry in Field Conduct Sheet [redacted]

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

3.* The accused at the present time is under sentence to [redacted] beginning on the [redacted] day of [redacted]

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 28 days in military custody, *i.e.*, NIL days in open arrest, 28 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 30 Years 19 days

6. The date of his attestation is 14 May 41

7. The service which the accused is allowed to reckon is 3 Years 31 days

†State the military decorations (if any) held by accused.

† [redacted]

[redacted]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670-866 100,000 4/42 A.& E.W.Ltd. Gp.698
(21459) Wt.29256-1872 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 5 Dec 42	A.A.Sec.15(1) WOAS,AWL, 119 days 11 hours and 30 minutes.	180 days Detn.	49 days remission earned
Civil Court	Field 28 Feb 44	An offence under Larceny Act 1916	4 Months Hard Labour, H.M. Prison, Wormsood Scrubbs	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 17 day of June 1944

G.W. Currie

(G.W.Currie) Lieut., R.C.A.,
Admin Offr "P" Trg Wing,
No 2 Can Arty Rft Unit

W-107

Fus. TOOKE, L. A

WJ-107

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 6 day of January, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 4 Cdn Armd Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

[redacted]

* Omit if not applicable.

DEFENDING OFFICER	- Lieut D M Scott	PL Fus (M)
PROSECUTOR	- Lieut J A MacDonald	PL Fus (M)
JUDGE-ADVOCATE	- Capt A C Hall	HQ 4 Cdn Armd Div
WAITING MEMBER	- Capt J H Gilbert	27 Cdn Armd Regt
OFFICERS UNDER INSTRUCTION	- Lieut H V Pritchard	21 Cdn Armd Regt
	Capt T H Carlisle	22 Cdn Armd Regt
	Lieut W H Trenholme	27 Cdn Armd Regt

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	H M Smith	22 Cdn Armd Regt

Members.

Rank.	Name.	Regiment.
Capt	F C McKergow	21 Cdn Armd Regt
Capt	W B Bowker	HQ 4 Cdn Armd Bde

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed F.F. Worthington

Commanding (F. F. WORTHINGTON) Maj-Gen
4 Cdn Armd Div
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F.34922 Fus Tooke Leo Alfred PL Fus (M)	A A Sec 6(2)(h) (See Charge Sheet attached)	Not Guilty	Not Guilty 7 Jan 43 [illegible] Gen & Lt Col J.A	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (F.F. WORTHINGTON) Maj-Gen
Commanding 4 Cdn Armd Div
Convening Officer (*e*)

(Signed) [illegible] 22 Ch Armd Lt (C.C.C.)
President.

Gen & Lt Col J.A

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of January, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 7 day of January 1943.

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 ,

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.T. 47787/1937 35 M. 5/41 K.J.L./5265(2) Gp. 698/3

CHARGE SHEET

The Accused No. F.34922 Fusilier Leo Alfred Tooke, The Princess Louise Fusiliers (Motor) C.A.O., a soldier of the Canadian Army placed on Active Service is charged with:

CHARGE
~~Army Act~~
Sec 6(2)(M)

WHEN A SOLDIER ACTING AS SENTINEL ON ACTIVE SERVICE LEAVING HIS POST BEFORE HE WAS REGULARLY RELIEVED

in that he

At Talavera Barracks in Aldershot, County of Hampshire, on 25th day of December A.D., 1942 at 0522 hrs., after being posted as a Sentry on Main Gate Guard, left his post without having been regularly relieved.

Signed this 31st day of December, A.D., 1942

W.W. Reid
(W.W. Reid) Major,
A/OC, P.L.Fus (M)

To be tried by FGCM

Signed this 5 day of Jan 43.

F.F. Worthington
(F.F. WORTHINGTON) Maj-Gen
GOC 4 Cdn Armd Div

H.S. Smith Imperial Press

MEDICAL OFFICER'S REPORT

I certify that No. F 34922 Pte Tooke R. A.
of P.L.E.S. (N) is in a fit state of health,
and is able to undergo Trial by Court martial.

W. Boothroyd Capt
Medical Officer

Station Aldershot Command C.A.C.S.

Date 6 January 43.

M. F. B. 246
BBM—9-41 (1743)
H.Q. 1772-39 480

Medical Officer's Report

This is to certify that No. F 34922 Pvt Tooke L A.
is in a good state of health and is fit to
undergo trial by Court. Martial

W Southway Capt Med.

Field.
7 Jan 43

MFB 246.

PROCEEDINGS OF TRIAL

Accused F34932 (Number) Fus (Rank) Leo Clifford (Christian Names) Tooke (Surname) P.L. Fus (M) (Unit)

Held in the Field in England (Country) on 16 Jan 43

President Major (Rank) H. N. Smith (Name) 22 C.A.R. (C.G.C.) (Unit)

Members Capt F.C. McKergow 21 C.A.A. (G.G.F.C.) Capt W.E. Bowhay H.G. 4 C.A.R.

Judge-Advocate (if any) Capt. A.C. Hall H.Q. 4 Ch. Armd. Div.

Prosecuting Officer Lieut J.A. MacDonald P.L. Fus (M)

Defending Officer Lieut D.M. Scott P.L. Fus (M)

(The following procedure must be carefully carried out)

The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P. 17(E); 22(A)).

The President, in closed Court (R.P. 22 fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.108)

The accused is (are) brought before the Court, and at 0900 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 657 that the accused is (are) fit to undergo trial by Court-Martial. The certificate is initialled by the President, and attached to the proceedings.

~~President to accused~~
~~Do you object to~~ ~~as interpreter? Ans~~ ffs
~~Do you object to~~ ffs
~~as shorthand writer? Ans~~ ffs

The names of the President and Members of the Court are read to the accused (R.P.110)

President to accused

Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans No

The President, Members, Judge-Advocate, Officers Under Instruction, ~~Prosecutor~~ and shorthand writer are duly sworn. (R.P.26-27).

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has (not) elected trial by Court-Martial (A.A.46(8))

President to accused

Do you wish to make any special pleas before arraignment, that is to say, before you plead guilty or not guilty? Ans. (If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.30 R.P.57); record such plea and evidence (if any) on separate sheet(s) to be initialled by President and attached to the proceedings.)

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows: First Charge Not Guilty Second Charge ffs Third Charge ffs Fourth Charge ffs.

(For procedure on alternative charges, see R.P.37 fn a) Further proceedings are recorded on pages hereto attached.

PAGE "B"

(For Use When Accused Pleads Not Guilty to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
   Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
   (R.P.39(A)) Ans. No

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P. 70 fn 3)

4. ~~The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P. 40 fn 2).~~

5. President to accused:
   Q. Do you apply to give evidence yourself as a witness?
   Ans.
   Q. Do you intend to call any other witness in your defence?
   Ans.
   Q. Is he a witness as to character only (RP 40(B)) Ans.

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs.P. 40, 41 and 42.

8. The Court is now closed to consider the finding. (Rs.P. 43 and 117) (Record finding on p.3.)

9. The Court being re-opened, the accused is again brought before it and the findings of Not Guilty (~~if any~~) are pronounced and (if findings of Not Guilty on all charges) the accused is released. (R.P.117(B))

10. (Rank) (Christian Names) (Surname) (Unit)
    produces Statement of Character and Service, and Field Conduct Sheet, duly certified by the Officer having custody of the Regimental Books. The said documents are read, marked " ", and " ", initialled by the President and attached to the Proceedings (R.P.46).

11. President to accused:
    Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.40(B)) Ans.
    No cross-examination.
    (Record address, if any, on separate sheet, initialled by the President and attached hereto.)

12. The Court is now closed to consider the sentence (Record on p.3.)

(Punishments A.A. 44, K.R.(Can) 563-566; one sentence only awarded, R.P.48; jurisdiction of F.G.C.M., R.P. 116).

~~The sentence is not announced to the accused by the Court.~~

(Signature of President)

F 34760 Cpl Cameron M. G., PL Fus
having been duly sworn

On Dec 2nd I was guard commander of the guard at Talavera B'ks. The accused was a member of the guard. He was posted to 1 of 2 posts at the main entrance. No one was actually posted at the main gate. The two posts beat covered a distance of about 400 yds. It would take a man at least 15 minutes for a beat & entry. To cover this beat & return. I produce a copy of the orders of the guard Commander which is posted on guard room order board. I was read to accused before he was posted for duty. The accused was really doing the duty of Two men.

Accused declines to Cross examine this witness

The prosecution is closed

The defending officer applies to have the charge dismissed

The Court is closed for consideration of the motion

The Court allows the motion

This Court is re-opened & the finding of Not Guilty is read in open Court.

Sgt Major

Summary of Evidence

In the case of F.34922 Fusilier Leo Alfred Tooke, The Princess Louise Fusiliers (M) C.A.O. All evidence being taken on oath by order of the Commanding Officer.

Charge: A.A. Sec 64 (1)

FIRST WITNESS F.34760 Cpl. Cameron, M.C., P.L.Fus (M) having been duly sworn states as follows:

I am F.34760 Cpl. Cameron, M.C., P.L.Fus (M). On taking over the main guard of Talavera Barracks 24 Dec 42 I read the orders to the guard in the guard room. Fus. Tooke, who was a member of the guard was present at that time. The orders state that the sentry will patrol his beat and the beat for the guard at the main gate, is, in front of the barrier. Fus. Tooke was posted by L/Cpl Ward, J.B. at 0400 hrs 25 Dec 42, at the main gate of Talavera Barracks. At about 0530hrs 25 Dec 42 Fus Tooke came into the guard room and told me that the Commanding Officer wished to see me outside. On going outside the C.O. told me to place Fus Tooke under close arrest immediately and have a replacement put on at the main gate.

The Accused declines to question the Witness.

F34760 Cpl. M.C. Cameron
(F.34760 Cpl Cameron, M.C.)

SECOND WITNESS F.35558 L/Cpl Ward, J.B., P.L.Fus (M) having been duly sworn states as follows:

I am F.35558 L/Cpl Ward, J.B., P.L.Fus (M) On the morning of 25 Dec 42 I was guard commander of the coal guard. I stayed in the guard room, and the three guard commanders took turns changing the guards. At 0460 hrs I posted Fus Tooke on the main gate of Talavera Barracks.

The Accused declines to question the Witness.

L/Cpl Ward J.B.
(F.35558 L/Cpl Ward, J.B.)

THIRD WITNESS C.31051 L/Cpl Cardow, J., J.B.C. Highrs, having been duly sworn states as follows:

I am C.31051 L/Cpl Cardow, J. On 25 Dec 42 I was posted as a sentry at the gate of Salamanca Barracks from 0400 hrs till 0600hrs. About five minutes before the staff carcame to the gate of Talavera Barracks, about 0530 hrs the sentry at the gate of Talavera Barracks walked across the road, and spoke to me. He left me and walked back across the road to his own post. I did not notice whether he stayed there or not.

The Accused declines to question the Witness.

J Cardow

(C. 31051 L/Cpl Cardow, J.)

Prosecutor

FOURTH WITNESS F.35075 Fus Winter, N.B., P.L.Fus (M) having been duly sworn states as follows:

I am F.35075 Fus Winters, N.B., P.L.Fus (M). I am driver of the Commanding Officer of the P.L.Fus(M). On morning of Dec 25th I was returning to barracks from duty. As I drove up to the main gate of Talavera Barracks, I looked for the sentry to remove the wire barricade and there was no sentry present. After opening the gate and driving through, Lt. Col. Robinson went looking for the sentry. A few minutes later, I heard someone coming along the road between the barrack block. Soon after that Fus Tooke came over to the gate and reported to Col. Robinson.

The Accused declines to question the Witness.

F.35075 Fus Winters N.B.

(F.35075 Fus Winters, N.B.)

The question is put to the Accused: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

Having been duly cautioned, the Accused replied: "No, Sir."

Section 4 Rules of Procedure 1926 has been complied with in all respects.

This Summary of Evidence was taken down by me in the presence of the Accused at Aldershot, England on the 30th day of December, A.D., 1942, having been deputed by the Commanding Officer to do so.

30th December, A.D., 1942.

(P.G. Rogers) Lieut.,
P.L.Fus (Motor)

GGG-55

SGT- TOOLEY R.S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C50112 Sgt Rec Sutherland TOOLEY, 4 Cdn A/Tk Regt RCA

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present~~ under sentence for ~~beginning~~ on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be reduced to the ranks.

(Sgd) W.M.A. Shaw Capt — 27 Feb 44 — (Sgd) W.P. Doolan Major

Judge-Advocate, if any. — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) a/cs.

(1. AA 57A. Delete if not used.)

Date 24 Feb 44 (Sgd) H.R. Sparling Brig

Commanding R.C.A., 5 Cdn Armd Div.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C50112 Sgt. Rec Sutherland TOOLEY	26 Feb 44	A.H. Bard Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGC 55

FIELD GENERAL COURT-MARTIAL

CFA96 (Th Rev of AFA3) 43/T & R/1608 (2864)

Convened by Order of Brig H.R. Sparling Comd RCA 5 Cdn Armd Div dated 21 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C50112	Sgt	Rec	Sutherland	TOOLEY,	4 Cdn A/Tk Regt

PROCEEDINGS REVIEWED

R. Deanlills. Capt.

30 Mar 44

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 24 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1515 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

The Interpreter is sworn.(1) Do you object to 0 as ~~shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W.P. Doolan	8 Cdn Fd Regt
Member	Capt	P.W. Macdonald	11 " " "
Member	Capt	E.S. Finningley	5 Cdn LAA Regt
Judge-Advocate	Capt	W.M.A. Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	A.L. Weimier	4 Cdn A/T Regt
Defending Offr	Capt	W.D.S. Marden	4 " " "

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is ~~dissolved~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, sir.....(1)
(1. *If "yes", see RP 39(A) for procedure.* Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D).* Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555.* Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) The Court so rules(3), and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, ~~accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty~~ on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do neither. Do you intend to call witnesses on your behalf ?
Ans No. Are they witnesses as to character only ? Ans Normally.
(1. *RP 39.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~last~~ ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~(2) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character~~ ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 40 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, I'll say a few words.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 94(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RD 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 60, 757-759. As to sentences already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C50112 Sgt TOOLEY, R.S., 4 Cdn A Tk Regt RCA, a soldier of the Canadian Army serving in the Central Mediterranean Forces, is charged with:

First Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on or about 14 Feb 44 did permit the improper use of a No 36M grenade.

In the Field
19 Feb 44

(W.D.KING) Lt-col.,
Comd 4 Cdn A Tk Regt RCA.

To be tried by Field General Court-Martial.

In the Field
21 Feb 44

(H.A. Sparling) Brig
CRA 5 Cdn Armd Div

N.P.D.
WSMcC

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA83)
40/FA83/1697 (2988)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C50112	Sgt.		R.S.	TOOLEY	4 Cdn A Tk Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 21 Feb 44 endorsed by me, [illegible], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[illegible]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	W.P. Doohan (*Must be named. RP 106.*)	8 Cdn Fd Regt (*Unit.*)

MEMBERS.

Capt.	P.W. Macdonald	11 Cdn Army Fd Regt
Capt. (*Rank.*)	E.F. Finningley (*Named or detailed. RP 106.*)	5 Cdn LAA Regt (*Unit.*)

WAITING MEMBER.

Lieut. (*Rank.*)	to be detailed by (*Named or detailed, if any. RP 106.*)	17 Cdn Fd Regt (*Unit.*)

JUDGE-ADVOCATE.

Capt. (*Rank.*)	W.M.W. Shaw (*Must be named, if any. RP 106.*)	HQ 5 Cdn Armd Div (*Unit.*)

On Active Service in the Fd

in ITALY (*Country.*)

H.W. Harling (*Signed personally. RP 105 (1)(2).*) Brigadier (*Rank.*)

Date 21 Feb 44 Commanding RCA, 5 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

W.P.D. OMLSS

MEDICAL OFFICER'S CERTIFICATE

I certify that No. C 50112 Sgt. TOOLEY R.S. 4 Cdn A Tk Regt, is Fit/[redacted] to undergo trial by Court-Martial.

24 Feb 44.

D.K. Grant Capt
M.O.

I

1st Wit Pros] Lt F.M. Shaw, 16 Bty, 4 A/T Regt, duly sworn, states:-
Recognise accd as Sgt R.S. Tooley — was Sp Sgt & Sp — on morning 17 Feb detailed accd + Gnr Bryan to assemble Sp stores in Bldg at Wk. after 2 proceeded our of guns + at 1000 hrs — at approx 2 stopped at bldg to see how work progressing — as a result of info I examined room where accident occurred + then to ADS. at ADS (objected to on grounds of irrelevancy — allowed)
Cross-exam — nil
Court — nil

2nd Wit Pros] L/18241 Gnr Garden D.C. 1st Bty 16 Bty 4 A/T Regt duly sworn, states:-
Belong to Sp. Am Gnr.
Approx 0730 hrs 14 Feb was in sleeping quarters helping Sgt Tooley + Gnr Bryan — worked a while then broke off for smoke downstairs — got into conversation by about needing wood — later there were some 36 grenades on the floor — accd was in room when accd just broke off + was present as far as I know. We got talking about + wondering what one of these grenades would do. It was suggested throwing one into barrel. We were in bldg + deciding where to throw it. I made a run for door + as I & Gnr Tayler we had better get out — went around bldg to a mound + walked thru the murdow. all of sudden a flash — I ran around to door + saw Sgt T rubbing eyes — I called for Tayler + he went for MO Bryan still in there.
In room don't recall any remark between Bryan + self — I went in room on SE corner of bldg. We were together, walked into room, looked around. I was in center of room + Bryan beside me. Gnr Tayler + I think Sgt Tooley at door. Sgt T 10 ft from Gnr Bryan — Sgt T did not say anything Sgt T about 6 ft from Gnr B
From mound could see Gnr B in room until grenade in nt hnd. after explosion in room couldn't see much for smoke — just saw Gnr B on floor.
In discussion Gnr B used words to effect "let's try one" when discussing effects of grenade
Cross-exam:- Couldn't be sure if Sgt T present when accd in conversation between Gnr B + self in room saw Sgt T walking away from door + rubbing eyes
re-exam — nil
Court — I was on mound only few seconds before the flash. when looked it can't say which way Sgt T facing. Don't remember what Sgt T did when Tayler I left or were leaving.
when on mound couldn't see Sgt T. door to room was around corner from mound.

WMcG

3rd wit Pros 3] M 3369 Gnr Taylor, C.S. 4 A/T Regt, duly sworn, states:- "J" Dp. On 14 Feb after breakfast went to SE corner of bldg & in room & saw Gnr Bigan, Sgt Tooley (just inside door). I asked what going on & Gnr B replied they were going to throw grenade in barrel & see what happened. I was approx 8' from B & about 2' from Sgt T when I asked this - I heard Gnr B's reply. Sgt T closer to me than B Believe Sgt T facing both. Sgt did not attempt to interfere that I saw.

Cross-exam. I moved around corner of bldg - Sgt T didn't come - he remained as far as I know.

Re-exam. nil

Court Matter of minute or so between leaving room & explosion.

After explosion I followed Gnr G to door. He Gnr G was coming out, someone said "my God his arm is off". I went par amb.

Did not see grenade in B's hand or anyone laying around.

4th wit Pros 4] Capt D.W. McCullough, 24 Fd Amb RCAMC, duly sworn, stated:-

(Def suggested that witness's evidence not relevant. Pros states that as expert his evidence will show that a grenade actually exploded. - Court closed - Court re-opened & advised that as witness can give expert opinion as to cause of any wounds he examined the pros may proceed. -)

Duly qualified MO - In past month have had good many number (250) battle casualties - as well as several in past 3 yrs resulting from mortar, small arms & grenades. Could be certain of small arms caused wounds - grenade at close quarters also definite type of wound as - grenade practically always causes multiplicity of penetrating wounds, not clean & due & vary in size - Can distinguish grenade

Cross-exam on expert qualifications: Mortar wound may be several but wounds larger & not same multiplicity, never get the small penetrating perforations scattered so profusely.

In HE get various degrees of fragmentation but no. of wounds not so great & if close immediately fatal. Never seen shell wound such multiplicity from grenade.

Not identify cause of each & every battle cas. - between mortar & shell wounds difficult & almost impossible.

Not an expert in civilian use of term - Difficult between small arms, mortar & HE - sometimes grenade

Re-exam:- No difficulty re grenade at close quarters - difficulty in grenades to form a distance.

Court closed to consider whether witness' evidence acceptable as expert on cause of wounds. Decide he is - Court re-opened & decision announced.

On 14 Feb on duty at ADS - Had admitted a man from Bty. Was badly wounded, suffering from multiple wounds consisted of multiple small penetrating wounds of abdomen, evisceration of L testicle. Traumatic

amputation rt hnd + several forgas left hnd. Had large wound in rt leg + very small penetrating wounds back legs + back arms.
Wounds caused by a grenade, in my opinion, at close quarters.
Identified by tag as Gnr Bryan.
Cross exam: - nil
Court: - don't believe anyone told me what had happened to him prior to seeing him.
Pros^n closed

Pros:- no closing address.
Def off in closing:- Facts short but certain points that bear careful scrutiny. Sgt T charged with permitting improper use of grenade. No evidence of express permission - on ? of possible implied permission have evidence of Gardner Taylor Conversation between G + B in store room as to possible effect not necessarily in accds presence - G doesn't know if T there - If T not there evidence is not admissible. If court think T was there, still nothing to show T heard conversation so no evidence of implied permission. No evidence as to events in room leave T somewhere outside room.
Gnr Taylor saw Gnr Bryan + Sgt T in room Sgt between him + B. Taylor spoke to Bryan + received reply - no evidence what Sgt T was doing - he might have been talking to someone else. Taylor then makes out + in his opinion Sgt T remained at door.
Actions of reasonable man to take shelter - Sgt T at door + def. submit + that his act is against any theory of granting permission
No evidence of express + innumerable doubts on implied permission — accd entitled to acquittals.

Jd sums up:- Offences sec 40 offence; burden on pros^n; credibility of witnesses; "Reasonable doubt"; RP 44; circumstantial evidence + rules.

Def off in mitigation Court closed
ref request permission + recall Lt Shaw, 1st witness, to give character evidence — Lt Shaw, still on oath, states Sgt T is my Sp Sgt - have been Sp Sgt since Nov 43 - Sgt T is 22 yrs old - Has been Sgt since Sept 42 - Very efficient Sp Sgt - hard worker handles men well - have confidence nothing against his work as Sp Sgt. He has definitely the confidence of his Sp Sgts.
Cross-exam: Previous to Nov 43 had known him short time - had not served him - greater part of time since Nov. was in training
Re-exam: Remaining part of time in action
Def off:- Unfortunate case. Sgt T 22 yrs old but has been a Sgt for 1½ yrs + has been a Sp Sgt in 19th Bty for almost a year. Sp off states he has confidence of Sgt both in action + out. Accident + Gnr B + consequences no physical punishment to Sgt T in form of

reduction in the interests of the service.
Sgt has already suffered. Urge court when considering sentence to bear these facts in mind. He is capable, young, has considerable amount of drive & so far as accident it is just one of those unfortunate things which occur in slight lapse in ones control - wants unfortunate.

Punishment has little purpose if it does not correct some bad practice & in this case a lenient attitude would in no degree affect his efficiency as a Sqdn Sgt.

W.M.W. Shaw
Capt

ELECTION

I request the services of Capt. W.D.S. Morden, if he is available, in my Defence

R. S. Tooley

C 50118 Sgt. Tooley R.S.

19 Feb 44.

reduction in the interests of the service.
Sgt has already suffered. Hope court when considering sentence will bear these facts in mind. He is capable, young, has considerable amount of drive & so far as accident it is just one of those unfortunate things which occur in slight lapse in one's control + results unfortunate.

Punishment has little purpose if it does not correct some bad practice + in this case a lenient attitude would in no degree affect his efficiency as a Sup Sgt.

W.M.W. Shaw
Capt

ELECTION

I request the services of Capt. W.D.S. Morden, if he is available, in my Defence

R. S. Tooley

C 5011 Sgt. Tooley R.S.

19 Feb 44.

Summary of Evidence in the case of C50112 Sgt. Tooley, R.S. 4 Cdn A Tk Regt RCA, charged with an offence contrary to Army Act Sec 40, while on Active Service conduct to the prejudice of good oreder and military discipline permitting the unauthorized use of a hand grenade.

The Commanding Officer directs that the evidence be taken on oath.

.....

FIRST WITNESS

Lt. F.M. Shaw, 16 Bty, 4 A Tk Regt RCA, having been duly sworn states:-
"In the field 14 Feb 44 at approx 0830 hrs, I ordered C50112 Sgt. Tooley, R.S. who is "J" Troop Sgt. and whom I recognize as the accused in this case to assemble the troop stores of "J" Tp A Tk Bty. At approx 1015 hrs I returned to "J" Tp wagon lines where "J" Tp stores are located and it was reported to me that an accident had occurred xxx and that K83531 Gnr. Bryan, E.W. had been taken to an ADS. I then proceeded to the ADS where I learned from a Capt. McCullough that Gnr. Bryan, E.W. was dead. The accused was present in the room when this fact was reprted to me by Capt. McCullough. I then viewed the body which I identified as that of K83531 Gnr. Bryan, E.W."

Q. Did you at any time authorize Sgt. Tooley to use No 36M hand grenades for purposes other than operational?
A. No Sir.

The accused declines to cross-examine this witness.

F M Shaw
(F.M. Shaw) Lt. RCA

SECOND WITNESS

M3369 Gnr. Taylor, C.S. 4 A Tk Regt RCA having been duly sworn states:-
"In the field on the 14 Feb 44 at approx 0545 hrs I returned to "J" Tp wagon lines where "J" Tp stores are located. I went to the doorway of a room on the ground-floor South-East corner of the Bldg in which "J" Tp stores are located. I saw the accused in this case whom I recognize as C50112 Sgt. Tooley, R.S. standing in the doorway. K83531 Gnr. Bryan, E.W. was standing inside the room a distance of approx ten feet from the door-way. I did not see whether Gnr. Bryan had anything in his hand or not. I saw inside the room a barrel with one end knocked out. I asked what was going on. Gnr. Bryan replied 'We are going to throw grenade at a barrel and see what happens! The accused was present a distance of approx eight feet when he made this statement. I then moved away a distance of about twenty feet and around the corner of the bldg. In a very few seconds I heard a noise which I beleived to be an explosion."

The accused declines to cross-examine this witness.

C S Taylor
(M3369 Gnr. Taylor, C.S.)

THIRD WITNESS

L18941 Gnr. Garden, D.G. 4 A Tk Regt RCA having been duly sworn states:-
"In the field on 14 Feb 44 at approx 0830 hrs I was assisting K83531 Gnr Bryan, E.W. and the accused, whom I recognise as

the accused C50112 Sgt. Tooley, R.S., to straighten up "J" Tp stores. At about 0900 hrs Gnr. Bryan, E.W., and to the best of my knowledge the accused, and myself went into "J" Tp sleeping quarters for a smoke. While there I suggested that wood was needed for the fire in our sleeping quarters. On the floor in the room used as our sleeping quarters were some No 36M hand grenades in a cigarette carton. Gnr. Bryan and I discussed the effect of a No 36M grenade. I said, ' I wonder what a No. 36 grenade would do if it exploded in a barrel'. I do not recall whether or not the accused was present in the room when I made this remark. Gnr. Breyan replied, ' let's try one and see what happens'. Gnr. Brayn then picked up a No. 36M hand grenade and went to a room on the South East corner ground floor of the bldg. I went with Gnr. Bryan to this room. While standing in the room I saw Gnr. Taylor, C.S. and the accused standing at the door-way. I said to Gnr. Taylor, ' Let's get out of here and not block the door-way'. I immediately left the room accompanied by Gnr. Taylor. I proceeded around the corner of the bldg to a small mound of earth from which I could see through a window into the room in which Gnr. Bryan was standing. From this mound I saw Gnr. Brayn standing in the room with the grenade still in his hand. Suddenly there was a flash of light in the room with Gnr. Brayn accompanied by a large noise after which the room filled with black smoke. I immediately returned to the room and saw the accused standing just outside the door-way. I found that Gnr. Bryan was lying on the floor but I could not see the grenade.

The accused declines to cross-examine this witness.

D G Gareden
(Lieut Gnr. Gareden, D.G.)

FOURTH WITNESS

Capt D.W.McCullough 94 Fd Amb RCAMC stationed at A D S having been duly sworn states:-

"In the field on 14 Feb 44 at about 0915 hrs K63571 Gnr Bryan E.W. was brought to the A D S where I was present. He was conscious but in a very critical condition. There was no interrogation of the patient. He was suffering from a number of small penetrating wounds of the abdomen, evisceration of the right testicle, traumatic amputation of the right hand and several fingers of the left hand. There was one large wound of the right leg. Therewere numerous small penetrating wounds of arms and legs. He was given an immediate transfusion with plasma but his condition deteriorated and he died at 1070 hrs. I believe the cause of death to be due to shock, caused by small multiple wounds of the abdomen and loss of blood from multiple wounds

The accused declinse to cross-examine this witness.

D.W.McCullough
(D.W.McCullough) Capt RCAMC

CAUTION TO THE ACCUSED

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish todo so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

ANSWER BY THE ACCUSED

"Ido not wish to make any statement or give evidence at this time."

Certified that R.P. 4 (C) (D) (E) have been complied with

Taken down by me In the field this nineteenth day of February nineteen hundred and fourty four .

A.L. Weirmier Capt.
(A.L. Weirmier) Capt RCA.

M.F.M. 6.

(A.F.B. 122)
40/P & S/136 (2837)

No. C 50112 Name TOOLEY, Rex Sqn., Battery, or Company Sutherland Corps RCA Date of enlistment 6Jul40 G.C. Badges

Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy from records held by this Unit					
				(R. S. WALLACE) Captain, Adjt 4 Cdn A Tk Regt RCA.					
				"B" Wallace					

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C50112	Sgt	TOOLEY, R. B.	4 Cdn A Tk Regt RCA

1. The following is a fair and true summary of the entries in the ~~Regimental and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times	———	times
For		times		times

~~Number of entries of gallantry or distinguished conduct~~

~~XXX~~

~~Where the entries in the conduct sheets of the accused~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~XXX~~

~~Previous convictions of the accused by a court-martial or a civil court, or summary awards under Air Force Act~~ ~~of the Army Act and dispensations with trial under A.A. 56 are set out in the following manner:~~

3. The accused is not under sentence at the present time.

~~XXX~~

~~The accused was on the~~

4. The accused has been in confinement awaiting trial on the present charges, for none days in civil custody, and none days in Air Force military custody, making a total of none days in custody, of which none days were spent in hospital.

5. The present age of the accused according to his ~~regimental~~ attestation paper is 22 years

6. The date of his ~~enlistment~~ attestation specified in his ~~regimental~~ attestation paper is 6 Jul 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 7 mos

8. The accused is entitled to reckon 3 yrs 7 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ ~~decoration~~ ~~or is~~ ~~entitled to~~ ~~State any air force decoration or reward~~ military CVSM + clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of n/a

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
n/a dated n/a, and in his regiment (or corps), the rank of
n/a dated n/a.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In rank of L/Bdr 1/12 year 1 Feb 42 Date of promotion.
In the rank of Bdr 1/4 years.
In the rank of L/Sgt 1/4 years.
In the rank of Sgt 1 years 5 mos

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number C50112 Rank Sgt
Unit
Name TOOLEY, R. S. of 4 Cdn A Tk Regt RCA Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	None			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of February 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A, signed by the president, and annexed to the proceedings.

(R.C. WALLACE) Captain,
A/Sgt 4 Cdn A Tk Regt RCA.

COUNTER NUMBER 592632

HOUR 9.20

OPERATOR'S INITIALS E M.

RELIEVING OPERATOR K.L

93 H Pte Toomey, J.T.

O. H. M. S.

M. F. B. 270
1000M-12-40 (8008-09-70)
H.Q. 1772-36-67

Correspondence to be PINNED here.

934

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 7th day of April, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Corps Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General *Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint :—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

* Omit if not applicable.

PROCEEDINGS REVIEWED.

7 May 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	R E WILKINS	R.C.E.

Members.

Rank.	Name.	Regiment.
CAPTAIN	C H W WEINLOS	No 4 C.C.S.
CAPTAIN	JEAN de ST VICTOR	18th Cdn Fd Amb

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.O.N. Brownfield Brigadier

Commanding A/C.C.R.A. - Cdn Corps

Convening Officer.

25

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
F10070 Pte Toomey, J. T. R.C.A.S.C. 4 Cdn Corps	1st. Charge Sec 40 Army Act	NOT GUILTY	GUILTY - To be awarded one days detention	Confirmed H.W.Brownfield (H.O.N. Brownfield) Brigadier C.C.R.A. - 1 Cdn Corps

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No Sir

(Signed) H.W.Brownfield (Signed) R.E.Wilkins
(H.O.N. Brownfield) Brigadier A/C.C.R.A. *Commanding* Cdn Corps *Convening Officer* (*e*) (RE WILKINS) MAJOR RCE *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15 day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ -
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 15 day of April 1942.

R.E.Wilkins Major RCE
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmative

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 23 day of April 1942.

H.W.Brownfield
(H.O.N. Brownfield) Brigadier
Confirming Officer.
C.C.R.A. - 1 Cdn Corps

Promulgated and extracts taken in the case of

(*a*) (Dated) 27 Apr 42 (Signed) R.Shackleton

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.O. 67/97(1937) 55 M. 5/41 K.H.(3265)2 Gp. 698.3

CHARGE SHEET

The accused No. F 10070 Pte Toomey, J.T. (RCASC) H.Q. Cdn Corps, a soldier of the Canadian Army (Overseas) is charged with:-

1st Charge
Sec. 40
Army Act.

W.O.A.B. neglect to the prejudice of good order and Military Discipline.

In that he

on the 16 Mar 42 at H.Q.Cdn Corps, in the field failed to remoave the keys from Ford Sedan No. CM 105128 the vehicle under his care, when leaving it unattended, with the result that said vehicle was taken by person or persons unknown and damaged to the extent of £17. 7. 0.

R. Shankland

(R. SHANKLAND) Major,
Camp Commandant.

H.Q.Cdn Corps.
Cdn Army Overseas.

To be tried by Field General Court Martial

H.W. Brownfield

(H.C.N. Brownfield) Brigadier
A/C.C.R.A. - Can Corps

7 Apr 42

Edwards
Major

TRIAL OF:- Nº F 10070 Pte TOOMEY J.T. (RCASC)
HQ Cdn Corps.

PROSECUTOR - Lt. A.O. ETCHES - 64 Cdn general Tpt. RCASC
DEFENDING OFFICER - Lt D.W. TURNBULL - 64 Cdn general Tpt RCASC

AT 1230 hrs the Trial commences.

The order convening the court is read and is marked signed by the president, and attached to the proceedings
The names of the President and the members of the Court are read over in the hearing of the accused and they severally answer to their names

Question by President to the Accused.:-
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Answer - no sir

President and members are duly sworn
The Charge Sheet is signed and annexed to the proceedings
The accused is arraigned on the charge shown on charge sheet and pleads "not guilty"

COURT ADJOURNED UNTIL 1400 hrs.

RP 39 (A) complied with. Answer by accused - No Sir

PROSECUTION

The prosecutor submitted a written statement signed by the accused. This statement was read by the President & conformed as correct by the accused. Statement attached as Appx A

1st Witness. for Prosecution Lieut RE Spratt Corps Tps Pet Coy RCASC. – submitted written statement att as appx "B" outlining the damages done to the car mentioned in the charge sheet

no questions – prosecution closed.

DEFENCE

Question by President to the accused – "Do you wish to give evidence yourself as a witness" – answer – No Sir:

Defending officer calls witness

2nd witness – Lt P Mc Murdo RCASC, tpt offr 1 Cdn. Corps HQ – makes ~~the following~~ a statement to the following effect:–

I am responsible for all tpt used at Cdn Corps HQ and the accused is under my jurisdiction. Standing Orders state that the driver of any car must take keys out of the car when returning to the car park for the night. Normally the keys are given to an NCO in charge. In this instance no one was present at the park to receive the keys when Pte TOOMEY returned to GRAVETYE park at 1830 hrs on the 16th March. All staff cars under my charge have not got keys and ~~the same~~ one car is not necessarily always driven by the same driver. Normally 4 staff cars use the GRAVETYE park and on this particular night Pte Hunter who has been delegated by L-Cpl Hanning ~~to~~ collect keys and supervise was on leave and no one else was delegated to take his place.

Statement made by Defending Officer to the effect that he did not consider the accused was guilty of the charge but merely forgetful.
Statement made by Prosecutor to the effect that the accused was aware of the order that he should remove keys from car and knowing that there was no one present to take care of the car in his absence should have made a point of taking precautions to safeguard the car.

Court Closed for Consideration of Finding

Character Witness called by defence -
Major Norman Coll - assistant to DA PC(P) who stated he knows the accused for many months & that he has always to his knowledge behaved in an exemplary manner and that many officers for the whom the accused has worked have spoken of the accused highly.

Prosecutor submitted following documents:-
Copy of MFM 6
AFB 296
AFB 116.
} are attached

Finding & Special Sentence - Guilty - but the court do not consider that any greater punishment than one days detention is warranted. The accused having already spent ~~three~~ the period between 16 Mar/42 and 15 Apr/42 under close arrest. The accused has a good past record and it is not considered to be in the interests of the service to award any greater sentence.

Appx A

Statement made by - F-10979.Toomey.J.T.-M.T.Section.Cdn.Corps.-

M.S.-at 1445 Hours.19 March.1942.

I have been told that I need not say anything unless I wish, but that anything I do say will be taken down in writing and may be used in evidence.

Signed J. T. Toomey.
J.T.Toomey.

On 16th. March 1942,I was the driver of Ford Sedan No.C.M.195128 I returned from the Officers Bus run to Gravetye,at about 1830 hrs.16th March 42. I parked the car in the transport lines,at Gravetye. I neglected to lock the car and I did not remove the keys,I went into my billet and perpared myself for the M.T. dance held in Balcombe. I proceeded to the dance in the W.D.Lorry provided by the M.T. Section.

I remained in Balcombe at the dance,untill it ended at about 0030 hrs. I had been drinking and I missed the lorry returning to billets and had to walk,I followed the main road from Balcombe to Gravetye,I arrived at my billet,about 0700 hrs.I got into billets a few minutes before Pte.MacPherson,who had been with me all night at the dance.Pte. MacPherson told me he had to walk home also,I did not take any notice if my car was in the transport lines or not and I never missed the car untill I went for it at 0830 hrs.17 March 1942,I then reported the car missing to L/Cpl.Anning by Phone.

Signed - J.T.Toomey
Witness -

Appx B

COPY.

SUBJECT---VEHICLE REPAIRS.

CTPC /9-6/4.

Transport Officer
Cdn Corps Headquarters.

CM 196128 - Ford Staff Car.

1. The following is a list of damages and estimated cost of repairs to the m/n vehicle , on charge to Corps Headquarters.

Damages:

Two rear windows broken.
One rear view mir or broken.
One pump casting br oken.
Right side rad. grill broken.
Hose connection broken.
Left and right front fenders damaged.
Left rear fenders damaged.
Turret top damaged.

New Parts:

Two rear windows	£ 1	0s.	0d.
One rear view mirror		5	0
One pump casting		10	0
One side rad. grill		10	0
One hose connection		2	0
Estimated cost of parts	£ 2.	7s.	0d.
One hundred hours labour @ 3/- per hour	£15	0	0
Total (estimated) cost of repairs	£17	7s.	0d.

Field
1 Apr 42.
WJB/EVH.

(H.E. Spratt) Lieut.
Officer i/c Workshops.
C.T. Pet Coy (32 Coy)
R.C.A.S.C.

MEDICAL OFFICER'S CERTIFICATE.

I certify that I have this morning examined
No. F10070 PTE. Name TOOMEY, J.T.
and in my opinion he is fit/~~unfit~~ to undergo trial
by Court Martial.

Station FIELD
Date 16 APR 42

Medical Officer.

No. f10070 Name Toomey, J.T. Sqn., Battery or Company: Corps 36th Hvy Bty Date of enlistment: 1/9/39 G.C. Badges: Nil. Service or Proficiency Pay: Nil. M.F.M. & (A.F.B. 133) 1941 - 8-41 (1750) H.Q. 1772-48-18

Date of last entry in Company Conduct Sheet: | No. and date of last drunk: | Period not reckoning towards freedom from extra fine: | Sheet No. 1. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15/4/41	Pte		WOAS absent from 2359 hrs. 15 April to 0012 hrs. 16 April 41. (AA Sec 15 (1))	L/Cpl. Fulcher C 6737	7 days CB	16.4.41	(E.W. Hull) Capt.	
Field	17/7/41	Pte.		WOAS, AWL. from 2359 hrs. 16/7/41 to 0035 hrs. 17/7/41. AA Sec. 15 (1)	Documentary	2 days CB	18.7.41	Major F.H. Chisholm.	

3 Mar 42. Certified true Copy.

Major,
Commandant,
Headquarters, Cda. Corps

(P.T.O.)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 10070	Pte	Toomey, J.T.	R.C.A.S.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of *entries* in the conduct sheets, premiums being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L.	2 times.	2 times.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ~~Nil~~ days in civil custody, and ~~14~~ days in military custody, making a total of ~~14~~ days, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25

6. The date of his commission / attestation specified in his record of service / attestation paper is 2 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... service.

9. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

(*16245) W.L.20216/8002 75,000 12/40 A.& E.W.,Ltd. Gp.498
(17653) W.L.42681/1087 25,000 4/41 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F 10070 Rank Pte Name Toomey, J.T. of R.C.A.S.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of April 1942

Major,
Camp Commandant,
Headquarters Cdn. Corps.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years,
In the rank of	years
In the rank of	years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

57-b Pte. W. D. Topham

No. 3 Edn. Infantry holding Unit,

10/ Topham W. D. /1/

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 10th day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[illegible]

* Omit if not applicable.

*(1. [illegible]

*(2. [illegible]

*(3. [illegible]

[illegible]

President.

Rank.	Name.	Regiment.
Major	D.J. McDougall	No.1 Cdn (M.G.) Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.W. Black	No.1 R.C.A.S.C. Hldg Unit
Lieutenant	C.W. Truscott	No.1 Cdn Arty Hldg Unit
Lieutenant	W.E. MacKay	No.1 Cdn Arty Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed C. [illegible], Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-17001 PTE. TOPHAM, H.W. (P.P.C.L.I. Fd Unit)	First Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY	
No.3 Cdn Inf Hldg Unit.	Second Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY	
			TO UNDERGO DETENTION FOR A PERIOD OF TEN MONTHS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £5-16-5 IN RESPECT OF COSTS OF APPREHENSION.	I confirm the finding & sentence of the Court but mitigate the sentence, in so far as it relates to detention, to 164 days. L. F. Fuller

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. F. Fuller. Brigadier (Signed) R.M.P. Rougall Major
Commanding Cdn Base Units, Cdn. Army. 1st Cdn Inf Bde H.Q. Unit
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 12th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~ Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 12th day of April 19 41.

R.M.P. Rougall Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 14th day of April 19 41.

L. F. Fuller. Brigadier
Confirming Officer.

H17001 Pte Topham H.W.

Promulgated and extracts taken in the case of

(*a*) (Dated) 19th May/41 (Signed)

Promulgated and extracts taken in the case of

(Dated) 1' (Signed) No. 3 Canadian Inf. Bridl. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(44755) Wt. 40119—181 200 m 1940 P. St. G. 840

Army Form B 252

CHARGE SHEET

The accused H 17001 Pte TOTHAM H.W. (Princess Patricia's Canadian Light Infantry) No. 3 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with, while on active service,

Charge 1. ABSENTING HIMSELF WITHOUT LEAVE

in that he

A.A. Sec 15 (1)

at Lingfield, Surrey, was absent without leave from 14th day of October 1940 until apprehended by the Civilian Police at Portsmouth on the 15th day of November 1940. Absent 31 days.

Charge 2. ABSENTING HIMSELF WITHOUT LEAVE

in that he

A A SEC 15 (1)

at Bramshott Hospital, when in arrest at 1315 hours on the 9th day of December 1940 was absent without leave until apprehended by the Civilian Police at Crawford Lanarkshire on the 29th day of January 1941, thereby causing expenses to the amount of £5-18-5 for his apprehension and return. Absent 51 days.

Lieut Colonel
(D.L. Redman)
Officer Commanding
No. 3 Cdn. Inf Holding Unit

Dated at Witley Camp, Surrey,
this 1st day of March 1941.

To be tried by Field General Court Martial

Brigadier
Commanding Cdn Base Units.

Bordon Hants
This 10th day of April 41.

12th April 1941

I certify that I have examined No.H-17001 Pte.Topham,H.W. and find him fit to undergo trial.

B Rhodwell Capt RAMC

H-17001, Pte. Topham, H.W. (PPCLI Fd. Unit) No. 3 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 12th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. A. McCullie
Defending Officer - Lieut. J.E. Thompson

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Q5 - Do you wish to make any statement in mitigation of punishment?
A5 - No, sir.
Q6 - Do you wish to give evidence yourself or to call any witnesses as to character?
A6 - No, sir.

Lieut. A. McCullie, No. 3 Cdn. Inf. Holding Unit, is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused?
A7 - A.F.B. 296 and M.F.M. 6, sir.
Q8 - Is the accused the person named in the statement which you have heard read?
A8 - Yes, sir.
Q9 - Have you compared the contents of the above statement with the regimental books?
A9 - Yes, sir.
Q10 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A10 - Yes, sir.

The accused declines to cross-examine.

Q11 - Do you wish to address the Court?
A11 - (Defending Officer) The accused has been in custody since his last arrest for 2½ months and also for one month prior to that time. He has pleaded guilty and thrown himself on the mercy of the court and is prepared to take in good spirit the punishment meted out. He is determined to make himself a good soldier after he has served his sentence on these two counts.

The Court is closed for the consideration of the sentence.

Summary of Evidence

In the case of H - 17001 Pte Topham H. W.

1st Witness for the Prosecution - Lt. F. M. Pardee, No.3 Canadian Infantry Holding Unit, Having been duly sworn states:
" I am Lt. F. M. Pardee, of No.3 Canadian Infantry Holding Unit. I am the Officer in charge of the Records Office of the said Unit and I submit:

1. A certified copy of a Declaration of a Court of Inquiry concerning the absence of the accused dated 5th November 1940

2. A certificate of Apprehension of the accused dated 16th November 1940.

3. A certified copy of a Declaration of a Court of Inquiry concerning the absence of the accused assembled 4th January 1941.

4 A certificate of Apprehension of the accused dated 8th February 1941.

5 A statement of expenses incurred bt the C.P.C. as Exhibits Nos 1,2,3&4 for the Prosecution and duly initialed by me for the purpose of identification"

F M Pardee
(F.M. Pardee) Lt.

The accused declines to question the witness

The accused states that at this time he does not wish to make a statement or produce witnesses

Thos H Knight
(Thos.H. Knight) Lt.
Adjutant No.3 C.I.H.U.

Icertify that all the provisions of the Rules of Procedure 4(c), 4(d) & 4(e) have been duly complied within connection with the above Summary of Evidence.

Thos H Knight
(Thos. H. Knight) Lt.
Adjutant No.3 C.I.H.U.

Dated at Witley , Surrey, this
28th day of February 1941

RECORD of the Declaration of a Court of Inquiry assembled at Bramshott on the Fourth day of January, 1941, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.H.17001, Pte. Topham, H.W. (3rd Cdn. Inf. Holding Unit).

D E C L A R A T I O N

The Court declare that H.17001, Pte. Topham, H.W. No.3 Cdn. Infantry Holding Unit, illegally absented himself without leave (or other sufficient cause) at No.15 General Hospital, R.C.A.M.C. at Bramshott, on the ninth day of December, 1940, at 1315 hrs., that he is still so absent on the fourth day of January, 1941.

Names of President and Members.

Major R. C. Montgomery - President
Capt. R. C. Dickson - Member
Capt. H. C. Hair - Member

Signature of Commanding Officer, V.C., A., Hae, Colonel....

Certified Copy

Signature of Officer holding Original .....
(R. C. Montgomery) Major
Registrar
No.15 Gen. Hospital, RCAMC

STATEMENT OF EVIDENCE IN THE CASE OF

Pte.Topham H.W. H-17001
P.P.C.L.I.

Sir,

At London on the 15-11-40 at about 2330 hrs. I was detailedto proceed to Portsmouth here to take in to custody the a/m mentioned soldier who was A.W.L. I escorted him back to London to the C.P.C.H.Q.were he was turned over to the N.C.O.i /c of cells to be detained

London
16--11-40 .....L/Cpl.
Can.Provost Corps

I have read over and corroborate the above staetment

London
16-11-40 .....L/Cpl.
Can.Provost Corps

CRIME

P.P.C.L.I. 1st Div.

SQUADRON, BATTERY OR COMPANY

Bordon

CHARGE against No. H-17001 Pte.Topham H.W.

Place	Date of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awarded
London	16-11-40	1) W.O.A.S. was absent without leave from.....until apprehended at about..... ..... at Portsmouth. 2) Escaping close arrest. (See attached report)	L/Cpl. Wilson Can.Provost Corps L/Cpl.Osborne J. Can.Provost Corps.		

CAPT.
O.C. No. 6 COMPANY
CANADIAN PROVOST CORPS.

Service years

Number of good conduct badges

Date of last entry in company conduct book

Character

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last 12 months

Commanding.

M. F. B. 264

H. Q. 1772-39-90.

Ref:- K.R.& O.(Can.)539

Regt.No:- H-17001

Rank:- Pte.

Name:- Topham, H.

Regiment:-

Unit:- #3 Inf. Holding Unit.

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from:- Glasgow to London

DATE	PARTICULARS	AMOUNT		
8-2-41	Portion of escorts' return fare:	~~1~~	1	1
	Prisoner's single fare(full single fare)	3	1	7
	Portion of escorts' expenses(bed and breakfast for escorts) meals for escorts and prisoners:		15	9
	Total:	5	18	5
	Cost of railway fare from London to Witley will be recovered by Army form B 85			
	I certify that the above statement of charges are true and correct and that receipts have been received in that amount.			

J Harris Sgt D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA.

TOTAL £5 18s 5d

(P.T.O.)

K.R.& O.(Can.) 539

"Where expenses have been incurred for the purpose of effecting the arrest of a soldier who is a deserter or absentee without leave(including any reward payable for such arrest)and for the return of such soldier to his corps,which under the Pay and Allowance Regulations may be awarded by such soldier's commanding officer or in case he is tried by court-martial,or if he is on board one of his Majesty's ships,by the commanding officer of the ship,and which upon such award may be deducted from the ordinary pay of such soldier,the sum required to make good such expenses shall be included in the particulars of the charge of desertion or absentee without leave,as the case may be,on which such soldier is tried."

NOTE:-

The expenses over leaf have been recovered by this unit from Public Funds through the command paymaster,and are to be charged against the soldier through your unit Part 11 Orders.

--------oOo--------

Statement of EVIDENCE in the case of

H-17001 Pte. Topham, H.
#3 Inf. Holding Unit.

Sir,

At London on the 6-2-41 at about 13.00 hrs. I was on duty at C.P.C.H.Q. when I was detailed to go to Barlinnie Prison Glasgow to pick the a/m soldier. Upon arriving there I found out that the a/m soldier had been apprehended by the Lanark Civil Police and brought to Barlinnie Prison. I asked him for his pass. He could not produce one. He was A.W.L. I placed him under arrest and escorted him back to C.P.C.H.Q. London where I turned him over to the N.C.O. i/c cells to be detained.

A further statement of evidence will be forwarded from the Lanark Civil Police.

London
8-2-41 ....D.K. Carley.....L/Cpl.
Canadian Provost Corps.

Sir,

I have read over and corroborate the above statement.

London
8-2-41 .....L/Cpl.
Canadian Provost Corps.

REMARKS

CHARGE

Army Form B 252
See King's Regulations

"3 Inf. Holding Unit.
"

Regiment / Battery / Squadron / Troop or Company

CHARGE against No. H-17001 Rank Pte.

Name Topham. H.

Place London Date of Offence 8-2-41

OFFENCE W.O.A.S. Absent without leave from ....until apprehended at about 10.00 hrs. on the 7-2-41.

A McCarthy MAJOR
A.P.M. CANADIANS
LONDON AREA.

Names of Witnesses :—

L/Cpl. McCarthy Canadian Provost Corps.

L/Cpl. Gayet, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

(4753) Wt.W1935/261 1,000,000 7/40 K. & H. Ltd. G.62/147

P.T.O.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Godstone, Surrey on the 5th day of November, 1940, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H17001, Pte. Topham, H.W., P.P.C.L.I.

DECLARATION.

The Court declare that No. H17001, Pte. Topham, H.W., P.P.C.L.I., illegally absented himself without leave at Lingfield, Surrey, on 14 Oct 40, that he is still so absent and that on the 5th day of November, 1940, he was deficient, and that he is still deficient of the following articles:

ARTICLES	VALUE
1 Battle Dress, Blouse	22/6
1 " " Trousers	20/6
1 pr. Anklets, web	3/11
1 Cap, F.S.	2/2
1 Steel Helmet	7/-
1 Respirator, A.G., Complete	17/11
1 Shirt, Anola, drab	10/-
1 pr. Drawers, woollen	3/-
1 Mess Tin, Rectangular	2/3
1 Water Bottle, Mk.VI	3/-
1 Cape, A.G.	13/6
1 Sheet, Ground, Mk.VIII	10/-
1 Brush, shaving	1/2
1 Pr. Boots, Ankle	22/6
TOTAL	£6-19-5

Names of President and Members

PRESIDENT: Capt. V.E.C. Odlum, P.P.C. L.I.

MEMBERS: Lieut. D.J. Corrigall "
" D.W. McLean "

Signature of Commanding Officer H.W. Topham Lieut.Col.
Commanding, P.P.C.L.I.

CERTIFIED TRUE COPY

H.W. Topham Lt.Col.
Signature of Officer having custody of the Original Record.
Commanding, P.P.C.L.I.

(12251) Wt.34315/1622 75,000 10/39 A.& E.W.Ltd. Gp.498 Forms/B/115/39

Certified Copy

No. H17001 Name TOPHAM, W.H. Sqn., Battery or Company A Corps PPCLI E.A.S.F. Date of enlistment 4.3.40 G.C. Badges Service or Proficiency Pay Character

Sheet No. 1 (DUP) Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 133) 100M—8.39 (27033) H.Q. 1771-45-12

Date of last entry in Company Conduct Sheet NIL No. and date of last drunk NIL Period not reckoning toward freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	19/9/40	Pte		Was at Petersfield did misconduct himself - i.e. wearing full Corporals stripes	Lt Narvanen	Admonished		Major J.B. Sinclair	Error - Badges explained
Bordon	20/9/40			Was absent from 2300 hrs 24/9/40 to 0130 hrs 26/9/40 (absent 1 day. 7 hrs. 30 mins)	Sgt Atkinson	15 days C.B. Attention 2 days pay forfeited		Lt. Col. Redman	
(Field) C.A.S.	20/9/40		NIL	Was absent from 1600 hrs on parade till reporting to I see NCO at 1900 hrs (2) absent from 1930	Cpl Brown	7 days C.B.	25.9.40	Capt Watkinson	

Wm Foster, Lieut

for OFFICER COMMANDING

(P.T.O.)

Description of Court by which Tried, or Status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of Jan 41

(D.L. Redman) Lt.Col.
Officer Commanding
No. 3 Canadian Infantry Holding Unit

Army Form B286.

Statement as to Character and Particulars of Service of Accused.

No. H-17001 Pte Topham H.W. of the 3rd Canadian Infantry Holding Unit

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 864, K.R., 1940.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	2	times	2	times.
For Misrepresentation of Rank	1	times	1	times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

Wt. 42946/804 20,000 2/40 W. & L.Ltd. 51—6004

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for .....
beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges

for ..// days in Civil Custody,

and ..#/ days in Military Custody.

Total ..?? days.

Of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service attestation paper is 22

6. The date of his ~~enrolment~~ commission attestation specified in his ~~attestation paper~~ record of service attestation paper is 8/3/40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 Year

8. The accused is entitled to deferred pay or gratuity in respect of 1 years' service.

9. The accused is entitled to reckon 1 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to .....]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated ....., and in his regiment (*or* corps *or* department) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	, years,	.....
In the rank of	, years,	.....
In the rank of	, years,	.....

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the .....

Note.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be entered

Description of Court by which tried, or status of Officer dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or of Order of the Dispensing Authority	Punishment remitted

Continued overleaf

JK-76

Rev. Tarok, D.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 115119 Pte Domokos Delbray TOROK 7 CIR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(2)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for 6 Months beginning on (date) 1st April 45.(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To Undergo Detention for Six (6) Months -

(Sgd) ..... 26 May 45 (Sgd) E.W. Mueller
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

E.W.M.

I ~~direct that the accused be not committed to prison or detention barracks~~ until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) E.W.Haldenby Brig
Date 30 May 45 Commanding Coms 14 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A 115119 Pte. Domokos Delbray TOROK	6 June 45 D.O. No 46 d. 6 June '45	E.W. Mueller Major No 3 Cdn Mil Trg Prison & Det Bks

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 13 JUN 1945 JUDGE ADVOCATE GENERAL'S OFFICE

RECORDED AT CMHQ IN AB 100, 5K-76.

CPA96 (In lieu of APA81) 40/P & B/1698 16(44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Brig E W Haldenby Comd 14 CITBde dated 24 May 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 115119	Pte	Domokos Delbray	TOROK	7 CITR

PROCEEDINGS REVIEWED
15 June 45 J. J. Brodie Capt
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 26 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1144 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs~~ the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to Sgt/A Reed as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E. W. Mueller ED/CC	HQ CRW
Member	Capt	J. L. Brown	2 C I 2R
Member	~~Capt~~ Lieut	W. A. Oueller	9 C I 2R
~~Judge-Advocate~~			
Prosecutor	Lieut	D. A. R. Mars	7 C I 2R
Defending Offr	Lieut	J. R. MacMillan	7 C I 2R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against ~~the accused~~ on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Nu Sir I'm back
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Nothing could I say more than has been said (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A.115119, Private Domokos Delbray TOROK, 14 Canadian Infantry Training Battalion, on strength of 7 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

Sec. 15(1) Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Dunley Hill Camp, Surrey, England, when in confinement, absented himself without leave from 0800 hours, 23 April, 1945, until 1430 hours, 9 May, 1945. (Total absence 16 days, 6 hours, 30 minutes.)

.....
(J.A. Calder) Lt col
A/Commanding
7 Cdn Inf Trg Regiment

IN THE FIELD
21 MAY 45.

To be tried by Field General Court Martial.

(E W Haldenby) Brig
Comd
14 Cdn Inf Trg Bde

24 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 115119	Pte		Domokos Delbray	TOROK	7 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [redacted] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 May 45 endorsed by me, [redacted]" To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

[redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E M Miller	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO 2 Cdn Inf Trg Regt	2 CITR
Captain	To be detailed by CO 9 Cdn Inf Trg Regt	9 CITR
[redacted]		
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
[redacted]		
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 24 May 45

E W Haldenby (Signed personally. RP 105 fn 2.)

(E W Haldenby) Brig
Commanding 14 Cdn Inf Trg Bde
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. A-115112 Pte Torok D.D.
of [illegible] is in a good state of health,
and fit to undergo Trial by Court martial.

T. Lippert Capt
Medical Officer

Station Field

Date 26 May 1945

M. F. B. 246
SEM—6-41 (792)
H.Q. 1772-39 480

CASE OF

E-1 A-115119 Private TOROK, D.D., 7 CITR

The accused, sworn, states:-

Well, Sir, I have been on the loose because six months' punishment was too much for me and another thing, I was not getting enough to eat for the amount of work I was given. I was eating in the cook-house, getting the same as the rest but that was not enough for the amount and type of work I was doing. I was working night and day piling stones on a two-wheel cart and pushing it along; I was also given dirty jobs like digging holes which included working on Sundays too. Another thing, I had to sleep in the guard-room with only two blankets and was cold all night. I asked for a chance to take a shower or a bath after work and I was refused by Cpl Clark, RP in the guard-house. I had to complain to the Orderly Offr every time before I could get my shower. I went away and I was sorry the first day I left. I was going around from one place to another and finally decided to come back on my own and I did so sober and properly dressed. I'd like to be a good soldier but I got into so much trouble. About the six months, I didn't like to be locked up like that. I always came back on my own when I was on the "loose" except one time in Brighton when I was on my way back.

PRES OF THE CT TO PROS OFFR

Q. Have you any question?
A. No, Sir.

QUESTIONS BY THE COURT

Q. What did you do in civil life?
A. General labour, Sir.

Q. Are you married?
A. Single, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B).

SUMMARY OF EVIDENCE in the case of A.115119 Private Domokos Delbray TOROK, 14 Cdn Inf Trg Bn, on strength of 7 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas.

Charges

1. WHEN IN CONFINEMENT ESCAPING
2. WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

By the direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution.

L.608428, Private A. Chalanczuk, 14 Cdn Inf Trg Bn, on strength of 7 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

"At Dunley Hill Camp, Surrey, England, on 23 Apr 45 at approximately 0800 hours I was on duty as a member of Regimental Police. Private Torok asked me if I would take him out to the latrine. I took him out and while we were there we both sat on the seats in the same latrine. He finished before I was through and after he had finished he walked out, saying "It smells". I ordered him to stop and he just walked out. Before I had put my trousers up, he was gone. I looked around but could not see him. I went and reported his escape to L/Cpl E.L. Hynes on duty in the Battalion Guard Room. I joined in the search around the camp."

A Chalanczuk
(L.608428 Pte A Chalanczuk)

The accused declines to cross-examined this witness.

SECOND WITNESS for the prosecution.

B.123827, Corporal R.A. Clark, 14 Cdn Inf Trg Bn, on strength of 7 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

"At Dunley Hill Camp, Surrey, England, on 23 Apr 45 at approximately 0800 hours it was reported to me by Pte A Chalanczuk that Private Torok had escaped while under escort to the latrine. Pte Torok at that time was confined in the Battalion Guard Room pending transfer to a detention barracks to serve 6 months detention awarded him by FCM on 14 Apr 45. I was on duty and immediately notified the RSM and the Adjt. I then placed my men out on the road and at such places as I saw fit around camp. We searched the bush until approximately 1300 hours, 23rd Apr 45 but without success. On 9th May 45 at 1430 hours, Pte Torok on his return reported to me sober and properly dressed. I placed him under close arrest and notified the Adjt of his return.

B.123827 Cpl R A Clark
(B.123827 Cpl R A Clark)

The accused declines to cross-examine this witness.

THIRD WITNESS for the prosecution.

CAPTAIN W. MacKAY, 14 Cdn Inf Trg Bn, on strength of 7 Cdn Inf Trg Regt, an officer of the Canadian Army Overseas, having been duly sworn, states as follows:
"I produce a certified true extract of Pt II Order No.89, dated 28 Apr 45, pursuant to A.A.163(1)(J) signed by myself as Adjt 14 Cdn Inf Trg Bn, relating to the accused, whom I now recognize."(Certificate marked as exhibit "A").
"I produce a certified true extract of Pt II Order No.96, dated 7 May 45, pursuant to A.A.163(1)(J) signed by myself as Adjt 14 Cdn Inf Trg Bn, relating to the accused, whom I now recognize."(Certificate marked as exhibit "B").

"I produce a certified true extract of Pt II Order No. 98, dated 10 May 45, pursuant to A.A.163(1)(J) signed by myself as Adjt 14 Cdn Inf Trg Bn, relating to the accused, whom I now recognize."(Certificate marked as exhibit "C".)
"I produce a certified true copy of Guard Report, dated 9 May 45, pursuant to A.A.163(1)(J) purporting to be signed by the Guard Commander B.123827, Cpl R.A. Clark, relating to the accused, whom I now recognize."
(Certificate marked as exhibit "D").

(W. MacKay)Capt & Adjt
14 Cdn Inf Trg Bn

The accused declines to cross examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d),(e),(f), and (g) have been complied with.

(A.D. Watson)Lieut.
Officer detailed to take the Summary of Evidence.

IN THE FIELD
11 May 45.

EXHIBIT "A"

7 CANADIAN INFANTRY TRAINING REGIMENT

DAILY ORDERS PART 11

ISSUED BY

COLONEL D.C. CAMERON, D.S.O., E.D.

Daily Order No. 89 d/28 Apr 45

8. ABSENT WITHOUT LEAVE

(a) AWL from 0800 hrs 23 Apr 45. Still absent 0800 hrs 24 Apr 45 (1st day)

A115119 Pte TOROK, D.D.

CERTIFIED TRUE EXTRACT

11 May 45. W. Mackay Capt.
(W. Mackay) Capt & Adjt
14 Cdn Inf Trg Bn
Officer having custody of original

EXHIBIT "B"

7 CANADIAN INFANTRY TRAINING REGIMENT

DAILY ORDERS PART 11

ISSUED BY

COLONEL D.C. CAMERON, D.S.O., E.D.

Daily Order No. 96 d/7 May 45

6. ABSENT WITHOUT LEAVE

(a) AWL from 0800 hrs 23 Apr 45. Still absent 0800 hrs 1 May 45 (8th day of absence)

A115119 Pte TOROK, D.D.

CERTIFIED TRUE EXTRACT

11 MAY 45 W. MacKay Capt

(W. MacKay) Capt & Adjt
14 Cdn Inf Trg Bn
Officer having custody of original

97

EXHIBIT "C"

7 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART 11

ISSUED BY

COLONEL D.C. CAMERON, D.S.O., E.D.

Daily Order No. 98 d/10 May 45

4. ABSENT WITHOUT LEAVE

(a) AWL from 0800 hrs 23 Apr 45. Ret'd from AWL 1430 hrs 9 May 45.

A115119 Pte TOROK, D.D.

CERTIFIED TRUE EXTRACT

11 MAY 45 H. MacKay Capt.
(W. MacKay) Capt & Adjt
14 Cdn Inf Trg Bn
Officer having custody of original

97

EXHIBIT "D"

RETURN of Offenders Confined to the Guard Detention Room at Dunley Hill Camp on 9 May 1945

No.	Regt. No.	RANK AND NAME	Corps	When Confined	Date of Offence	CHARGE	EVIDENCE	DECISION	REMARKS
A	115119	Pte TOROK, D.D.	HQ Coy	9 May 45	23 Apr 45	Absenting himself without leave whilst in confinement			Returned voluntary sober & properly dressed at 1430 hrs

Certified True Copy
11 May 45
(W MacKay) Capt & Adjt
Officer having Custody of Original

(OVER)

Soldiers under Sentence Confined in Detention Barracks or Civil Prison

No.	Corps	Coy. Etc.	RANK AND NAME	SENTENCE	HOURS DONE	HOURS TO DO	REMARKS

Station

REPORT OF THE

MCO. I/C Regt'l Police

Mounted at (Hour) (Date)

Dismounted at (Hour) (Date)

To the Officer Commanding 14 Bn, 7 CITR

Royal

Report of Offenders, and Soldiers under Sentence, Confined in the Hospital

No.	Regtl. No.	RANK AND NAME	Corps	Coy. Etc.	DATE OF OFFENCE	Days	Nights	REMARKS

Commanding Guard

OBSERVATIONS

	Hours	Degrees
Extreme of Temperature	Max.	
	Min.	
	Hour	
Rain		
Snow		
Duration in hours		
Rainfall		
Duration in hours		
Rainfall		
Duration in hours		

I certify that the observations, thermometer were taken by me. The hours of snow and rain reported by the sentry were entered in the Observation Book in the Guard Room.

Commanding Guard

| DETAIL | | | | SENTRIES | | ARTICLES IN CHARGE OF GUARD | | | | | | | |

M.F.B. 355
20M—9-42 (5092)
H.Q. 1772-39-629
A.F.D. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.115119	Private	Demokos Delbray TOROK	14Bn, 7 CITRegt

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL	Two times	AWL	Six times
For	Failing to appear	Two times	Failing to appear	Two times
For		times	Conduct to the prejudice	One times
For		times		times

Previous convictions of the accused by a court-martial or a civil court of summary awards under Section 47 of the Army Act are set out in the Schedule annexed to this statement.

3. The accused was sentenced to 6 months - AWL

The accused at the present time is under sentence for AWL beginning on the Fourteenth day of April, 1945.

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 26 years, 4 months.

6. The date of his enrollment specified in his record of service is 28 Aug 41.

7.

8.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps) the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number A.115119 Rank Private Unit

Name Donskoe Delbray TOROK of 14 Bn, 7 Cdn Inf Trg Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	14 Apr 45 Storington, Sussex, Eng.	Sec15(1)AA. In that he, while adet for a defaulter broke out of barracks and absented himself without leave from 0730 hrs 18 Mar to 2320 hrs 30 Mar 45(Total absence 12 days 15 hrs 50 mins)	To undergo period of six(6)mths.	N/A

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of May, 1945. (W.Cdr.A.J.)Cpt&Adjt
C.G.C. Fact Books

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

3/17 MFM 6
(AFB 122)
40/PAM/156 (7010)

No. A115119 Name TOROK D.D. | Sqn, Battery, or Company N/A | Corps C.I.C. | Date of enlistment 28Aug41 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature OC Company, etc J.A.BIRD MAJOR | Character

Place	Date of offence	Rank	Cases of drunken case	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				New sheet created after 6 months service.					
Orillia	20Jul42	Pte		(Sec 15 AWL 0600 hrs 20Jul42 until 0230 hrs 21Jul42	L/Cpl Ferren	7 days CB	21Jul42	Greenfield Lt-Col	Forf 1 days pay
Orillia	5Aug42	Pte		Sec 15 AWL 0600 hrs 5 Aug42 until 0405 hrs 6 Aug42	Rfn Henn NF	7 days CB	6Aug42	JJ Sutclif Major	Forf 1 days pay
Orillia	7Sept42	Pte		Sec 15 AWL 0200 hrs 7 Sep42 until 7 Sep 42 0740 hrs	Sjt Heard WE	7 days CB	7Sep42	Greenfield Lt-Col	Forf 2 days pay
Orillia	18Oct43	Pte		Sec 15 AWL 0600 hrs 18Oct43 until 0720 hrs 4 Nov 43(Close Arrest)	Cpl Armstrong	Admonished	4Nov43	C.Lancaster Lt-Col	Forf 18 days pay
Orillia	6Nov43	Pte		Sec 15 Failing to appear on parade appointed by a superior officer	L/Cpl Todd	14 days CB	6Nov43	C.Lancaster Lt-Col	
Orillia	17Nov43	Pte		Sec 40 AA Conduct,etc,talk back to Sjt (2)conduct,etc,swung at Cpl with steel helmet (3)while inlawful custody attempting to escape (Sec 22 AA)	L/Cpl Saunders Sjt Walters	28 days detention	17Nov43	CRJ Landcaster Lt-Col	

(PTO)

Place	Date of offence	Rank	Corps of Regiment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Orillia	6Nov43	Pte		Sec 15 AA Failing to appear at a place app by his sup officer	L/Cpl Todd	14 days CB	6Nov43	CRJ Landaster Lt-Col	
Orillia	19Aug44	Pte		Sec 15 AA AWL 2359 hrs 19Aug44 to 0645 hrs 20Aug44 (Ld 6h 46m)	Sjt Heard WE	4 days CB	21Aug44	JD Teegood Major	Forf 2 days pay FR&I
Barkfeld Camp	11Mar45	Pte		Certified Correct as of 9 Feb 45(CRR) AA Sec 15 (L)AWL from 0001 hrs 11Mar45 until arrested in Brighton at 2345 hrs 12Mar45 thereby incurring cost of apprehension to his unit in the amt of 15s 6d. (Total absence 1 day, 23 hrs 44 mins)	Documentary	6 days pay 14 days CB Stoppage of pay in the amount of 15s 6d cost of appreh	16 Mar 45	Lt-Col TR PREST	Auto forf 2 days pay FRI 149(1)(a)
Barkfeld Camp	16Mar45	Pte		(AA Sec 15(1) WOAS AWL broke out of barracks whilst a defaulter 0730 hrs 16 Mar 45 until 2330 hrs 31 Mar45 Total absence 12 days, 12 hrs 50 mins. Total forf 199 days pay.	Documentary	6 mos detention	14 Apr 45	FGCM	Forf 15days pay FR&I 149 (1)(c)(ii) Forf 13 days pay FR&I 149(1)(a)

CERTIFIED A TRUE COPY

(W MacKAY) Capt & Adjt 14 CITBn "Officer having custody of regimental books"

Trial of No. A.115119, Pte. Domokos Delbray TOMOK,
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt.

List of Exhibits

Certified true extract of Pt II Order No.89, dated 28 Apr 45.

Certified true extract of Pt II Order No.96, dated 7 May 45.

Certified true extract of Pt II Order No.98, dated 10 May 45.

Certified true copy of Guard Report, dated 9 May 45.

(W. MacKAY) Capt & Adjt
14 Cdn Inf Trg Bn.

11 May 45.

Trial of No. A.115119 Pte. Domokos Delbray TOROK,
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

List of Witnesses for the Prosecution

Capt W. MacKay, Adjutant, 14 Cdn Inf Trg Bn, Dunley Hill.

L.608428, Rrivate A. CHALANCZUK, 14 Cdn Inf Trg Bn, Dunley Hill

B.123827, Cpl R.A. CLARK, 14 Cdn Inf Trg Bn, Dunley Hill

Dated at Dunley Hill Camp, Surrey, England, this 11th day of May, 1945.

(W. MacKay) Capt & Adjt
14 Cdn Inf Trg Bn

I, A.115119, Private Domokod Delbray, TOROK, desire to have an Officer assigned to represent me at my trial by Court-Martial.

(I desire the services of LIEUTENANT JOSEPH ROLAND MacMILLAN if he is available)

D D Torok

A.115119 Pte D D TOROK

May 11, 1945

BE-115

Th. Torok, D.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.115119 PTE TOROK, D.D., 7 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st (AWOL 14 days)	NOT GUILTY	NOT GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Six (6) months

(Sgd) ..... Judge-Advocate, if any. 14 Apr 45 Date awarded. [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Commanding ..... Confirming Officer.

Date 16 Apr 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A 115119 Pte Torok, D.D.	18 Apr 45	[signature]

Published DO No 82 d/20 APR 45 [signature] 14 Apr 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 56-115

27 APR 1945 JAG BRANCH C.M.H.Q.

CPAGE (In lieu of AFAA) 40/1 & B/1698 (A144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convening Officer: Brig EW Haldenby Comd 14 Cdn Inf Trg Bde Dated: 13 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-115119	Pte	Domokos Delbray	TOROK	7 CITR

PROCEEDINGS REVIEWED [signature] 17 Apr 45

JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 14 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to SGT SINCLAIR AH as shorthand writer? Ans NO SIR

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. BEDMAN	HQ CMR
Member	CAPT	J.E.M. CONTENT	7 CITR
Member	LT	A. LAPALME	9 CITR
~~Judge-Advocate~~			
Prosecutor	LT	E.F.S. SANDERS	7 CITR
Defending Offr	LT	M. HEATH	7 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes an (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 50(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NO SIR (NOTE DTD)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323. MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A115119 Pte Domokos Delbray TOROK, 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

CHARGE — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

Section 15(1) ARMY ACT

in that he

At Barkfold Camp, Sussex England broke out of barracks while a defaulter and absented himself without leave from 0730 hrs 18 March 1945 until 2320 hrs 30 March 1945. (Total absence 12 days, 15 hours, 50 minutes).

(D. C. CAMERON)Colonel
Officer Commanding
7 Cdn Inf Trg Regt

IN THE FIELD
5th April, 1945

To be tried by Field General Court Martial.

13 Apr 45
In the Field

(E W Haldenby) Brig
Comd
14 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 61, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-115119	Pte		Domokos Delbray	TOROK	7 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". Cwtl

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) Cwtl

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Cwtl

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ Cwtl

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	DL Redman, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC	9 CITR
Lieut	To be detailed by OC	9 CITR

~~WAITING MEMBER~~ Cwtl

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~ Cwtl

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 13 Apr 45

Cwtaldenby (Signed personally. RP 105 fn 2.) (Rank.)

(E W Haldenby) Brig

Commanding 14 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CERTIFICATE OF MEDICAL FITNESS

DATE 14 APR 45

This is to certify that A115119 Pte Lomoko Delbray Frank has been medically examined and found fit to undergo trial by Court Martial

(A E BUCKWOLD) Capt
RCAMC
14 Cdn Inf Trg Bn

STATEMENT IN MITIGATION. E-3

This man volunteered in July 1941 for service with the Navy, and was instructed to return at a later date. But a short time later, in August of 1941, he received his call to the army. In Sept. of the same year, at his own request, he was paraded to the Naval recruiting station at London, Ont., but heard nothing more. Again in Oct. he was paraded, still nothing. He was then placed on general duties in the Sgts. mess, on which job he was kept until Aug. 1944. Throughout this period he persistantly tried to transfer to the Navy, but made no headway. At that time, deciding that further effort was useless, he volunteered for Active Service. He then retook his Basic and Advanced Training, in which he was interested, and did quite well. He is, in fact a Marksman with both the rifle and L.M.G. He then proceeded overseas and was posted to 14 C.I.T.B.

On the night of the 14th. March he proceeded on pass to Worthing, by train. But on attempting to return to camp by Recreational transport, he was told that only those who had come down by it could return. He then attempted to return to camp on foot, but became lost and decided to stay in town. For this he received what he considered a very heavy and unreasonable sentence. This, coupled with the belief that his brother was in the near district, lead him to commit this act. Finding no trace of his brother, he decided to return, complete his training and join his brother, whom he now believes to be overseas. This man's record, filled with good good intentions, seems to show that his few troubles have been caused by poor judgement and memory.

I ask the Court's indulgence on passing sentence.

M.HEATH. Lt.

SUMMARY OF EVIDENCE

In the case of A115119 Private Domokos Delbray Torok 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

CHARGE 1 — When on Active Service, breaking out of Barracks, in that he, at Barkfold Camp, on 18th March 1945, broke out of Barracks when a defaulter.

CHARGE 11 — Absenting himself without leave, in that he at Barkfold Camp, absented himself without leave from 0730 hours 18 March 1945 until 2320 hours 30th March 1945. (Total absence 12 days, 15 hours, 50 minutes)

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

K50114 Corporal E.P. Brooke 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Regiment a soldier of the Canadian Army Overseas having been duly sworn states as follows: I am K50114 Corporal E.P. Brooke Orderly Corporal "D" Coy 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment. At Approximately 0730 hours 18th March 1945 I was Orderly Corporal "D" Coy and I called the roll in "D" Coy Lines, and Private Torok, D.D. a defaulter, failed to answer his name at that time. I checked and found that he had not slept in his bed that night. I then checked with the Regimental Police and found that he had not reported on the defaulters Parade that morning. I then turned in an Absentee Report on him to the Battalion Orderly Room. On the 31st March 1945 at approximately 1000 hours I received a message from the Regimental Police to the effect that Private Torok, D.D. had reported into the Guard Room at 2320 hours 30th March 1945.

E P Brooke

K50114 Cpl E.P. Brooke

The accused declines to cross examine this Witness

SECOND WITNESS FOR THE PROSECUTION

B59774 Private O.R. Sagle 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment a soldier of the Canadian Army Overseas having been duly sworn states as follows: I am B59774 Private O.R. Sagle and was on duty in the Regimental Guard Room on the 30th March 1945 when at 2320 hours Private Torok, D.D. reported in to me. I placed Private Torok under close arrest and sent a message to "D" Coy Orderly Room to the effect that Private Torok was now in custody.

O R Sagle

B59774 Pte O.R. Sagle

The accused declines to cross examine this Witness.

SUMMARY OF EVIDENCE

THIRD WITNESS FOR THE PROSECUTION

Captain William MacKay 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment an officer of the Canadian Army Overseas having been duly sworn states as follows: I am Captain William MacKay Adjutant 14 Canadian Infantry Training Battalion. I produce certified true copy of extract from Daily Order Part II No. 57 dated 20 March 1945; ~~Late from Pass Reburn 0/1 Apr 45~~ Remanded ~~apr~~

W MacKay Capt.

(W MacKay) Capt & Adjt
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

The accused declines to cross examine this witness

The accused was cautioned as follows: Do you wish to make any statement or give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence.

The accused A115119 Pte Torok, D.D. 14 Canadian Infantry Training Battalion, 7 Canadian Infantry Training Regiment a soldier of the Canadian Army Overseas declines to make any statement or to give evidence on Oath.

Torok D.D.

A115119 Pte D.D. Torok

I certify that the foregoing Summary of Evidence was taken down by me in the presence and hearing of the accused consisting of two pages, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

W.G. Woods

(M.G. WOODS) Lieut
Officer detailed to take this Summary of Evidence

14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

BARKFOLD CAMP, Sussex
4 Apr 45

EXA
My

EXTRACT FROM 7 CDN INF TRG REGT D.O. NO 57 d/20 MAR 45

7 CANADIAN INFANTRY TRAINING REGIMENT

DAILY ORDER PART II

ISSUED BY

Part Order
No 56
d/19 MAR 45

LT.-COL J.A. CALDER
A/OFFICER COMMANDING

No 57
d/20 MAR 45

CERTIFIED TRUE COPY OF EXTRACT FROM DO # 57 d/20 MAR 45

for Wartside(Capt)
Records Officer
7 CITR

11. ABSENT WITHOUT LEAVE:

(a) AWL frm. 2230 hrs 17 MAR 45. Still absent 2230 hrs 18 MAR 45 (1st day)

B.164355 Pte ROBBINS HE (13 Bn)
B.115170 Pte RYAN AL (13 Bn)

(b) AWL from 0730 hrs 18 MAR 45. Still absent 0730 hrs 19 MAR 45 (1st day)

A.115119 Pte TOROK DD (14 Bn)
C.123773 Pte TUGWOOD RH (14 Bn)

LIST OF WITNESS FOR THE PROSECUTION

K50114 Corporal Brooke, E.P.
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

B59774 Private Sagle, O.R.
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

Captain W. MacKay
14 Cdn Inf Trg Bn
7 Cdn Inf Trg Regt

M.F.B. 155
(6M—9-42 (5992)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

14 Cdn Inf Trg Bn
7 Cdn Inf Trg

Number	Rank	Name	Regiment (or unit)
A115119	Private	Domokos, Delbray TOROK	

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Field Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	WOAS A.W.L.	two times	A.W.L.	four times
For		times	"Failing to appear etc"	two times
For		times	"Conduct to the prej etc"	one times
For		times		times

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused.

Note.—If the charge is (or drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or civil court, of summary awards under Air Force Act A.F.A.70, Section 47 of the Army Act and dispensations with trial under A.A.C.78 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence of Beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 26 years 3 months attestation paper is

6. The date of his commission specified in his record of service is 30 Aug 44 attestation paper

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or military possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

EXB

11. (In the case of an officer) The accused holds in the Royal Canadian Air Force the rank of Pilot Officer.

dated ....., and in his regiment (or corps), the rank of unit

dated .....,

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~NINTH~~ 14 day of APRIL 1945 (W. M. RAY) Capt & Adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

O.i.C. Regimental Books

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Orillia	6-11-43	Pte		(Sec 15 A.A.)Failing to appear at a place app. by his superior Offr	L/C Todd	14 days C.B.	6 Nov 43	Lt-Col C.R.J. Lancaster	
Orillia	19-8-44	Pte		(Sec 15 A.A.) AWL 2359 hrs 19 Aug 44 to 0645 hrs 20 Aug 44(1d.6h.46m)	Sgt Heard W.E.	4 days C.B.	21 Aug 44	Major J.D. Toogood	Forf 2 days pay
				CERTIFIED CORRECT AS OF 9 Feb 45					
Barkfold Camp	11-3-45	Pte		A.A. Sec 15 (1) AWL from 0001 hrs 11 Mar 45 until arrested in Brighton at 2345 hrs 12 Mar45 thereby incurring cost of appreh to his unit in the amt of 15s 6d. (Total absence 1 day, 23 hours, 44 mins)	Documentary	6 days pay 14 days C.B. Stoppage of pay in the amt of 15s 6d cost of appreh	16 Mar 45	Lt-Col T R Prest	Auto Forf 2 days pay FRI 149 (1)A

CERTIFIED TRUE COPY

.....

(W MACKAY)Capt & Adjt.,
14 Cdn Inf Trg Bn
"Officer having custody of Regimental Books"

3/17 MFM 6 (AFB 122) 49/FA8/138 (5433)

No. A115119 Name TOROK, D.D. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 28 Aug 41 (CC Hedges) — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 2 — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				New sheet created after 6 months Service					
Orillia	20-7-42	Pte		(Sec 15 AWL. 0600 hrs 20 Jul 42 until 0230 hrs 21 Jul 42	L/Cpl Ferron	7 days C.B.	21 Jul 42	Greenfield Lt-Col.	Forf.1 days pay
Orillia	5-8-42	Pte		(Sec 15 AWL. 0600 hrs 5 Aug 42 until 0405 hrs 6 Aug 42	Rfn Herm. N.F.	7 days C.B.	6 Aug 42	J.J.Sutcliff Major	Forf 1 day pay
Orillia	7-9-42	Pte		(sec 15 AWL 0200 hrs 7 Sep 42 until 7 Sep 42 0740 hrs	Sjt.Heard.W.E.	7 days C.B.	7 Sep 42	Greefield Lt-Col	Forf 2 days pay
Orillia	18-10-43	Pte		(Sec 15 AWL 0600 hrs 18 Oct 43 until 0720 hrs 4 Nov 43(Close Arrest)	Cpl. Armstrong L/C	Admonished 14 days C.B.	4 Nov 42 6 Nov 43	Lancaster Lt-Col Lancaster	Forf 18 days pay
Orillia	6-11-43	Pte		(Sec 15 Failing to appear on Parade todd appointed by a superior Officer.					
Orillia	17-11-43	Pte		Sec 40 A7A.)Conduct etc. talk back tb the Sgt. (2) Conduct etc. swung at Cpl. with steel helmet.(3)while in lawful custody trying to escape (SRO 22 A.A	L/c. Saunders Sgt Waters	28 days detention	17 Nov 43	Lt-Col C.R.J. Lancaster	

(PTO)

I, A115119 Private Domokos Delbray TOROK, desire to have an Officer assigned to represent me at my trial by Court-Martial.

(I desire the services of LIEUTENANT MORRIS HEATH if he is available.)

(Signature) D D Torok

April 7th, 1945.

//

LIST OF EXHIBITS

1 Certified True Copy of extract from D.O. Part II No.57 dated 20 Mar 45

2 ~~Late from pass/Return dated 1 Apr 45~~

(W MacKay) Capt & Adjt
14 Cdn Inf Trg Bn

M.M-99

PTE TORRANCE G.A.

B-78867 Pte. Garfield Angus TORRANCE
R.H.C. - 5 C.I.R.U.

MM-11

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 11th day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [And that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer of, or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely—]

*Omit if not applicable.

22/8/43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	S.A. GERMAN	1 C.A.S.C.R.U.

Members

Rank.	Name.	Regiment.
Capt. A Captain	L.C. Fox to be detailed by O.C.	5 C.I.R.U.
Lieut. A Lieutenant	D.C. Grant to be detailed by O.C.	1 C.I.R.U.
Lieut. A Lieutenant	D.O. Hardy to be detailed by O.C.	2 C.I.R.U.
Waiting Member		

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J. Stewart Lang Brigadier

Commanding "G" Gp Cdn Rft Units, Convening Officer. C.A.(O)

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-78867 Pte. Garfield Angus TORRANCE R.H.C. 5 C.I.R.U.	First Charge A.A. Sec 15(1) SEE CHARGE SHEET ATTACHED	Guilty Guilty	To undergo detention for a period of Ninety (90) days and awarded Stoppages in the sum of Two Pounds Nine Shillings and One Pence (£2/9/1), cost of Apprehension 11 Aug 43 J.R. Sherman Brig Pres	Confirmed J.R. Sherman Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.R. Sherman Brig (Signed) J.R. Sherman Brig
Brigadier
Commanding "C" Gp Cdn Sft Units, 1 C.A.S.C. R.V.
Convening Officer (c) C.A.(O) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 11th day of Aug 1943

J.R. Sherman Brig
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 11 day of Aug 1943.

J.R. Sherman Brig
Confirming Officer.
BRIGADIER COMMANDING "C" Gp Cdn Sft Units

Promulgated and extracts taken in the case of B.78867 Pte TORRANCE, G.A. Authority Pt II D.O. # 139 d/13 August 43

(d) (Dated) 11 Aug 43 (Signed) J.R. Sherman Lieut a/t Adjutant 5 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(d) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22006) W1.58230/411 60,000 12/42 A.& E.W.Ltd. Gp.698

D.O. 139 d/13 Aug 43 EDB

CHARGE SHEET

The Accused No. B-78867 Private TORRANCE, Garfield Angus, The Black Watch (R.H.R.) of Canada, on the strength of 5 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE. Army Act Sec. 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

did absent himself from 1 Canadian Base Reinforcement Depot from 1800 hours 16th of June 1943, until surrendering to the Military Police at Manchester at approximately 2040 hours 12th of July 1943. Thereby incurring a cost of apprehension of £2.0s.1d.

Total absence 26 days 2 hours 40 minutes.

A.S. Pearson

(A.S. Pearson) Colonel,
Commander
5 Cdn Inf Reinf Unit

In the Field
10th day of August
1943

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

J.R. Stewart Lough

(J.R. Stewart Lough) Brigadier,
Commanding,
"G" Group Cdn Rft Units, C.A.(O).

Convening Officer.

11 Aug 43.

S. Dr. Pearson Brig
Pres.

Medical Officer's Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. B.78867
Pte. Torrance, G.A. and in my opinion he
is fit unfit to undergo trial by Court Martial.

Station 5 C.I.R.U.

Date 11 Aug 43.

Capt.
(Medical Officer) R.C.A.M.C.
5 Cdn Inf Reinf Unit.

GGP Form 10

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Aldershot ON THE 11th DAY OF August 43

TRIAL OF:- No. B 78867 Pte Barfield Angus Torrance Unit R.H.C. - S.C.I.R.V.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut J. H. Ackerman (Unit) H & P.E.R. - S.C.I.R.V.

Defending Officer:- (Name) Lieut J. C. Harby (Unit) C.I.C. - S.C.I.R.V.

At hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President Major S. P. Berman .....(Unit) I.C.H.S.C.R.

Members Capt. L. E. Pitt .....(Unit) Gen Duties S.C.I.R.V.

Lieut. D. C. Grant .....(Unit) Intelligence Officer I.C.I.R.V.

The officers under instruction are duly sworn.

Q2 Do you object to.....acting as Shorthand Writer? A2 -

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lieut J. H. Ackerman .....(Unit) Prod't Pl. 69 .....sworn, produces AFB 296 and AFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 -

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - O.R.O. 3262 Complied with

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED F.R. THE CONSIDERATION OF THE SENTENCE

Accused presents statement in mitigation which is signed by the President and attached to the proceedings. Defending Counsel makes address, presents written which is also signed by President and attached

S.P. Berman Maj

Plea in Mitigation by Defending Officer

v. B. 51675 Pte [redacted] Torrance, C.A.

Sir:

By the statement of the accused, wherein he told you of his being a stow-away on board a troop ship bound for England, the Court will be impressed by the fact that the accused is not lacking in the fighting spirit. On the contrary his action shows that he wanted to be in the thick of things. This is more emphasized by the fact that at that time Britain was suffering dark days of dreaded invasion. The accused is a trained member of the Carrier platoon, where he has driven and maintained vehicles for over a year. Suddenly on 15 minutes notice he is ordered to pack up and report to C.B.R.D. There he is put to work for 10 days digging in a garbage pile. I ask the Court to appreciate the state of this man's mind during those 10 days. This man who has a desire to fight and who is trained as a driver, is put to work on the incinerator for such a long period of time. He is separated from his friends in the field. There is only one outcome namely, the lowering of morale and a consequent mental depression, [redacted] which induced the accused to go A.W.L. I ask the Court to sympathize with the accused and to grant the accused clemency.

H. Kirby, Lieut
Defending Officer

K. A. Keenan Esq

Statement in Mitigation

Re: Pte Torrance, G.A., B. 78867.

Sir: I

I am 23 years old. I joined the army on May 17, 1940. While in Canada I was with the Irish Regiment. I wanted to go overseas very badly. So at Halifax Harbour I unlawfully boarded a troop ship bound for England. After having passed Newfoundland I gave myself up to the Sergeant of the Guard and I was remanded by the Colonel under close arrest until the ship reached England on October 14, 1941. At Aldershot I was charged before a Court Martial and was given 60 days which was nearly all remitted. On or about June 3rd, 1943, I was transferred from the field unit the Black Watch to C.B.R.D on 15 minutes notice. I was for one year previous to this transfer driver in the Carrier platoon as driver of Carriers, Motorcycles and transport. At C.B.R.D. I was given the unpleasant duty of working in the incinerator where garbage was sorted for salvage and the remainder burned. I did not like this at all, because I was trained as a driver. I became very fed up with the course which things were taking. The next day after I got off duty at the incinerator I went A.W.L. and after 26 days I surrendered myself to the Military Police at Manchester.

Witness:
Kirby Lieut.

Pte G.A. Torrance
B78867

A. Torrance Esq

Exhibit 74 - 65

FIRST ORDER ISSUED — REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT Part 11 Orders issued by CDN SEC GHQ 2nd ECHELON DET AT CAN RECORDS — No. 1 5 Aug 43.

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1. STRENGTH DECREASE

(i) S.O.S. to 5 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 1800 hrs 16 Jun 43
Auth - ESD/0010 d/26 Jul 43.
B78867 Pte Torrance, G.A.

(W.J.C. Johnston) Lieut.,
Cdn Sec. G.H.Q., 2nd Ech. Det. at Can Records

Certified true copy of extract taken from Rear Party Cdn Base Reinforcement Depot Part 11 Order No. 1 d/5 Aug 43.

.....Capt.
Records Officer,
5 C.I.R.U.

Exhibit B 6.

CERTIFICATE OF SURRENDER UNDER SECTION 153 (1) (d) A.A.

I, E.C.C. Garfit Certify that No. B.7880[illegible] Rank Pte Name Torrance G.A.

of ....Coy, ...Btn, The Black Watch of Canada ....Regiment,

Surrendered himself to No. 7988242 Rank Cpl Name Cawood D

Corps of Military Police, at Drill Hall Ardwick Green M/C ..., at 20.40 hours,

on the Twelfth (12th) day of July 1943 as a deserter (or absentee

without leave). (He was wearing Military Uniform)

E.C.C. Garfit Captain,
O.C., 164 Provost Company, C.M.P.,
Lancashire & Border District,
Manchester.

Date 13th July 1943.

Expense Voucher Re— Ref: K.R. & O. (Can) 539

Reg. No B.78867 Rank Pte Name Torrance, G.A. Unit 5 C.I.R.U. Belk Watch

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Manchester

Date	Particulars	Amount £	s	d
15 July 40	Escorts return fare from LONDON To Manchester	1	8	2
	Prisoners single fare to LONDON From Manchester		14	1
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		6	10
	Total £	2	9	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. Clements Sergt

Officer Issuing Railway Warrant and Expense Monies Capt.
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

SUMMARY OF EVIDENCE

In the case of No. B-78867 Private TORRANCE, Garfield, Angus, The Black Watch (R.H.R.) of Canada, on the strength of 5 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. W. W. Thom, Royal Canadian Artillery, Assistant Records Officer, 5 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am Lieut. W. W. Thom Royal Canadian Artillery, employed as Assistant Records Officer at 5 Canadian Infantry Reinforcement Unit. I produce a certified true copy of an extract taken from Rear Party No. 1 Canadian Base Reinforcement Depot Part II Order No. 1 dated 5 August 1943 showing the accused whom I now recognize as absenting himself without leave from 1800 hours on the 16th day of June 1943 and Struck Off Strength to 5 Canadian Infantry Reinforcement Unit with effect from 16th day of June 1943 whilst absent without leave. This Order purports to be signed by W.J.C. Johnston, Lieutenant, Canadian Section G.H.Q. 2nd Echelon Detachment at Canadian Records. As Assistant Records Officer of 5 Canadian Infantry Reinforcement Unit I have certified this extract and present it as Exhibit "A". I also produce Certificate of Surrender under Section 163 (I) (J) of the Army Act, showing the accused whom I now recognize, as surrendering himself to the Military Police at Manchester at 2040 hours on the 12th day of July 1943, and that at the time of his arrest he was wearing Military Uniform. This document purporting to be signed by Capt. G.C.C. Garfit, C.C., 164 Provost Company, Corps of Military Police, Manchester, is marked Exhibit "B". I also produce Expense Voucher relating to the accused whom I now recognize, in the amount of £2.9s.1d., purporting to be signed by Capt. W. Fern, Officer Issuing Warrant and Expense Monies. This document is marked Exhibit "C".

W. W. Thom Lieut.

.....

(W. W. Thom) Lieut.

The accused declines to cross examine this witness.

The accused having been warned according to Rules of Procedure 4 (E), reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

J. G. Dodd Lieut.

(J. G. Dodd) Lieut.
Officer detailed to Take Summary of Evidence.

In the Field
10th day of August
1943.

No. [illegible]-78867 Name Torrance, W.A. Sqn., Battery, or Company [illegible] Corps C.A.C. Date of enlistment 30/7/40 G.C. Badges Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	7/10/41	Pte.		AA Sec. 15 (1) AWL from 1030 hrs. 7/10/41 - 0600 hrs. 30/10/41 (Absent 2 Days 18 hrs. 30 min). In custody from 30/10/41 to 0350 hrs. 10/11/41 (30 days)		60 days det.	28/11/41	F.C.C.M.	Forf 2 days P. PRO I 140 (1)(a) Forf 314 to PRO I 140 (1)(c) Forf 40 s. Pay PRO I 140(1)(b) 28 D. Tel Forf. Forf 4 Days Pay PRO I 140 (1)(a)
U.K.	2/1/42	Pte.		AA Sec 15 (1) AWL from 0630 hrs. 2/1/42 - 1005 hrs. 6/1/42 (Absent 3 days 3 hours 35 min.)		14 days C.B.	7/1/42		
U.K.	29/4/42	Pte.		AA Sec 15 (1) AWL from 1600 hrs. 29/4/42 to 0600 hrs. 30/4/42. (Absent 7 hrs.)		5 days C.B.	30/4/42		Forf 1 Days Pay PRO I 140 (1) (a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY OF DOCUMENTS IN POSSESSION
[illegible]
[illegible]
[illegible]
[illegible]

M.F.B. 358
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B71817	Pte	Sorrand GA	2 C I R U

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A A Sec 15(1) Two (2)	times	A A Sec 15(1) Four (4)	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 30 days in ~~Air Force~~ military custody, making a total of 30 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 23 yrs. 10 mos.

6. The date of his commission specified in his ~~record of service is~~ attestation paper 20 June 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 1 Mo.

8. The accused is entitled to reckon 1 yr 8 Mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward~~.

~~10. (If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit, and in his regiment (or corps), the rank of dated, dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number B78767 Rank Pte Unit Name Jowan G A of 5 C I R U Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	U.K 28 Nov 41	A.A SEC 15(1) A.W.L.	60 days detention Forf 3 days Pay FRI 149 1(a) 31 days Pay FRI 149 1(c) 40 days Pay FRI 149 1(f) 74 days Pay	13 days remission 24 Dec 41

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th day of August 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Certified correct as taken from Documents in my possession.

(W. W. Thom) Lieut.
Assistant Records Officer
5 Cdn. Inf. Reinf. Unit.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Tournay Barracks, Farnborough Hants on the 10th day of August 1943, preliminary to my Court Martial.

I further acknowledge that I have been served with a true copy of the Charge upon which I am being brought to Court Martial.

B.78867 Pte Torrance D.A.
(B.78867, Pte. Torrance, D.A.)

Dated at Tournay Barracks
this 10th day of August 1943.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.
I desire the services of Lt. G.C Kirby - SC (RV
if he is available.

B.78867 Pte Torrance D.A.
(B.78867, Pte. Torrance, D.A.)

Dated at Tournay Barracks
this 10th day of August 1943.

CC-117

PTE TORRANCE R.

CC-117

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this TWELFTH day of APRIL, 1915.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~[I am unable to appoint~~
~~(1. Three Officers to form the Court.)~~
~~(2. A Field Officer as President.)~~
~~(3. Three Officers having more than one year's service.)~~
~~for the following reasons, namely:]~~

Capt.W.M.W.Shaw,H.Q.,2 Cdn Div is hereby appointed Judge Advocate

President.

Rank.	Name.	Regiment.
Major	V.Stott	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
Capt.	To be appointed by O.C. R. de Mais	R. de Mais.
Lieut.	To be appointed by O.C. Calg Highrs	Calg Highrs.
	WAITING HIGHER	
Lieut.	To be appointed by O.C. R.H.C.	R.H.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (C.V.Whitehead) Brigadier
Commanding 5 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D/82775 Private Robert TORRANCE, R.H.C. a soldier of the Canadian Army Overseas	FIRST CHARGE A.A. Sec 15 (1) (See charge sheet attached)	guilty	guilty To undergo detention for 75 days 15 April 1943 ~~K.T. Stark~~ Major	I confirm GVW.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) G.V. Whitehead (G.V. Whitehead) Brigadier
Commanding 6 Cdn Inf Bde
Convening Officer (*c*)

(Signed) ~~K.T. Stark~~ Major
Calgary Highlanders.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 15th day of April 1943.

W.M.L. Shaw Capt Judge Advocate

~~K.T. Stark~~ Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~K.T. Stark~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~ GVW

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 17 day of Apl 1943

G.V. Whitehead
Confirming Officer. Brig

Promulgated and extracts taken in the case of D/82775 Pte Torrance R.

(*a*) (Dated) 19 Apr 43 (Signed) S.S. T Canthe Lt. Col. D.C. Int. Br. The Black Watch (R.H.R.) of Canada

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(11759) Wt. 40113—923 200 m 1/40 F. St. G. 640

5 Bde (Capt Wyatt)

CHARGE SHEET

The accused No. 82775 Private Robert TORRANCE, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec. 15 (1)
ARMY ACT

Absenting himself without leave,

in that he,

'In the Field', absented himself without leave from 0800 hrs 20 Feb. 1945, until surrendering himself at Battalion Orderly Room at about 1425 hours 1st April, 1945.

Signed 'In the Field'

this 2nd day of April, 1945.

Rawlings Major
1st Bn The Black Watch (RHR)
of Canada.

To be charged by F.G.C.M.

.....Brig.
COMD 5 CDN. INF BDE.

I do / do not wish to have an officer detailed by the Commanding Officer to defend me at my trial by Field General Court Martial.

[illegible] C. [illegible]
(Name of officer, if available)

Torrance L. Pte.
D-SERVICE

Signed 'In the Field'
this day of April, 1943.

[illegible]
(Witness)

CERTIFICATE

This is to certify that I have today examined D82773 Pte Imanse, R. of the 1st Bn The Black Watch (RHR) of Canada, Regiment and find him fit/~~unfit~~ to undergo trial by Field General Court Martial.

DATE 15 April 43

J.A. Langille Capt.
O.C. 1 H.Q. Co.

I - 2 - 16 - 4
Major

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 15th day of April 1943 by order of Brigadier G. P. Whitehead Commanding 5 Cdn Inf Bde dated the 12th day of April 1943

President.

Major V. Stott - Calgary Highlanders

Members.

Capt. J. G. A. D. de Grandpre - R de Mais

Lieut. F. H. Clarke - Calgary Highlanders

Capt. W. M. W. Shaw HQ 2 CDN A I U , Judge Advocate.

Trial of*

D 82775 Private Robert Torrance R. H. C.

1 The order convening the Court, the charge-sheet and the summary ~~(not all three)~~ of evidence are laid before the Court.

~~2 The Court satisfy themselves that is not available owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. S. E. Griffin, R. H. C.

Counsel‡ or defending officer† Lieut. C. Askwith, R. H. C.

At 1020 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16839/78. 35,000 sets. 6/43. K. & H., Ltd. G687/11. Forms A 9/55.

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? *Question to the accused.*

guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to ~~the~~ charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D62775 Pte Robert Tamarce is found guilty of the charge

†The summary (or ~~abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No, Sir

Answer. ~~The accused in mitigation of punishment says~~ :—

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir

Answer.

Evidence as to character.

E

Finding.*

*"To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ 1-4-

The ~~Court find that the accused~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~ 7-4-

Evidence of character, &c.

Lieut S E Griffin, Prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB 296 & MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H & 2, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No They are certified by the adjutant, whose signature I know

Question.

~~Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?~~ 1-4-

Answer.

(Instruction.—If in reason of the nature of the service of the accused in a dependency corps or otherwise, the finding of the Court involves less liable to any additional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Not Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer* yes (defending officer reads statement in mitigation, marked J, signed by the President and attached to the proceedings)

~~The Court is closed for the consideration of the sentence.~~

Court closed to consider sentence.

W.M.A. Shaw Capt

~~E S Griffin~~ Lieut Griffin Major

SUMMARY OF EVIDENCE

in the case of

D-82775 Pte. R. Torrance, 1st Bn. The Black Watch (RHR) of Canada, a soldier of the Canadian Army, Overseas.

The accused is informed of his rights.
The accused does not demand ad the C.O. does not direct theevidence be taken on oath.

First witness for the prosecution:

D- 81212 Cpl. R. Burnside, 1st Bn. The Black Watch (RHR) of Canada, states:-

"I was acting C.O.S. on 20 Feb 43. On my patrol of duty I ~~formed~~ discovered that D-82775 Pte. R. Torrance was absent from his duties as Cook's Helper at 0800 hrs. 20 Feb 43. I reported Pte. Torrance as A.W.L. as from that time."

The accused declines to cross-examine.

R. Burnside Cpl.D81212

Second witness for the prosecution:

D-81205 Sgt. J.E. Catley, 1st Bn. The Black Watch (RHR) of Canada, states:-

"D-82775 Pte. R. Torrance reported to me at Bn. Orderly Room at 1425 hrs. 1 Apr 43".

The accused declines to cross-examine.

J.E. Catley Sgt.D81205

~~Third witness for the prosecution:~~

D-81627 Sgt. H.S.W. Pullen, 1st Bn. Black Watch (RHR) of Canada states:-

"On 20 Feb 43 during Coy. Commander's inspection the rifle belonging to D-82775 Pte. R. Torrance was found dirty in his billets."

"On 20 Feb 43 during Coy. Commander's inspection the kit belonging to D-82775 Pte. R. Torrance was not laid out properly in his billets."

~~The accused declines to cross-examine.~~

~~.....Sgt.D81627~~

The accused, having been duly cautioned in accordance with RP 4(e) says:

"I do not want to make any statement."

The accused does not wish to call witnesses in his defence at this point.

R. Torrance .....Pte. D-82775

Certified that RP 4 complied with.

In the field.

3rd day of April 43

H.S.W. Pullen .....Lieut.
Officer detailed to take the summary.

"G"

[illegible] Major

J. J. Harries...

Certified that R.P. + complied with.
In the field
4th day of April 43.

D.S. Tappin Lieut
Officer detailed to take the summary

The accused, Pte Torrance, enlisted with the 1st Bn the Black Watch in August 1940. Since enlistment - nigh on 3 years - this soldiers conduct sheet contains

His record of conduct, therefore, is good - in fact very good. Why then did he commit an offence which has brought him before this Court martial? The answer is threefold. Firstly, thoughtlessness. He did not realise the very serious offence he had committed until it was too late. I offer no excuse, on his behalf. He should have thought about the consequences before committing the offence. However, he didn't, and therefore must take the consequences. Punishment that this Court considers necessary to prevent future offences of this nature. The second part of the answer is this: the accused joined the Bn to fight. In the summer of 1941 he was operated upon for varicose veins in his left leg. In July 1942 he had further operation for the same trouble on the same leg. May I impress upon this Court, the worry that would naturally result to any soldier, when after two operations for the same ailment he still was not able to march any long distance - especially when that soldier is in the Infantry. As often happens like a good soldier is not able to march he is given some sort of work that he is able to do. The accused was made a cook's helper. He was acting in this

capacity when he absented himself. I hope the Court will appreciate the accused's feelings in trying to readjust himself from an infantry soldier to a cooks' helper. ~~He can't understand~~ May the Court also consider the period of close arrest the accused has already undergone. 11 days

"J"

[illegible]
Major

(Substitute for A.F.B. 252)
or A.N.D. 357

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED.

No. D-62775 RANK TORRANCE, Robert UNIT 1 R.H.C.

AGE 33 MARRIED OR SINGLE S Name of Dependants Nil

DATE OF AT ESTATION 15th AUGUST 1940

NO. OF DAYS SINCE TH CLOSE ARREST (TO DATE OF TRIAL)

CIVIL N/A MILITARY 15 HOSPITAL N/A TOTAL 15

NAMES OF PROSECUTOR, ATTORNEYS AND COUNSEL (IF ANY) OF ACCUSED, IF ANY

N/A

A CERTIFIED TRUE COPY OF H.L.S.M. 6 MUST ACCOMPANY THIS FORM

(Civil Police Records)

[signature] Adjt. Unit
1ST BN. THE BLACK WATCH
(R.H.R.) OF CANADA

Dated at IN THE FIELD
this 15th day of Apr 1943.
(To be dated and signed at or date of trial)

[signature] Major

"H"

1st Bn Black Watch

No. 2827775 Name Todd Brice R. Sqn., Battery, or Company — Corps (RHR) or Cdn — Date of enlistment 15 Aug 1940 — G.C. Badges Nil — Service or Proficiency Pay Nil — M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2627)

Date of last entry in Company Conduct Sheet — — No. and date of last drunk None — Period not reckoning towards freedom from extra line — — Sheet No. 1 — Signature O.C. Company, etc. Major George R. Fane — Character —

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot NS	15/5/42	Pte		Breaking Camp Standing Orders in a place posted out of Bounds	Cpl Cooper Cpl Brown	72 hrs detention	17/5/42	Lt. Col. J. Jeffrey	-
In the Field	19/5/42	-		A.W.O.L. 2330 hrs 19 April 42 to 2330 hrs 6 May 42 Absent 16 days 23 hrs A.A. 45 (1)	08417 Cpl Cuddeby 5266 L/Cpl Fuller RH	37 days Forfeiture of pay	8/5/42	Lt Col ?	Forfeit 17 days pay for absence Total Forfeiture 54 days pay (AFB 122 6 (b) (i) (a))
In the Field	2/10/42	-		A.W.O.L. on Roll Call on the 2 Oct 42 at 0430 hrs failed to appear on parade A.A. Sec 15	08733 Pte Gordon R.	3 days C.B.	3/10/42	Capt [illegible]	-

Capt & Adjt. 1st Bn Black Watch (RHR) or Cdn.

CERTIFIED TRUE COPY - AS RECEIVED OVER THE PHONE FROM RECORDS, C.M.H.Q. 14 APRIL 1943

449.
Re. Torrance R.
See CC-117 for 1st case.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D82775 Pte Robert TORRANCE - RHR - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present ~~under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all Ordinary Pay for a period of forty (40) Days.

(Sgd) ..... 27 Dec/44 (Sgd) [signature]

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not remanded in person or detention but be dealt further with as follows:~~ (1. AA 57A. Delete if not used.)

Date 30 Dec 44 (Sgd) [signature] Brig

Commanding Comd 13 Cdn Inf Bde (Confirming Officer.)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D82775 Pte Robert TORRANCE	Promulgated 2 Jan 45 Extracts Taken DO 2 d/2 Jan 45	[signature] Lt. (D.M. Smith) Lt. No 3 C.I.T.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AS 160 4L-9

12 JAN 1945

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA96) 40/P & S/1698 (6144) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 22 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D82775	Pte		Robert	TORRANCE	RHR 3 CITR

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 27 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if~~ any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(1), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to P2126 Sgt A H SINCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.L. REDMAN	HQ CRU
Member	CAPT	W.H. FLEMING	4 CCD
Member	LT	J.S. GARDHAM	4 CCD
~~Judge-Advocate~~			
Prosecutor	LT	J.B. TAYLOR	3 CITR
Defending Offr	LT	T.E. CAMPBELL	3 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NA Is the Defending Offr a lawyer? Ans N.A.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ →

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6). RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Call Character witness NOTE AII

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Accused NOTE AII (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A). KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D 82775 Private Robert TORRANCE, Black Watch (RHR) of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15(1) Army Act — in that he,

In the Field, 6 November 1944, while undergoing C.B., absented himself without leave from 1745 hours 6 November 1944, until surrendering himself to the Unit Guard Room at 2140 hours 10 December 1944. Total time absent 34 days, 3 hours, 55 minutes.

(S.W. Thomson) Lt-Col.,
A/Commander
No 3 Cdn Inf Trg Regt.

IN THE FIELD
12 December 1944

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

In the Field
22 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D82775	Pte		Robert	TORRANCE	RHR 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 22 Dec 44 endorsed by me, (~~the Officer Commanding the Unit~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable that the trial of the said offence should be postponed until~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I do not consider it practicable that the Court should be convened by the Officer Commanding the Unit, or by the Officer Commanding the Station, for the reason that~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~I do not appoint any Judge Advocate to the Court hereby convened.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT-COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	4 CCD
Lieutenant	to be detailed by Commanding Officer	4 CCD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	3 CITR

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 22 Dec 44

K G Blackader (*Signed personally. RP 105 fn 2.*)

(K G Blackader)

Brigadier (*Rank.*)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAS95 (In lieu of AFA3) 40/P & S/1697 (4031)

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate, 4C/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. D.8.2.7.7.5. Pte.
Lawson R. of C.I.T.R.
and in my opinion, he is fit to undergo trial by Court Martial.
Station. Aldershot
Date. 27 Dec 1944 (Sgd.) G.D. Lawson Capt.
(Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

Defts' Pte Case of TORRANCE, R. 3 CITR.

Character witness

B.52745 CSM Davies, C.F., 4 CCD, having been duly sworn, states:-

I am acquainted with the accused and have known him in my field unit. I have known Pte Torrance for three months. While Pte Torrance was in my Company, Black watch - "D" Coy, and during the three months he was with me, we found him very efficient. Any job he had to do he carried it out well. On one occasion, I remember, Pte Torrance ran out while under fire and bandaged up two men who were wounded. One of the men is in this camp, but had it not been for Pte Torrance he would not be here. Pte Torrance left the unit on 9th October and I am sure that the OC of the Battalion would be glad to get him back as soon as possible - he is a very good man.

NO CROSS-EXAMINATION.

In the opinion of the Court it is unnecessary to apply with RP 83(B).

PLEA OF MITIGATION

Pte. Torrance, Robert, H 82775

May it please the court:

Pte. Torrance, who has served three and a half months in action in France, Belgium, and Holland from the 6th July 44 until 8th October 44 when he was returned to England wounded, was a day late in returning from sick leave.

He was still suffering from shock and his wound was open and, not feeling well, he did not report back at the time his leave was up but left it until the next day. He failed, however, to notify an M.O. and was charged with A.W.L. for which he was awarded a 10 day stoppage of pay and 10 days confinement to barracks.

He was late on a defaulters call and was immediately charged again and awarded 7 days stoppage of pay and 14 days C[illegible]

This man, still suffering from the mental letdown and the shock of a battle casualty recovering from the experiences endured in battle, felt that he was being dealt with very harshly and went A.W.L.

When he was more fully recovered, he realized his error and came back of his own free will and reported in to the guard room where he has been held since awaiting court-martial.

He has asked that C.S.M. Charles Davis of the Black Watch, who was in his company and was also wounded about the same time, testify as to his behaviour as a soldier while in the field.

Pte. Torrance has indicated that he is anxious to get back into the field and it is hoped that leniency may be used in sentencing this man in order that he may be returned to active service as soon as possible.

1 Canadian Corps
Defending Officer

E-3

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D82775 Private Robert TORRANCE, Black Watch (RHR) of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath.

FIRST WITNESS
For the Prosecution

Capt E.T. Stewart, General List, on the strength of 3 Canadian Infantry Training Regiment, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt E.T. Stewart, and am Adjutant of No 3 Cdn Inf Depot Bn. I hereby present, marked Exhibit "A" Certified true copy of the Declaration of a Court of Inquiry held on 1 December 1944 which shows that the accused, D82775 Pte Torrance R., whom I now recognize, absented himself without leave from 1745 hours 6 Nov 44. I present, marked Exhibit "B", Certified true extract from 3 Cdn Inf Trg Regt Part II Daily Order No 6 dated 9 November 1944 which shows that the accused was awarded 14 days C.B. on 6 Nov 44.

E.T. Stewart Capt
(E.T. Stewart) Capt.

The accused declines to cross-examine this witness

SECOND WITNESS
For the Prosecution

C5418 Cpl Terrill, Hastings and Prixnce Edward Regt., on the strength of 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am C5418 Cpl Terrill, and am employed on the Regimental Police of No 3 Cdn Inf Trg Regt. I was on duty at the Unit Guard Room when D82775 Pte Torrance R., whom I now recognize, surrendered to me at 2140 hours 10 December 1944. He was properly dressed and sober. I placed him under close arrest.

J R Terrill Cpl
(C5418 Cpl Terrill J.R.)

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish To make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e) and (f) have been complied with.

G.L. Pallett Lieut
(G.L. Pallett) Lieut
Officer detailed to take Summary

IN THE FIELD
12 December 1944

E & A
MY

Exhibit "A" attached

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the ~~xxx~~1st day of December 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D82775 Pte Torrence, R.

DECLARATION

The Court declare that No. D82775 Pte Torrence, R (C.I.C.)

illegally absented himself without leave from 3 Cdn Inf Trg Regt. at 1745 hrs on the 6th day of November 1944.

that he is still so absent, and that on the 1 Dec 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE

ARTICLES	Vocab Value £	S	D	Apsd Value £	S	D
Anklets Web		4	5		3	4
Blouses B.D.	1	3	4		17	7½
Trousers. B.D.	1	4	11½		18	1
Caps. F. S.		2	6		1	10½
Boots Ankle	2	8	10	1	16	7
Greatcoats	2	10	7	1	17	11
Jerseys Pull		8	0		6	0
Shirts Angola		9	1		6	9½
Socks Prs		5	8		5	0
Badges Cap			4½			4½
Brace		1	4		1	0
Brushes Hair		1	6		1	1½
" Shoepolish		1	3			11
" Tooth			6			4½
Caps Comforter		1	6		1	1½
Combs Hair			2			1½
Dressings. F.P.		1	1			9½
Forks Table			8			8
Holdalls			10			7½
Housewives			9			6½
Knives Clasp		2	10		3	10
Sheets Ground		13	4		13	13 4
Dectors Ground		1	0		1	0
Ointment A.G.		1	4		1	4
Capes, A.G.		12	4		12	4
Knives Table			4			4
Spoons Dessert			4			4
Towels Hand		3	10		2	7
Blouses Denimen		11	10		8	10½
Trousers Denimen		11	3		8	5
Belts " eist		3	4		3	4
Bottles Water		3	8		3	8
Braces Right		1	4		1	4
Braces Left		1	4		1	4
Carriers M.B.		1	8		1	8
Frogs Bayonet			10			10
Haversacks		8	0		8	0
Helmets Steel		11	8½		11	8½
Packs Web		8	3		8	3
Pouches Basic		12	0		12	0
Straps Shoulder. R.		1	5		1	5
Straps Shoulder. L.		1	5		1	5
S traps Web S upporting		1	2		1	2
Tabs Securing		1	7		1	7
Tins Mess		1	11		1	11
Tovers Camf		13	2		13	2
Mugs Drinking			7			7
Eyeshields, A.G.		2	0		2	0
Respirators		14	7		14	7
TOTALS	16	16	5½	14	2	1½

Capt D.L. Clarke (3 C.I.T.R.) (C.I.C.) President

Lieut. C.M. Dolly (3 C.I.T.R.) (C.I.C.) Member

Signed at In the field

Lieut. J.W. Dell (3 C.I.T.R.) (C.I.C.) Member

this 1st day of Dec 19 44

Signature of Commanding Officer (A.W. Young) Lt. Col

Certified true copy

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/392 (6610)

Exhibit "B" 2776.

NO 3 CANADIAN INFANTRY TRAINING REGIMENT CA(E)
PART II DAILY ORDERS
Issued by
A/COL J B WEIR, OBE, ED, Commander

LAST ORDER NO 5 8 NOV 44

THIS ORDER NO 6 9 NOV 44

16. PUNISHMENTS

(a) On 6 Nov 44, awarded 14 days C B and a forf of 3 days pay for an offence under AA Sec 15(1), AWL from 1745 hrs 2 Nov 44 to 2130 hrs 2 Nov 44 (absent 3 hrs 45 mins)
Forfeits 3 days pay under FR&I 149(2)
Total forf of 3 days pay which is completely concurrent with award of 30 Oct 44 vide D O 273B d/30 Oct 44
Net forf of NIL days pay
D82775 PTE TORRANCE R "RHC"

"A.J. Geisler" Lieut
(J.B. Weir, OBE, ED) A/Col
Commander
No 3 Cdn Infantry Trg Regt C A (E)

Certified True Extract

E.T. Stewart Capt
Officer having custody of Original Records.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D&2775	Pte	Robert TORRANCE	Black Watch (3 C.I.T.R.)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be proved to the proceedings. The numbers herein stated should correspond with the numbers of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) ... 5 times.
~~For ... times.~~
~~For ... times.~~
~~For ... times.~~

Date of first entry in Field Conduct Sheet 17 Feb 41.

Date of last entry in Field Conduct Sheet 6 Nov 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been awaiting trial on the present charges for Nil. days in civil custody; and for 17 days in military custody, *i.e.*, Nil days in open arrest, Nil days in close arrest; of which Nil. days were spent in hospital.

5. The present age of the accused is 35 yrs

6. The date of his attestation ~~joining up for military service~~ is 15 Aug 40

7. The service which the accused is allowed to reckon is 4 yrs 3 mos.

†State the military decorations (if any) held by accused.

8. The accused is in possession of† C.V.S.M. & Clasp

~~9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously without reduction, to the present date—~~

Date of Promotion.

In the substantive rank of ...
In the war substantive rank of ...
~~In the acting rank of ...~~

EYB A

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*26072) WL30721/3701 82,000 9-44 A.&E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field 15 Apr 43	A.A. Sec 15 (1) AWL from 20 Feb 43 to 1 Apr 43.	75 Days Detention	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27th day of December 1944.

E T Stewart Capt
Adj't Aust Base
3 C. to T. R.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						AR 104(4)			2 DAYS PAY FR 1149 (4)
Field	24-10-44	Pte		AA Sec 15(1) AWL FROM 2309 HRS 24 OCT 44 TO 1500 HRS 26 OCT 44 ABSENT 1 DAY 15 HRS 1 MUH	Doc'y Recd Doc'y C.P.S.	10 DAYS PAY 6 days C.B. STOPP 11/11	30-10-44	LIEUT-COL A.E. McPHERSON.	TOTAL FORF 16 DAYS PAY STOPPED 11/11
Field		Pte		AA Sec 15(1) AWL FROM 1745 HRS 7 NOV 44 TO 2130 HRS 7 NOV 44 WHILE UNDERGOING C.B. AR3 AHR 45M.	Doc'y Rpt R.	14 days C.B. 2 DAYS PAY FR 1149 (4)	6-11-44	LT-COL G.H. CHRISTIANSEN	TOTAL FORF 30 DAYS PAY CONCURRENT WITH 16-10-44.

I certify this Extract from MFAI 2
Lt Leonard Major
Officer Having Custody of Regtl Books

MFM 6
(AFB 122)
40/PAM/130 (3438)

No. D87775 Name K Torrance Regt., Battery or Company Corps Black Watch (RHR) Date of Attestment 15-8-40 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Fined		Pte		BREAKING CAMP AA SEC 12(1)		72 HRS DETN 3 DAYS PAY FRI 149 1.B	17-4-41		TOTAL FORF 3 DAYS PAY
Fined		Pte		AH SEC 15(1) AWL FROM 19 APR TO 6 MAY 41		17 DAYS FP 17 DAYS PAY FRI 149 (2)	7-5-41		17 DAYS PAY FRI 149 1.A TOTAL 34 DAYS PAY
Fined		Pte		AA SEC 12(1) AWL FROM 20 FEB TO 1 APR 43.		75 DAYS DETN	15-4-43	FGCM	
Fined		Pte		AA SEC 12(1)			22-9-41		TOTAL FORF 29 DAYS PAY.

(PTO)

LIST OF WITNESSES

In the case of D82775 Pte Torrance R., Black Watch Regt, on the strength of 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1. Capt E.T. Stewart — 3 Cdn Inf Trg Regt.
2. C5418 Cpl Terrill J.A. — 3 Cdn Inf Trg Regt.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of D82775 Pte Torrance R., Black Watch Regt., on the strength of 3 Cdn Inf Trg Regt.

EXHIBIT "A" - Certified true copy of the Declaration of a Court of Inquiry held 1 December 1944

EXHIBIT "B" - Certified true extract from PART II Daily Order No 6 dated 9 November 1944.

12 December 1944

This is to acknowledge that I have received, free of charge, the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Witnesses
1 List of Exhibits.

R. Torrance
D82775 Pte Torrance R.

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.(O)

3D/11

I, No. D82775 (Rank) Pte (Name) Torrance R., wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of... any officer ... if he is available.

(Sgd.) R Torrance

38415.
Pte Torrence G. A.

B-78867 Pte. Torrence, G.A.
No.2 C.I.H.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this 26th day of November, 1941.

A. Order convening the Court

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[illegible]

*(1. [illegible])

*(2. [illegible])

*(3. [illegible])

[illegible]

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	H.D. Cluff	No.1 Cdn Sigs Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	C.S. Hadley	No.1 CdnInf Hldg Unit
Lieutenant	R.H.D. Gentles	No.1 Cdn Arm'd Corps H.U.
Lieutenant	~~A.T. Blanchette~~ A.T. SESIA	No.2 Cdn Inf Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-78867 PTE. TORRENCE, G.A. No.2 Cdn Inf Bldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty 60 days detention	Finding & sentence of Court Confirmed but sentence remitted to forty days detention D.B. Mulock, Brig

N.A. * Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) D.B. Mulock Brigadier (Signed) H.H. McCluff Major

Commanding Cdn Base Units, Cdn Army. *Convening Officer* (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of November, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 28th day of November 19 41.

H.H. McCluff Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2nd day of ~~December~~ December 19 41.

D.B. Mulock Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of B 78867 Pte Torrance G.A.

(*a*) (Dated) 4th Dec 1941 (Signed) H.H. McCluff Major
A/OC 2 Cdn Inf Bldg Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(4259) W1. 40143—293. 100M. 8/41. P. St. G. 840

'A'

CHARGE SHEET

No B78867 Private Torrence, G.A. Irish Regiment of Canada, a soldier of the Canadian Army (Canada), attached to No. 2 Canadian Infantry Holding Unit, Canadian Army (Overseas), is charged with:

First charge
Section 15 (1) Army Act

Absenting himself without leave,

in that he,

At Debert Camp, N.S. at about 1530 hours on the 7th. Oct.41, did absent himself without leave until surrendering himself on board the S.S.Andes at about 0800 hours on the 10th. October 1941.

Laurentide Camp,
Witley, Surrey.
13 November 1941

(F.S.MATHEWSON) Lt.-col.
Officer Commanding,
No. 2 Cdn.Inf.Holding Unit.

To be tried by Field General Court Martial

(F.R. Phelan)Brigadier
Commanding Cdn Base Units.

Farnborough,Hants
This 26th day of Nov 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT LAURENTIDE CAMP. WHITLEY ON THE 28 DAY OF Nov. 1941.

TRIAL OF:- No. B78867 PTE. TERRENCE G.A., No. 2 C.I.H.H.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) CAPT. A.C. EVANS (Unit) R.H.C., No. 2 C.I.H.H.

Defending Officer:- (Name) LIEUT. J.L. MCKENNA (Unit) CITY REGT., No. 2 C.I.H.H.

At 1406 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1.- NO

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to acting as shorthand writer?

A2.-

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.- YES

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- NO

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

CHARGE SHEET ATTACHED MARKED "A"
SUMMARY OF EVIDENCE ATTACHED MARKED "B"
STATEMENT IN MITIGATION OF PUNISHMENT ATTACHED MARKED "C"
MEDICAL CERTIFICATE ATTACHED MARKED "D"

H.L. Chaffey Major

SUMMARY OF EVIDENCE
in the case of

B78867 Pte. Torrence, G.A., Irish Regiment of Canada, a soldier of the Canadian Army (Canada) attached to No. 2 Canadian Infantry Holding Unit, Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness
Prosecution: Lieut. J.E. Fox, Black Watch (RHR) of Canada, #2 C.I.H.U. having been duly sworn, states:

"I am an officer on the strength of The Black Watch Coy, #2 C.I.H.U. On 12th November 1941 I was detailed by the C.O. #2 C.I.H.U. to investigate the case of the accused who had been brought to this Unit in custody as an absentee from Canada. I had the accused brought before me and warned him that he need not say anything, but that whatever he might say would be taken down in writing and used in evidence. He elected to make the following statement on oath:

'I enlisted in the Irish Regiment of Canada, C.A.S.F. on or about the 20th June 1940. After some fifteen months of soldiering in Canada, I finally got tired of waiting and became anxious to come overseas. At about 1530 hours on the 7th October 1941, I absented myself from my unit at Debert Camp, Nova Scotia, and proceeded to Halifax. I intended to board a troopship for Britain and get attached to one of the Canadian units who were already serving there. My best friend was serving in the 1st Troop Carrying Company, R.C.A.S.C. and I desired to join this unit. At approximately 2030 hours on the 7th October 1941 I slipped aboard the s.s. "Andes" in Halifax harbour. I hid on the ship, mixing with the troops when they were on deck and keeping out of sight during parades. At about 0800 hours on the 10th October 1941 I gave myself up on board the ship to the Guard Commander who was a Sergeant of the 3rd Battery, 3rd Anti-tank Regiment, R.C.A. He placed me under arrest. At 1400 hours that afternoon I appeared before the O.C. troops, Lt.-Col. Mackenzie Waters, 3rd. Anti-tank Regiment R.C.A. who ordered me into custody until reaching Britain.'

This statement was signed by the accused and witnessed by Sgt. Norbert and myself.

J.E. Fox _____ Lieut
J.E. Fox

Accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE
in the case of

B78867 Pte. Torrance, G.A., Irish Regiment of Canada, a soldier of The Canadian Army (Canada) attached to No. 2 Canadian Infantry Holding Unit, Canadian Army (Overseas)

First Witness Defence — B78867 Pte. Torrance, G.A. I.R.C. #2 C.I.H.U. having been duly warned under R.P. 4 (e) makes the following statement:

"There is an error in the statement that I made to Lieut.Fox. Referring to the Guard Commander to whom I surrendered on board the s.s. "Andes", he was a Sergeant of the 52nd Battery, 3rd Anti-Tank Regt., R.C.A., and not the 3rd Battery, as stated in the said statement.

G.A. Torrance Pte
G.A. TORRANCE

Certified that R.P. 4 (c) (d) (e) and (f) have been duly complied with.

Taken down by me in the presence and hearing of the accused, this 24th day of November 1941 at Laurentide Camp, Witley, Surrey.

A.C. Evans Capt.
(A.C. EVANS)
Officer detailed by C.O.
#2 C.I.H.U. to take Summary of Evidence.

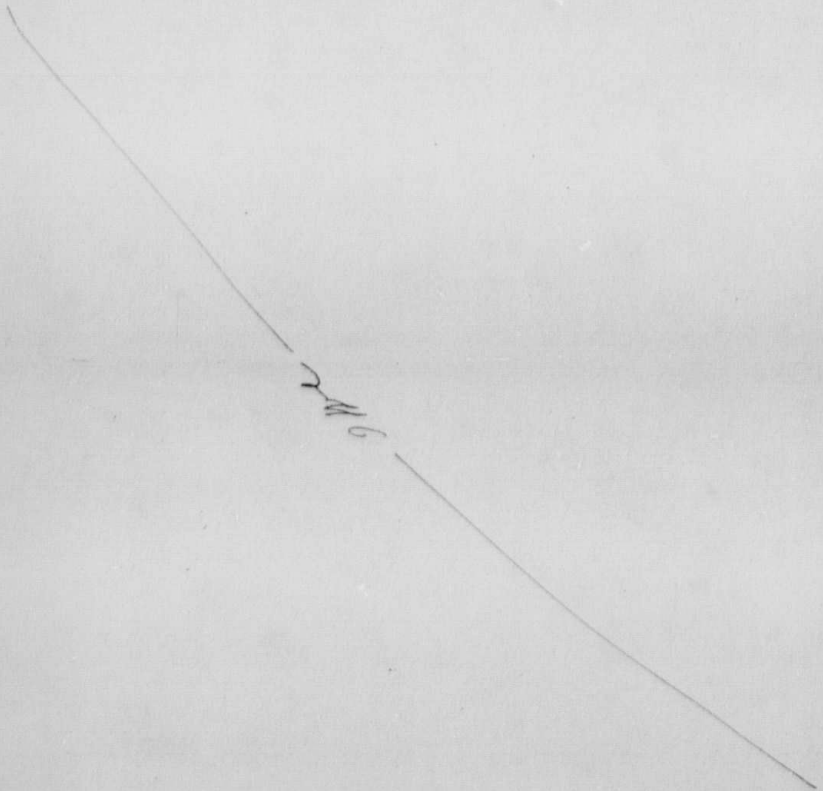
Statement in Mitigation of Punishment

Presented by: Defending officer - Lieut J L M Glenn
C of Regt, No 2 C I D

I will first deal briefly with the accused's records. He is 22 years of age. He joined the Irish Regt. of Can. in October of 1939 & remained with the unit until it was called up & incorporated into the 4th Division in June, 1940. When his unit was called for actual service, the accused, as you did & I did, desired, hoped & expected to be sent overseas. For more than a year he was disappointed. Finally, on a Sunday afternoon, the 5th October of this year the accused decided he was coming overseas & two days later, at 1530 hours, he left Debert Camp & started for Halifax about 70 miles away. It took the accused 5 hours to travel those 70 miles & get aboard ship in Halifax harbour. We all know that the docks in Halifax are not easy to get into & if you have had to stay aboard ship in the harbour, not easy to get out of. He got by the guards & aboard ship & kept his identity hidden from 2030 hours on the 5th of October until he gave himself up on the morning of the 10th of October, when he felt, they were far enough from port, so he could safely surrender without being sent back to Canada. He showed considerable resourcefulness in doing this. Firstly, he aimed on Canadas by eating

at different tables he was able to get his meals & also maintain his hopes of coming over. There is no record of the conduct of the accused in Canada. The prosecution has not presented anything other than the accused's own statement, which they accepted & have no reason to disbelieve. It is a simple, straightforward statement. In view of this I asked the accused what his conduct was in Canada. He told me, quite straightforwardly, that he had 3 minor charges, only one of which constituted a Regimental entry. The accused has already spent 33 days in close arrest aboard ship & in England. I submit that the accused has already been sufficiently punished for wanting to fight for his country. He has shown initiative and resource. He is not a bad soldier & from Battalion by his initiative & resourcefulness he has shown that he has the making of what we want — a damn good soldier. A token sentence, suspended, would be sufficient punishment. There have been similar cases of soldiers making their way to England. In every case the sentence has been light. In most cases they have been A.W.L. at the time taken drafts left for England. This man

was not an absentee until he decided to
come back & made his way to Halifax in order
to get overseas.



'D'

MEDICAL OFFICER'S CERTIFICATE
K.R. (CAN.) PARA. 557

I certify that I have this morning examined
No B-78867 Pte. Torrence, A.
of I. R. of Can.
is fit to undergo Trial by Court Martial.

Station Laurentide Camp
Date 28 Nov 1941

Medical Officer

WWW-130

Pte Tostik. P.

WWW-130

RECORDED AT CMHQ IN AD 160 B-1. Canada Reading Mg

K.71

Correspondence to be PINNED here

RECEIVED 25 SEP 1944 JAG BRANCH C.M.H.Q.

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this Nineteenth day of July, 19 44

▲ Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

PROCEEDINGS REVIEWED 26 Sep 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

85

	President	
Rank	Name	Regiment
Major	E C Rawlings	48 Highrs

	Members	
Rank	Name	Regiment
Captain	L J Courtin	R C R
Lt.	W W White	Hast & PEI
Lt.	J C Currelly	48 Highrs

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J A Calder) Lt-Col
Commanding 1 Cdn Inf Bde
Convening Officer.

9679/PMEC/10,000—3/43

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A 22194 PRIVATE Peter TOSTIK (R C R)	FIRST CHARGE A.A. Sec 15 (1)	GUILTY	GUILTY To undergo detention for a period of twelve months. Edward Rawlings Maj 23 July 1944	Confirmed AM

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (J A Calder) Lt-Col
Commanding 1 Cdn Inf Bde
Convening Officer (e)

(Signed) Edward Rawlings
(E O Rawlings) Major
48 Highrs
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here

I certify that the above Court assembled on the 23rd day of July 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B** Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
~~3. The interpreter~~ (*)
~~4. The officers under instruction~~ (*)

were duly sworn.

* Omit if not applicable

Signed this 23rd day of July 1944

Edward Rawlings
President of the Court Martial.
(E O Rawlings) Major
48 Highrs

* See footnote *b)* on page 703 M.M.L. 1939

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C** Certificate in case of death sentence.

Signed this day of 19

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D** Confirmation.

* To be omitted unless penal servitude or imprisonment having been awarded the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~ } AM

Signed this 31 day of July 1944

A M Calder
Confirming Officer.
(J A Calder) Lt-Col
Comd 1 Cdn Inf Bde

Promulgated and extracts taken in the case of B22194 Pte TOSTIK, P,

(*a*) (Dated) 7 Aug 44 (Signed) (J.S. Ketchen) Lt.-Colonel,
Comd., The Scots Canadian Regiment.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Re Subject. Evidence.

Prevent Coy.1C Ind.Div.
15 May '45. Ref.7/A.1.b

Periods. The Naval Capitation Road.

Ref.your NC.5-4-1 of 13 May.

Herewith corrected AF B252 and certificate of surrender in respect of B32914 Pte.Pastik. R.C.A.

Edward Rawlings Maj.

G.G. Mowrey Capt.
O.C.Prevent Coy.1C Ind Div.

B-2

Edward Rawlings May

CHARGE SHEET.

The accused, B22194 Pte TOSTIK, Peter, The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, Central Mediterranean Forces, when on Active Service is charged with:-

1st Charge.
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, on the 24 Dec 43 absented himself without leave from 1700 hrs 24 Dec 43 until surrendering himself to Provost Coy., 10th Ind Div at 1100 hrs 4 May 44. (Time absent 132 days 18 hrs)

Dated, in the Field,
this 14 day of Jul 44.

J W Ritchie
(J.W. Ritchie) Lt.-Colonel,
Comd., The Royal Canadian Regiment.

To be tried by Field General Court Martial.

W A Calder
(J A Calder) Lt-Col
Comd 1 Cdn Inf Bde

In the field
19 Jul 44.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Zidel

on the 23rd day of July 1944 by order of

Lieut. Col. J. A. Calder

Commanding 1 Canadian Infantry Brigade

dated the 19th day of July 1944

President.

Major E. C. Rawlings 48 Highrs

Members.

Captain R. J. Courtin R.C.R.

Lieut. N. W. White " Hast & P.E.I.R.

Trial of* B22194 Private Tostik, Peter R.C.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. E. E. Denman R.C.R.

Counsel‡ or defending officer† Lieut. J. T. B. Quayle R.C.R.

At 9.30 o'clock the Trial commences.

The order convening the Court is read, and is marked B1, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

30057 W1W4182(2) 10,000 pds. 12/41. K. & H., Ltd. G457/11. Forms A9/56

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

B-7 Edward Bayley Mc

I certify that I have this morning examined No. B-32194

Rank. Pte. Name. T.A.L.K.P. of The Royal Can. Regt.

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station. [illegible]

Date. 27.7.44

W. Stewart Capt
(Medical Officer)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of B22194 Pte. Tostik Peter R.C.R. absence without leave.

†The summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes I do.

~~The accused in mitigation of punishment says:~~

[*or* hands in a written statement, which is read, marked B4, signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Yes No

Answer.

Evidence as to character.

B-4

Plea for Mitigation on behalf of B22194
Pte. Tostik, Peter

Pte. Tostik landed in Sicily with the regiment. He was through the whole of the Sicilian campaign and then was evacuated during the rest area at Scordia, returning just before Campobasso. He was in action with the Regiment from then until Dec 24th, which means he was through the heaviest part of the battle of the Moro. Thus Pte. Tostik has seen more than his share of action and has participated in almost all the heavy actions the Regiment saw up to the end of the Moro show. In view of these circumstances I would request that the court show all possible leniency

Signed
J. Quayle, Lt.
Defending officer

Edward Rawlings Maj

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*~~The Court being re-opened, the accused is again brought before it.~~

~~is~~ duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked B5, B6, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused.

(Instruction.—If, by reason of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment, the addition to that is to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~Finding.~~*

The Court is closed for the consideration of the finding.

The Court find that the accused

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

~~*The Court being re-opened, the accused is again brought before it.~~

~~is duly sworn.~~

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B5, B6, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused.

[Instructions.—If by reason of the nature of the service of the accused in a defaulting corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* no.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused B 22194 Private Postik, Sentence
Peter, R.C.R. to undergo detention for a period
of twelve months.

No 1 B-3 Canadian Brigade May

Summary of Evidence in the case of B-22194 Pte Zostik Pete, The Royal Canadian Regiment, a soldier of the Canadian Army, placed on Active Service.

By direction of the Commanding Officer, the evidence is taken on oath.

Key Witness for the Prosecution.

B-133323, Cpl. McKean, R.J., The Royal Canadian Regiment, having been duly sworn, states:-

"I am B-133323, Cpl. McKean, R.J. and on the 23/24 Dec 43 I was a member of #13 Pl., C Coy of which B-22194, Pte. Zostik P. was also a member. On the afternoon of 24 Dec 43 our Coy. moved to a F.V.P. behind the H.L.R.C. Reg't.. We dug in there and during the night of 24/25 Dec 43 we were heavily shelled. The following morning around 0700 hrs. the section leaders were summoned to an 'O' Group for the attack which was to follow. At that time the platoon comd. the late Lieut. Jeffers asked me if I knew anything of the whereabouts of Pte Zostik as he was missing from his post in platoon headquarters. I was unable to give him any information, except that I had not seen Pte Zostik since the previous day around 1700 hrs. at last light."

B133323. Cpl. McKean, R. J.

The accused being informed, of R.P. 4(d) declines to examine the witness.

2nd Witness for the Prosecution

Major Norman Cooper, A.P.M., 10th 2nd Div.

A statement in accordance with AA 163 (1)(2) purporting to be signed by this witness has been produced marked exhibit "A" to this summary, read to the accused and attached to the proceedings.

"I certify that in my opinion the oral testimony of this witness is not available due to the exigencies of the service and the loss of time and expense which would be involved thereby."

E. E. Denman, Lieut.
Officer taking Summary.

"I do not require the attendance of this witness at the Summary hereon.

R. C. Routh. A.

The accused having been duly cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but anything you say or any evidence you give will be taken down in writing and may be given in evidence in accordance with R.P. 4 (e) declining to make any statement or to give evidence on oath.

Certified that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence of the accused, this ninth day of July, 1944
In the Field.

E. E. Denman Lieut
Officer taking Summary.

EXHIBIT "A" In lieu of AF 163 (1j)

I, MAJOR NORMAN COUPER certify that No.B22194 Pte TOSTIK, P., Royal Cdn Regt., surrendered himself at SAN VITO on the 4th MAY 1944 at 1100 hrs. He was not in possession of arms, ammunition or equipment.

Signed N. Couper Major.
A.P.M., 10th Ind Div.

In lieu of AF 163(1J)

I, MAJOR NORMAN COOPER certify that No.B-[illegible] Pte. [illegible] F., Royal Cadn. Regt. surrendered himself at SAN VITO on 4th MAY 1944. (6 months)

He was not in possession of arms, ammunition or equipment.

Major,
A.P.M., 10th Ind Div.

No B22194 Name TOSTIR. P. Sqn, Battery, or Company B Coy Corps C.I.C. B-6 Edmonton Reception Camp Date of enlistment 17 Jan 42 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/138 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc R.H. DOUGLAS Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	17 Jan 43	Pte	–	WOAS AWL from 2230 hrs 15 Jan 43 till 0915 hrs 16 Jan 43 (10 hrs 45 mins) AASpec 5(1)	Cpl Smith C	5 days C.B.	19 Jan 43	Capt Sergeant	Forfeits 5 days pay AO C 40(1)(a)
Field	24 Jan 43	Pte	–	WOAS AWL from 1815 hrs 24 Jan 43 to 1830 hrs 24 Jan 43 failing to appear at dinner parade AASpec 15(1)	Cpl Smith A	3 days C.B.	15 Feb 43	Capt Gordon, RA	
Field	28 Jan 43	Pte	–	WOAS neglect to the prejudice (and neglect to above) AASpec 15(1)	CSM (WO II) Stidwell D.M.	2 days C.B.	03 Feb 43	Capt Gordon	
Field	31 Jan 43	Pte	–	WOAS AWL in that he on the 31 Jan 43 did remain absent from 0700 hrs till 2200 hrs 2 Feb 43 (2 days 15 hrs) AASpec 5(1) WOAS [illegible] in that he on the 31 Jan 43 did by neglect [illegible] AASpec 24(2)	L/Cpl Azell A.R. Cpl Douglas R.H.	28 days pay (FP No 1) 28 days pay (FP No 1) 40(1)(a) by imposition of reduction to the ranks of Pte to be withheld on 1 February 43 and 1 subsequent pay period	02 Feb 43	Lt-Col DC Spry	Forfeits 28 days pay and 28 days FP No 1 40(1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Trial	By whom awarded	Remarks
				CERTIFIED THAT THIS IS A TRUE COPY OF THE ORIGINAL DOCUMENT HELD IN MY CARE.					

B-5 Canada Ranking Mg

ARMY FORM B.206 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B22194	Private	TOSTIK, Peter	The Royal Canadian Regiment.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	~~NO RECORD~~	AA Sec 15(1)	3 times.
For	~~AWAITING ORIGINAL MINUTE~~	AA Sec 40	1 times.
For	~~FROM 2nd DCM~~	AA Sec 84(2)	1 times.
For			times.

Date of first entry in Field Conduct Sheet ~~N/A~~ 19 Jan 43

Date of last entry in Field Conduct Sheet ~~N/E~~ 29 Oct 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused was/is present/was/is under sentence for~~

~~beginning on the day of~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 69 80 days in military custody, *i.e.*, NIL days in open arrest, 69 80 days in close arrest; of which 11 days were spent in hospital. 12 Jul 44

5. The present age of the accused is ~~20 yrs~~ 1 yr 173 days

6. The date of his ~~enlistment~~ attestation is 17 Mar 1942

7. The service which the accused is allowed to reckon is 2 years 128 days

†State the military decorations (if any) held by accused.

8. The accused is in possession of† ~~XXXXXXXXXXXXX~~ NIL.

~~9. The accused was/is/was not/is not recommended for/received/for/received/ without reduction/on the present date.~~

~~Date of Promotion~~

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the actual rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8670/668 120,000 4/42 A. & E. W. Ltd. Gp. 698
(21458) W1.27258/1878 60,000 9/42 " " Forms/B.206(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		~~NO RECORD AWAITING ORIGINAL WPK 6 FROM 2nd ECH.~~ ~~Temp. WPK 6 only.~~ Orig 6 now with that. NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of July 44.

Adjt., [illegible] Royal Canadian Regiment. Capt.

Certified true copy
(D.H. Owen) Capt
for
Officer i/c Cdn Section CMHQ
2nd Echelon AAI

B-1. "Edward Rawlings Esq"
Spare copy WWW 180

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this NINETEENTH day of July, 19 44.

Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.] "JAC"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint—
*(1 Three Officers to form the Court) "JAC"
*(2 A Field Officer as President.)
for the following reasons, namely:—]

*Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	E.C. Rawlings	48 Highrs

Members.

Rank.	Name.	Regiment.
Captain	L.J. Courtin	R.C.R.
Lieut	W.W. White	Hast & PER
Lieut	J.C. Currelly	48 Highrs.

Waiting Member

*Signed "J.A. Calder"
(J.A. Calder) Lt-Col.
Commanding 1 Cdn Inf Bde.
Convening Officer.

*Signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A.22194 PRIVATE Peter TOSTIK (R C R)	FIRST CHARGE A.A. Sec 15(1)	Guilty	Guilty To undergo detention for a period of twelve months Coln Rawlings Maj 23 Jul 44.	Confirmed "JAC"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "J.A. Calder" (*Signed*) " Edward Rawlings"
(J.A. Calder) Lt-Col. (E.C. Rawlings) Major
Commanding 1 Cdn Inf Bde. 48 Highrs.
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of July 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses

*Omit if not applicable.

[redacted] "ER"
[redacted] "ER"

were duly sworn.

Signed this 23rd day of July 19 44.

Edward Rawlings"
President of the Court Martial.
(E.C. Rawlings) Major
48 Highrs.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*[redacted] "JAC"

Signed this 31 day of Jul 19 44.

"J.A. Calder" Lt-Col.
Confirming Officer.
(J.A. Calder) Lt-Col.
Comd 1 Cdn Inf Bde.

Promulgated and extracts taken in the case of B.22194 Pte TOSTIK P.

(*a*) (Dated) 7 Aug 44 (Signed) "J.N. Ritchie" Lt-Colonel
Comd. The Royal Canadian Regiment.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[23016] W1.28500 4/11 60,000 12/42 A.& E.W.Ltd. Gp.698

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 23rd day of July 19 44 by order of

Lieut.Col. J.A. Calder

Commanding 1 Canadian Infantry Brigade.

dated the 19th day of July 1944

President.

Major E.C. Rawlings 48 Highrs.

Members.

Captain L.J. Courtin R.C.R.

Lieut W.W. White Hast & P.E.R.

"ER"

, Judge Advocate.

Trial of* B.22194 Private Tostik, Pter R.C.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that "ER" is not objectable to the following ~~is~~

, waiting member, takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut E.E. Denman R.C.R.

Counsel‡ or defending officer† Lieut J.T.B. Quayle R.C.R.

At 930 o'clock the Trial commences.

The order convening the Court is read, and is marked B1. signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

30057 WLW4182/21 50,000 sets 12/41 H. & H., Ltd. 6m57/11 Forms 19/52

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B-2
Edward Rawlings Maj"

CHARGE SHEET

The accused, B.22194 Pte TOSZIK, Peter, The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, Central Mediterranean Forces, when on Active Service is charged with:-

1st Charge
A.A. Sec 15(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the field, on the 24 Dec 43 absented himself without leave from 1700 hrs 24 Dec 43 until surrendering himself to Provost Coy., 10th Ind Div at 1100 hrs 4 May 44. (Time absent 132 days 18 hrs)

Dated, in the field

this 14 day of Jul 44.

"J.W. Ritchie"
(J.W. Ritchie) Lt-Colonel
Comd., The Royal Canadian Regiment.

To be tried by Field General Court Martial.

"J.A. Calder"
(J.A. Calder) Lt-Col.
Comd 1 Cdn Inf Bde.

In the field
19 Jul 44.

" E-7 Edward Rawlings Maj"

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No B.22194
Rank Pte Name Tostik P. of The Royal Cdn Regt
and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 23-7-44

"Undecipherable" Capt.
(Medical Officer)

CC

Proceedings on Plea of Guilty.

"ER"

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B.22194 Pte Tostik Peter R.C.R.
is found guilty of absence without leave

†The summary (or abstract) of evidence is read, marked B.3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Yes "AW"
"ER"

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked B4. , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

"B-5 Edward Rawlings Maj"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.22194	Private	TOSTIK Peter	The Royal Canadian Regiment.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 611, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special act of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	times	3 times.
For A.A. Sec 40	times	1 times.
For A.A. Sec 24(2)	times	1 times.
For	times	times.
For	times	times.

Date of First entry in Fd Conduct Sheet - 19 Jan 43.

Number of instances of gallantry or distinguished conduct,

Date of last entry in Fd Conduct Sheet - 29 Oct 43.

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~ ~~The accused at the present time is under sentence of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil. days in civil custody, and 80 days in military custody, making a total of Nil. 80 days, of which Nil. 11 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 24 yrs 143 days

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper is 17 Mar 42.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or* corps *or* department) the rank of dated

(*18250) W.13832/144 125,000 6/41 A.&E.W.Ltd. Gp.494

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
		Orig 6 ~~now with unit~~		
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 day of ~~July 44~~

J.B. Smith Capt
Adjt The Royal Canadian Regiment.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years.
In the rank of	years
In the rank of	years.
In the rank of	years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

R.6 "Edward Rawlings Med"

No B.22194 Name POSTIK P | Sqn. Battery or Company | Corps CIC | Date of enlistment 17 Mar 42 | CC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/138 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc R.H. Douglas Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jan 43	Pte		WOAS AWL from 2130 hrs 15 Jan 43 to 0915 hrs 16 Jan 43 (10 hrs 45 min) AA Sec 15(1)	Cpl. Smith C	5 days C.B.	19 Jan 43	Capt Bohlsheuf	Forf 1 days pay 149(1)(a)
Field	14 Apr 43	Pte		WOAS AWL from 1615 hrs 14 Apr 43 to 1630 hrs 14 Apr 43 (Failing to appear at dinner parade) AA Sec 15(1)	Cpl. Keith A.	3 days C.B.	15 Apr 43	Capt Hodson	
Field	9 May 43	Pte		WOAS Neglect to the prejudice etc - (did neglect to shave) AA Sec 40	CSM (W.O.II) Stillwell IM	3 days C.B.	10 May 43	Capt Hodson	
Field	24 OCT 43	Pte		WOAS AWL in that he in the field on 24 Oct 43 did absent himself without leave from 1500 hrs till 1200 hrs 27 Oct 43 (Time 2 days 21 hrs) 15(1) WOAS Losing by neglect 24 Oct 43 did lose his equip AA Sec 24 (2)	L/Sgt Axell AA Cpl. Goodyear PA	28 days FPR pay 149(1)(b) Cost of kit to value of £2-10-1d	29 Oct 43	Lt-Col H.C. Smy	Forf 3 days pay 149(1)(a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified that this is a true copy of the original document held in my care		"J.B. Smith) Capt (J.B. Smith) Adjt The Royal Can Regt.			

Plea for Mitigation on behalf of B.22194 Pte Tostik, Peter

Pte Tostik landed in Sicily with the regiment. He was through the whole of the Sicilian campaign and then was evacuated during the rest area at Scordia, returning just before Campobasso. He was in action with the Regiment from then until Dec 24th - which means he was through the heaviest part of the battle of Moro. Thus Pte Tostik has seen more than his share of action and has participated in almost all the heavy actions the Regiment saw ur to the end of the Moro show. In view of these circumstances I would request that the court show all possible leniency.

"Edward Rawlings Maj"

Signed
J. Quayle Lt.
Defending Officer.

No 1 " B-3 Edward Rawlings Maj"

Summary of Evidence in the case of B.22194 Pte Tostik Pete, The Royal Canadian Regiment, a soldier of the Canadian Army, placed on Active Service.

By direction of the Commanding Officer, the evidence is taken on oath.

1st Witness for the Prosecution. B.133323 Cpl. McKean R.J., The Royal Canadian Regiment, having been duly sworn states:-

" Iam B.133323 Cpl. McKean, R.J. and on the 23/24 Dec 43 I was a member of #13 Pl., "C" Coy of which B.22194 Pte Tostik P was also a member. On the afternoon of 24 Dec 43 our coy moved to a F.U.P. behind the H & P.E Regt. We dug in there and during the night of 24/25 Dec 43 we were heavily shelled. The following morning around 0700 hrs the section leaders were summoned to an "O" Group for the attack which was to follow. At that time the platoon comd the late Lieut Jeffers asked me If I knew anything of the whereabouts of Pte Tostik as he was missing fromhis post in platoon headquarters. I was unable to give him any information, except that I had not seen Pte Tostik since the previous day around 1700 hrs at last light".

"B.133323 Cpl.McKean R.J."

The accused being informed, of R.P. 4(d) declines to examine this witness.

2nd Witness for the Prosecution Major Norman Couper, A.P.M., 10th Ind Div.
At statement in accordance with A.A. 163(i)(j#) purporting to be signed by this witness, has been produced marked exhbit "A" to this Summary read to the accused and attached to the proceedings.

" I certify that in my opinion the oral testimony of this witness is not available due to the exigencies of the service and the loss of time and expense which would be involved thereby."

"E.E. Denman, Lieut"
Officer taking Summary

" I do not require the attendance ofthis witness at the Sumary herein.

" Pte Tostik P."

The accused having been duly cautioned as follows:-

" Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but anything you say or any evidence you wish to give will be taken down in writing andmay be given in evidence, in accordance with R.P. 4(e) declines to make any statement or to give evidence on oath.

Certified that R.P. 4(c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence of the accused, this nineth day of July, 1944

In the Field

"E.E. Denman Lieut"
Officer taking Summary.

"Exhibit "A""

In lieu of AF 163(i)(j)

I, Major NORMAN COUPER certify that No.B.28194 Pte Tostik P., Royal Cadn Regt. surrendered himself at SAN VITO on 4th May 1944 (at 1100 hrs). He was not in possession of arms, ammunitnn or equipment.

"Edward Rawlings Maj"

"N. Couper" Major
A.P.M. 10th Ind Div.

Subject - Evidence

Provost Coy 10 Ind Div.
8b May 44 Ref 7/ A.P.M./

To - The Royal Canadian Regt.

Ref your RC 5-4-21 of 13 May

Herewith corrected AFB 252 and certificate of surrender in respect of B.28214 Pte Tostik R.C.R.

"Edward Rawlings Maj"

"G.I. Mannsy" Capt.
O.C. Provost Coy 10 Ind Div.

E

Finding.

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B.D, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the crime of the accused is a superintendent under, or otherwise, the finding of the Court imports from liable to any additional punishment or disability to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

N-7
C-30487 Pte Dottel R.

O. H. M. S.

[redacted]

M. F. B. 270
1000M 12-40 (8668-39-70)
H.Q. 1772-39-67

C-30487 Pte. Potter, R.
No. 5 Cdn Gen Hosp

Correspondence to be PINNED here.

Army Form A.8.

N 7

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 27th day of August, 1942

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer,]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

PROCEEDINGS REVIEWED

Convening Officer(s) (Rank)

12 Sep 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	R.C.A.

Members.

Rank.	Name.	Regiment.
A Major	from	No.1 Cdn Eng Reinf Unit
A Captain	from	No.1 Cdn Gen Reinf Unit
A Lieutenant	Waiting Member from	Cdn Sigs Reinf Unit

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-30487 PTE. TOTTER, ROLAND No. 5 Cdn General Hospital.	First Charge A.A. sec 15(1) Second Charge A.A. sec 15(4) Third Charge A.A. sec 24(2) See charge sheet attached.	Guilty Guilty Guilty Guilty	Guilty Guilty Guilty Guilty To undergo detention for 90 days + to be put under stoppages of pay until he has made good the sum of £4/6/1 7/9 in respect of loss of equipments etc 28/8/42 T/C.	Confirmed T.B.L. Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) T.B.L. Brigadier (Signed) T Rahmour Major R.C.A. Pres

Commanding Cdn Reinforcement Units *Convening Officer* (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of August 1942.

T Rahmour Major

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this 7/9 day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 28 day of Aug 1942

T.B.L. Brig

Confirming Officer.

Promulgated and extracts taken in the case of C30487 Pte Totter, R.

(*a*) (Dated) 31 Aug 42 (Signed) B.C. Leech

(B. C. Leech, Colonel)
O.C. No. 6 Cdn. Gen. Hosp.
R.C.A.M.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.V. 47797/1937 55 M. 5/41 K.J.L./5265(2) Gp. 698/3

"B" J Cutmore 1945 Pte

CHARGE SHEET.

The accused, C-30487 Pte. Totter, Roland, R.C.A.M.C., on strength of No. 5 Cdn. Gen. Hospital, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 15 (1)
Army Act

When on Active Service, Absenting himself without leave

in that he

At Taplow, Bucks, and being on Pass until 0200 hours 15th Aug 42, did not return until picked up in Maidenhead by R.S.M. Chipman at 1200 hours, 17 Aug 42. (Absent 2 days - 10 hours.)

SECOND CHARGE
SEC 18 (4)
Army Act.

When on Active Service, Stealing property belonging to a person subject to military law,

in that he

At Taplow, Bucks, on or about the 14th day of August 1942 stole one officers dress uniform, one officers battle dress, one forage cap, one field service cap, one pair of Oxford shoes, also badges of rank to the value of £1.14.0 attached to the said uniforms and caps, all the property of Major J.R. Calder, R.C.A.M.C., #1 C.G.R.U. attached to No. 5 Cdn. Gen. Hospital, a person subject to military law.

THIRD CHARGE
SEC 24 (2)
Army Act.

When on Active Service, Losing by neglect part of his equipment, clothing and regimental accessories,

in that he

At Taplow, Bucks, on 17th Aug 42, was deficient:

Item.	No.	Cost ea.	75% vocabulary price.
Blouse, Battle Dr.	1	£1. 7. 8	£1. 0. 9
Trousers, B.Dr.	2	1. 7.11	2. 1.10½
Brush, Hair	1	1. 1	9½
Brush, Boot Pol	1	9	6½
Dressing, Field	1	1. 1	9½
Jersey, pullover	1	6. 9	5. 0½
Outfits, Anti Dim	1	2½	1 7/8
Boots, Ankle	1	1. 1. 6	16 1½
Total.			£4. 6. 1 7/8

Taplow Bucks
26 Aug 1942

(B.C.Leech) Colonel, R.C.A.M.C.
Officer Commanding,
No. 5 Canadian General Hospital,
R.C.A.M.C.

To be tried by Field General Court Martial

(D.M. Phelan) Brigadier
Commanding Cdn Reinforcement Units
Convening Officer.

Aldershot, Hants
27th day of Aug 42.

"A"

No. 5 Cdn. General Hospital, R.C.A.M.C.

Canadian Army Overseas

28 August 1942

This is to certify that I have to-day examined C30487 Pte. Totter, R., and have found him to be physically fit to undergo trial by Court-Martial.

(H. L. McNicol) Capt. RCAMC
Medical Officer.

W.J. Gilmour
Major
Pres

PROCEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
~~In the Field~~ ON THE 28 DAY OF Aug 42

TRIAL OF:- No. C 30477 Pte TOTTER, Roland Unit No 5 C.Ord. Gen Hos.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. G. M. Morrison (Unit) N.A.C.R.A.

Defending Officer:- (Name) Capt. C.C. HENNBERY (Unit) No 5 Can Gen Hos

At 1430 hrs the trial commences.

The order convening the court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir.

The President, members ~~and judge advocate (if any)~~ are duly sworn.

The following constitute the Court:

President Major W.J. Gilmour .....(Unit) R.C.A.

Members Major W.T. McLachlan .....(Unit) 701 C.A.R.U.

Capt. A. Nicholls .....(Unit) 701 C.A.R.U.

~~The officers under instruction are duly sworn.~~

Q2 ~~Do you object to ..... reporting is shorthand writer?~~ A2 -

~~The shorthand writer is duly sworn.~~

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(b) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name Lt. G. M. MORRISON .....(Unit) N.A.C.R.A. ..... ~~sworn~~, produces AFB 296 and NFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - ~~No~~ yes sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - I wish to make a statement under oath I have no other witness.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Accused being duly sworn states:- When I left camp I had no intention of stealing anything, while I was under the influence of liquor. It is not a habit of mine to steal from other soldiers & do anything like that. When I sobered up I tried to think of a way of straightening things up and that is the reason why I came back near camp.

Cross Examined. Q. were you ever convicted of theft in civil life?

A. no sir.

The Defending Officer reads a statement in mitigation of sentence, & the Court is cleared to consider sentence.

The accused has pleaded guilty, but before sentence is passed, there are a few points to which I would like to draw the attention of the court, as I am certain that given due consideration, they will mitigate the sentence.

① The ~~prisoner~~ accused has readily admitted the charges completely, and as he stated to me, they are due to an action which would never have occurred if he had not been drunk. There is no doubt that he had been drinking considerably, and this fact is corroborated by the evidence of Pte Dennis Wood. I do not need to emphasise the well-known picture of the foolish things that may be done, for which alcohol is responsible.

② There is nothing in the evidence to indicate pre-meditation. It was a "spur of the moment" affair. None of the articles taken were sold.

(2) In the accused's previous personal history are some features, which while they frankly have no bearing on the charges, would definitely show an instability. After his father's death, his mother was unable to support her large family, and the accused was placed in an orphanage at the age of ?, where he was treated severely because of a physical infirmity, and he ran away at 14 years of age. Subsequently he made his own way, having something to do with racing stables at various race tracks, and by odd jobs.

He was married in March 1941, and only lived with his wife for 2 months. After coming overseas he first heard from her regularly. He has now not heard from her for 4 months, and reports on her conduct which he has received from several sources, have caused him some worry. He has asked to have his wife

3.

investigated, but to his knowledge, nothing has been done.

He first enlisted in September 1940, and in November 1940 was discharged from the army as medically unfit, due to the infirmity previously referred to. He re-enlisted in January 1941. He has been in hospital several times. He states that he dislikes the work in the Medical Corps, but has been unable to obtain a transfer. He has gone A.W.L. a few times previously, as he admits, & got sentence of 7 days, I would submit to the court for their careful attention, the reports of the specialists in the Neurological Hospital. The impressions contained therein are very important, and I think should be seen by the court which they are considering the case. Recent neurological examination.

Lt. Col. [illegible]

"C" 7 Gilmour Major pres

Summary of evidence in the case of No. C-30487

Pte. Totter, Roland, RCOMC, on strength of No 5 Canadian General Hospital, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath. ~~The summary~~

First Witness for the prosecution

Major J. R. Calder, RCOMC, on strength of No 1 General Reinforcement Unit, attached to No 5 Canadian General Hospital, an officer of the Canadian Army Overseas having been duly sworn states as follows:

At Taplow Bucks on 14th day of August 1942 I went to my quarters at approximately 1930 hours and there I changed out of my battle dress and left it hanging over the back of a chair and then left my quarters. Returning at approximately 2300 hrs the same evening on the ground outside the door of cottage "D" in which my quarters are situated I found a khaki tie which I picked up and placed on the top of a rain barrel where it remained until the next morning and then I identified it as one of mine. On going into my quarters I noticed that the suit of battle dress was gone but thought that my batman had taken it away for cleaning. On arising on the morning of the 15th of August 1942 I found that in addition to the suit of battle dress, one suit of serge, one pair of shoes, two caps, a leather belt, a pair of gloves and a cigarette lighter were missing. I then made enquiries of the other officers living in the block and when they had no knowledge of their whereabouts I reported the loss to Major A.R. Taaner, Registrar. Later in that day I gave a description of the lost articles to a representative of the Burnham, Bucks, police force. At approximately noon on Monday the 17th of August 42 the R.S.M. showed me a pair of battle dress

Trousers and field service cap which I was able to identify as being among the lost articles.

The accused declines to cross-examine the witness

J.R. Calder Major R.C.A.M.C.

Second witness for the prosecution.

No H33089 Cpl Kerr, A.J., RCAMC on strength of No 5 Canadian General Hospital, a soldier of the Canadian Army Overseas having been duly sworn states as follows:

At Taplow Bucks on 14th August 1942 I was on duty as night NCO from 1900 hrs until 0700 August 15th 1942. Pte Totter having a 0200 hrs pass failed to report to the guard room. His bed was checked every hour until my term of duty expired at 0700 hours 15 August 42.

The accused declines to cross-examine the witness

Cpl Kerr A.J.

Third Witness for the prosecution

No: H33023 R.S.M. Chipman, R.P. RCAMC on strength of No 5 Canadian General Hospital a soldier of the Canadian Army Overseas having been duly sworn states as follows:

At Taplow Bucks on 17th August 1942 I was called to Maidenhead. I proceeded to the Bear Hotel and there found Pte Totter. Knowing that he was A.W.L. I brought him back to barracks, placed him under close arrest. On taking his possessions from him I found that he was wearing Major J.R. Calder's cap. I asked him where he got this cap but he would not answer me. I asked him again and he said "Well you've got me" that is all he would say at that time.

I detailed Sgt Holmes and Cpl Shearer to pick up Pte Totter's kit at the Batman's quarters Taplow Lodge and bring it back to the Q.M. stores for a kit inspection. Sgt Holmes took a pair of fatigue pants and a tunic over to the guard room and had Pte Totter change his clothes. I took the clothes that he had been wearing to Major J. R. Calder for identification.

The accused cross examined the witness

Question Did you notice any difference in my actions from what they were on normal times?

Answer. Nothing to speak of. He seemed a little quieter than ordinarily.

Question Did you notice if I was under the influence of liquor?

Answer He had been drinking, sir.

The accused declines to further cross examine the witness.

R. T. Chipman R.S.M.

Fourth Witness for the prosecution

No: H 33142 Sgt Holmes, L. G., RCASC, on strength of No 5 Canadian General Hospital a soldier of the Canadian Army Overseas having been duly sworn states as follows:

At Taplow Bucks on 17th August 1942 at 1245 hours on instruction from Sgt. Major Chipman I proceeded over to the guard room where Pte Totter was being held under close arrest. I took possession of a battle dress and trousers he was wearing at that time. As Pte Totter was removing his trousers he tore a small piece of cloth off the inside

Page 8

of the trousers. This piece of cloth had a name "Swift" on it as well as a number. This battle dress complete, blouse and trousers as well as the small strip of cloth I marked for identification and then handed them over to Sgt. Major Chipman in his office. At 2130 hrs the same day I was present at the guard room when Dvr Totter gave a signed statement to Lt. Jefferman Regimental duty officer.

The accused cross-examined the witness

Question 1. Did I show any signs of being under the influence of liquor?

Answer 1. No, not at that particular time although you smelt strongly of liquor.

The accused declines to further cross-exame the witness.

1 Exhibit Marked A.

Fifth Witness for the prosecution

Lieut M. J. Jefferman, Essex Scottish Regt. on strength of No 2 C.D.I.R.U., attached to No 5 Canadian General Hospital, an officer of the Canadian Army Overseas having been duly sworn states as follows

At Taplow Bucks on Saturday morning 15th August 1942 I was called in to Major Tanner's office and questioned about clothing which Major Calder had reported missing. On the afternoon of the 15th in company with R.S.M. Chipman I made a search of the grounds in the vicinity of Major Calders quarters. It came to my attention that Dvr Totter was A.W.L. Totter had worked as a batman in the same quarters some months previous for a period of 4 days. I made a search of Totters quarters and found no evidence of his being implicated

I reported the matter to Inspector Peck of the Burnham Police Force. As a result Det Denman, detective, stationed at Burnham came to the hospital at 1500 hrs, 18th August 42. He made a further search of the area, talked with Major Calder and a complete description of all the missing articles was given to Det Denman.

On 17th August 1942 I was informed that Pte Totter had been apprehended by the R.S.M. On the afternoon of the same day in company with R.S.M. Chipman I visited both Burnham and Maidenhead Police Stations. On the evening of the same day, Inspector Peck and Det Denman came to the hospital and questioned Totter. During the course of the questioning Totter mentioned the name of an American soldier stationed at Henley.

On the morning of the 18th August 1942 I visited the American Camp and informed the officer commanding of what had happened to date. The American soldier whose name was mentioned by Totter was brought before the Officer Commanding and admitted having in his possession a dress uniform belonging to a Canadian Officer. In company with the officer Commanding I identified one forage cap, one service dress and one pair of gloves as part of the articles missing from Major Calders quarters.

I came back to the hospital and was notified that a Canadian Private was being held by the Maidenhead police. Inspector Peck had found this soldier to be in possession of one pair of oxfords and one battle dress tunic similar to the articles reported missing. He brought both these articles to the hospital on the afternoon of Tuesday 18th of August.

STATEMENT OF PRIVATE DENNIS WOOD, 39308359, Company D, 343rd Engineers (GS), Given in the Presence of Lt. Colonel Benjamin M. Casteel, Executive Officer, 343rd Engineers (GS) and Tech. Sgt. James W. Oliver, at Headquarters, 343rd Engineers, (GS), APO 887, U.S. Army

Having been advised of my rights, and of my own free will and accord, I make the following statement relative to my movements while I was AWOL from Company D, 343rd Engineers (GS), APO 887, U.S. Army between the dates of 13 August 1942 and 16 August 1942, inclusive.

Question: What is your name and serial number?

Answer: Dennis Wood; serial number 39308359.

Question: How old are you?

Answer: I am thirty-six.

Question: Have you ever had any previous service?

Answer: No, sir.

Question: Have the Articles of War been read and explained to you?

Answer: Yes, sir.

Question: Were you absent without leave from Company D, 343rd Engineers (GS), APO 887, U.S. Army, from 13 August, 1942 to 16 August 1942, inclusive?

Answer: Yes, sir.

Question: State in your own words, to the best of your knowledge and belief, where you were and what you did while you were AWOL.

Answer: Thursday morning I went from Nettlebed to Oxford. I don't know just how long I was there because I was drinking. Thursday noon I went to Reading and had several more drinks. That evening I went to Henley and continued drinking. When the pubs closed up I went to the Catherine Wheel and got a room. Friday morning I got on the express train at 10:45 or so and went to London. There I did more drinking and played around. I came back to Maidenhead Friday

evening and met a soldier in the Canadian Army in one of the pubs. I had been drinking and don't remember the name of the pub or of the Canadian soldier. We kept on drinking and went out to several of the little towns around there. We got a taxi to go to London. He had to go to his camp, and I waited for him in the taxi. Then we started out for London. On the way into London the Canadian soldier said that he had better clothes than the ones we had on with him. We got out of the taxi and changed clothes. We left our clothes and went on into London. We looked up some girls and stayed that night. Saturday we played around, kept on drinking and took a taxi to some place in the direction of Liverpool. Saturday afternoon I sobered up enough to realize that I had on a uniform that was not an American uniform. I then decided to come back to camp and get out of the uniform. We went down to a little station and got on the last train and got off at Slough. We tried to get a room in Slough and then went to Maidenhead. We could not get one there, so we slept in a bus. On Sunday we got some drinks and went out in the country. Sunday afternoon I took a bus in to Henley where I was picked up about midnight. I got on the truck and spent the night in the guard house. They released me in time to make reveille the next morning. I got out of the uniform, placed it in my barracks bag, and put on my fatigue uniform. I went down to where they were having calisthenics. Afterward they put me on K.P. duty.

Question: How much money had you when you first went AWOL?

Answer: I think it was about twenty-six pounds.

Question: How much money did you have when you got back?

Answer: One pound.

Question: Is this all you remember about what took place?

Answer: Yes, sir.

I have read the above statement, consisting of two pages, and it is true.

SIGNED Dennis Wood
Dennis Wood
Pvt., Co. D, 343rd Engrs (GS)
39308359

A True Copy Benjamin M. Castel
BENJAMIN M. CASTEL
Lt. Col., CE

1. I, B 60663 Pte Eyre, Charles Henry, having been cautioned that I am not obliged to say anything unless I wish to do so, but whatever I say will be taken down in writing and may be given in evidence, hereby make the following statement.

2. I walked into the Waterloo Cafe in Maidenhead Bucks at approximately 0630 hrs, Monday, 17th August, 1942. I saw a canadian private whom I had met as a patient in #5 Cdn. General Hospital sometime in October, 1941, and started talking to him. He told me that he was A.W.L. since Friday, 14 aug 42. He had on battle dress tunic, battle dress trousers and brown oxfords. He remarked that his tunic was too large for him and I offered to exchange mine, which was smaller, for his. He wanted to exchange his brown oxfords for my service boots and puttees because he thought his trousers would look much neater. We went out into the street and exchanged tunics. We separated and met again about 1045 hrs, at this time I exchanged my service boots and puttees for his oxfords, the exchange taking place in the W.V.S. Canteen. The tunic and service boots, turned over to me by Mr. Heffernan, in the Maidenhead Police Station are the same articles I gave to the Canadian private mentioned in this statement. The brown oxfords and battle dress

time, taken from me in the Maidenhead Police Station are the same articles I received from the Canadian private. We then ~~went~~ stayed in the W.V.S. Canteen until sometime later in the morning, when I left by the back door of the canteen, followed by a civilian policeman.

3. The articles which I received, to my knowledge, are the personal property of this Canadian private.

4. The above statement has been read over to me and is correct.

TIME 1600 hrs.
DATE 18 Aug 42.

[redacted]

~~Sgnd~~ B60663
Gnr C.A.

Witness

M.J. Heffernan L/Cpl

L.F. Holmes Sgt.

In company with Sgt Holmes I visited Maidenhead Police Station and took a statement in writing from the soldier in custody. I took with me one pair of service boots and one battle dress tunic which Pte Totter had been wearing when apprehended. I had reason to belief that these articles belonged to the soldier in custody

Accused declines to cross-examine this witness.

M.J. Griffiths Lt

Sixth Witness for the prosecution

3930835? Pte Dennis Wood, Company D, 543rd Engineers (GS) a soldier in the United States Army.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the exigencies of the service attendance of this witness cannot in my opinion be readily procured.

B Reaux Major.

The accused does not demand the attendance of this witness for cross examination.

Seventh Witness for the prosecution

B 60663 Pte Eyre, Charles Henry, Corps Troops Supply Col, on strength NO 1 CASCRU, a soldier of the Canadian Army Overseas.

A written statement of this witnesses evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the exigencies of the service attendance of this witness cannot in my opinion be readily procured.

B Reaux Major

The accused does not demand the attendance of this witness for cross examination.

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Eighth Witness for the prosecution

No: H2404 Cpl Power, N. RCASMC on strength of No 5 Can General Hospital, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

At Taplow Bucks on 18th August 1942 I inspected Pte Totter's kit and found the following deficiencies

	Vocabulary Value
1 blouse, battle dress	£1 · 7 · 8
2 trousers, battle dress @£1·7·11	£2 · 15 · 10
1 Brush, hair	· 1 · 1
1 Brush, boot, polishing	· 9
1 Dressing, field	· 1 · 1
1 Jersey pull-over	6 · 9
1 Outfits anti-dimming	0 · 2½
	Total £4 · 13 · 4½

On the 19th of August 1942 all of the above articles were issued to Pte Totter on M.F.M 513.

The accused declines to cross-examine this witness.

Power. Cpl.

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The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

The accused No: C-30487 Private Totter, Roland, RCASMC, on strength No 5 Can General Hospital a Soldier of the Canadian Army Overseas states as follows:

I left the hospital after pay parade and caught the bus outside the gate at 1440 hours on Friday 14 August 42 and went to Mardenhead with Pte Hider. We did some shopping and went on the river for a canoe ride. When we came from the river it was 1745 hrs. We then took a horse and buggy up to the Rialto Theatre in Mardenhead. It was then time for the Pubs to open, so we commenced drinking. When we came out of the first Pub we met Pte Morrison from the hospital and we went to different pubs. We made a trip into the fair and out again. On the way out we stopped at the Crown Hotel and ordered a round of drinks. The other two chaps left and I started talking to an American Private. He asked me if he could find a place to lodge and I told him to come up here with me. He told me that he was AWOL for a couple of days and fed up. I said I felt the same way. About 2230 hrs we decided to come up to the hospital and get a couple of Officer's uniforms and go to the coast some place. We took a cab up here and "Dan", the American Soldier came to the cabin with me and waited outside when I went in. I went in and got one dress uniform, 1 pair of oxfords, one field cap, 1 battle dress, 1 field service cap. I took the things out and Dan helped me carry some to the cab. We had told the driver to wait for us.

When we got into the cab we went about 2 miles down the road and stopped. Here we changed our clothes I wore the dress uniform and Dan wore the battle dress

Page 3

We drove up the Bath Road and threw our own clothes out the window of the cab. I threw away my tunic, trousers, boots and field service cap. Dan threw away his tunic trousers and cap. We got to London about 1 a.m. The cab dropped us on a street near Piccadilly. We then asked people on the street how to get lodgings and finally wound up in a canteen run by two women. We checked our money with a soldier at the desk, and he showed us to a dormitory. We slept until about ten or eleven o'clock. When we got up we left the canteen and took down the officer's badges. We then took a cab to Epsom Downs and got there about 12 and drank until the pubs closed. We then took a taxi into Surbiton. We saw a picture and went to London by Bus. From charing Cross we took a taxi to Ealing and then took a train to Slough, then a cab to Maidenhead. We slept the night in a parked bus in Maidenhead. In the morning we changed uniforms again. We then had breakfast at a Cafe and wandered around until the pubs opened and drank until they closed and went to Cookham. I parted with Dan at Cookham and he gave me £1.10/-. I returned to Maidenhead and drank until the pubs closed at night then slept in a parked bus. I had breakfast about 6 a.m. and while I was eating a Canadian Soldier came in. I met him before, but don't know his name I told him I was A.W.L. and he told me he was also AWL since Friday August 14th 1942. He said the Civilian Police were after him because he refused to show his pay book. I told him the shoes I was wearing and the tunic I was wearing were my personal belongings. We then exchanged tunics and shoes at my suggestion. The two of us were in the Services Canteen about 11 o'clock and the Police came in and took him out. I then went to the Bear Hotel and was drinking until R.S.M. Chipman picked me up and I was brought back to Camp under close arrest.

Pte. Roland Potter

I certify that the foregoing summary of evidence consisting of nine pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (D) (E) (F) and (G) have been complied with

[signature] Major

Taplow Bucks
26 Aug 1942

No.5 Canadian General Hospital, R.C.A.M.C..
Canadian Army Overseas.

26 Aug 42.

LIST OF EXHIBITS.

1 pair	Battle Dress Trousers.
1	Battle Dress Blouse.
1 pair	Brown Oxfords.
1	Field Service Cap.

The above all held by O.C., No.5 Canadian General Hospital.

1 pair	Service Dress trousers
1	Officers Service Dress Tunic
1	Officers Service Dress Cap.
1 pair	Brown Gloves.
1	Brown Leather Belt.

The above all held by O.C., Company D, 343rd Engineers (G.S.) APO 887, U.S. Army.

[signature] Major.

I certify that the foregoing summary of evidence consisting of nine pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure A (C) (D) (E) (F) and (G) have been complied with

J. B. Bowman Major

Taplow Bucks
26 Aug 1942

No. 5 Canadian General Hospital, R.C.A.M.C.

Canadian Army Overseas.

LIST OF WITNESSES FOR THE PROSECUTION.

Major J.R. Calder, R.C.A.M.C.
#5 Can. General Hospital.

H33089 Cpl. Kerr, A.J. RCAMC
#5 Can. General Hospital.

H33005 R.S.M. Chipman, R.P. RCAMC
#5 Can. General Hospital.

H33142 Sgt. Holmes, L.G. RCAMC
#5 Can. General Hospital

Lieut. M.J. Heffernan, Essex Scottish
Att'd #5 Can. General Hospital.

39308359 Pte. Dennis Wood
Company D, 343rd Engineers (G.S)
A.P.O. 887, U.S. Army.

B60663 Pte Eyre. C.H. RCASC
#1 C.A.S.C. R.U.

H2404 Cpl. Power, N. RCAMC
#5 Can. General Hospital.

LIST OF WITNESSES FOR DEFENCE.

N I L.

(A.R.Tanner) Major, RCAMC
Registrar
for Officer Commanding.

No.5 Canadian General Hospital, R.C.A.M.C.
Canadian Army Overseas.

26 Aug 42.

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1 pair	Battle Dress Trousers.
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1	Officers Service Dress Tunic
1	Officers Service Dress Cap.
1 pair	Brown Gloves.
1	Brown Leather Belt.

The above all held by O.C., Company D, 343rd Engineers (G.S.) APO 887, U.S. Army.

M.F.M. 6
A.F.B. 122
(1154—7-41 (175-20)
H.Q. 1772-39-1452

No. C30487 Name Totter, R. Sqn., Battery, or Company — Corps R.C.A.M.C. Date of enlistment 3 Jan 41 G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 28 Apr 41. No. and date of last drunk N.I. Period not reckoning towards freedom from extra fine — Sheet No. 2 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	Offence	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy.					
	Previous sheet cancelled 3 July 41 after six months service.								
	9.7.41	Pte.		A.A.40 Using insubordinate Language	Pte. LaFrance	Severe reprimand	9 Jul 41	Colonel McKay,	
	26 Sep 1941	Pte.		A.A.15-1 A.W.L. from 2030 hrs 24 Sep 41 to 0120 hrs 27 Sep 41	Sgt. Wolfe, J Pte. Laveyers, E.	7 days C.B. 1 Days Pay	27 Sep 1941	Capt. C.G. Wood.	
Brixham	9 Dec 41.	Pte.		A.A. Sec.19 Drunkenness	L/Sgt. Malcolm	Admonished	11 Dec 41	Capt. T.B. Morrison	
Taplow	T20.S.	No.5		Canadian General Hospital 20 Dec 41. D.O. #160.					
Taplow	1 Mar 1942.	Pte.		A.A.15.1. A.W.L. Absent 23 hrs.	S/Sgt. Tristram G.V.	7 days C.B.	3 Mar 42.	R.W. Richardson, Lt.Col.	

(Over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Taplow	6 Aug 42.	Pte.		A.A.15.1. A.W.L. from 2359 hrs 6 Aug 42 until 0500 hrs 7 Aug 42. (Absent 5 hrs 1 min.)	Cpl.Kerr A.J. S/Sgt. Cameron,F.M.	7 days C.B. 1 days pay	7 Aug 1942.	B.C.Leech, Colonel.	

Certified True Copy.

(A.R.Tanner) Major, RCAMC
Registrar, for Officer Commanding.

No.5 Canadian General Hospital, R.C.A.M.C.
Canadian Army Overseas.

26 Aug 42.

Statement as to Character and Particulars of Service of Accused.

C-30487, Pte. Totter, Roland, RCAMC, No.5 Canadian General Hospital.

1. The following is a fair and true summary of the entries in the Regimental and Company Conduct Sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Sect.47 of the Army Act.

Within last 12 months.

For being A.W.L: 3 times.
For using insubordinate language; once.
For drunkenness, once, 11th December 1941.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges for nine days in military custody of which 5 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years.

6. The date of his attestation specified in his attestation paper is 3rd January 1941.

7. The service which the accused is allowed to reckon towards discharge or transfer to reserve is 1 year, 8 months and 23 days.

8. The accused is entitled to deferred pay or gratuity in respect of 1 year, 8 months, and 23 days.

9. The accused is entitled to reckon 1 year, 8 months, and 23 days service for purpose of determining his pension.

Schedule.

Of convictions by a Court-Martial or Civil Court of Summary award under Sect. 47 of the Army Act.

NIL.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the Regimental books in my custody.

Signed the 26th day of August 1942.

(A.R.Tanner) Major,RCAMC
Registrar.
for Officer Commanding.

4 S- 46

Pte. Touchette E. H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: P28085 Pte. Edward Henry TOUCHETTE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 24(2)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

120 Days ~~4 months~~ Detention
Stoppages of pay in the amount of $6.09

(Sgd) ..... 29 Jan 45 (Sgd) S.F.L. Ward maj
Judge-Advocate, if any. Date awarded. President. (RP 45-50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) CCS
(1. AA 57A. Delete if not used.)

Date 31 Jan 45 (Sgd) A.D. Bulmer Lt-Col
Commanding C.R.C.A.S.C. 1 Cdn C Tps.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
P.28085 Pte Edward Henry Touchette	6 Jan 45	W.E. Villeneuve Lt admin Offr 5 Cdn Armd Div Tpt Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 140 45-46

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Lt.-Col. C.S. Bulmer Comd Hq RCASC 1 Cdn C Tps dated 29 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-28085	Pte.	Edward Henry	TOUCHETTE	5 Cdn Armd Div Tpt Coy RCASC

PROCEEDINGS REVIEWED
REVIEWING OFFICER, BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-79

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) ~~He has not been under the Close Arrest Regulations for a period exceeding 48 hours.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to explain to accused the charge(s) on which he is to be tried.~~

~~The Prosecutor reads the charge(s) to the accused.~~(1) ~~Do you object to be tried by any of the Members of the Court?~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	S.F.L. Ward	1 Cdn Corps Tpt Coy., RCASC
Member	Capt.	J.D. Wood	1 Cdn Corps Tpt Coy., RCASC
Member	Lt.	F.A. Kavanaugh	5 Cdn Armd Div Tpt Coy., RCASC
Judge-Advocate			
Prosecutor	Lt	B.E. MacDonald	5 Cdn Armd Div Tpt Coy RCASC
Defending Offr	Capt	J.G.K. Shillington	5 Cdn Armd Div Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused P28085 Pte. Touchette, E.H. before arraignment make(s) (no) ~~a~~ plea(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

C2/131

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers it would be in the accused's interest (1) The Court does not consider it would be in the accused's interest to examine witnesses as to the charge(s), and (2) the statement(s) of the accused in Part II of the Record is sufficient, and that no witnesses need be examined in respect of the charge(s) in Part I of the Record is sufficient.~~

(1. *Court may be cleared to consider the statement. Delete whole or part not applicable.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~was~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY ~~was~~ read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence can read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 562-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused P28085 Private Edward Henry TOUCHETTE, 5 Canadian Armoured Division Transport Company, R.C.A.S.C., a soldier of the Canadian Army Overseas

is charged with

FIRST CHARGE
Section 15(1) Army Act

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the Field, did absent himself without leave from 2245 hrs 31 October 1944, until 1530 hrs 12 December 1944. Total time absent 41 days, 16 hours and 45 minutes.

SECOND CHARGE
Section 24(2) Army Act

When on Active Service, LOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES, in that he, in the Field, on or about 23 November 1944 was deficient the following articles of clothing:

Articles		Value
Drawers, cellular	1	$ .43
Jersey pullover	1	$ 1.79
Badge cap	1	$ .09
Brass cleaning	1	$ .04
Brush, button	1	$ .26
Brush, clothes	1	$ .48
Brush, shoe	1	$ .28
Combs, hair	1	$ .04
Forks, table	1	$ .07
Knife, table	1	$ .15
Spoon, table	1	$ .07
Water bottle	1	$ .82
Water bottle carrier	1	$ .52
Mugs, drinking	1	$ .13
Sheets, ground	1	$ 2.94
Total		$ 8.11

D. Hamilton Major

Field
14 December 1944

(D. Hamilton) Major,
Officer Commanding,
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

To be tried by FGCM

C.E. Burness LIEUT.-COL.
30 Dec 44 C., R.C.A.S.C.
COMDT TROOPS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-28085	Pte.		Edward, Henry	TOUCHETTE	5 Cdn Armd Div Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 30 Dec 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) CEB

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ CEB attached hereto.

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate to the Offr mentioned hereunder.~~ CEB

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	K.F.L. Ward		1 Cdn C Tpt Coy RCASC

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.D. WOOD ~~To be detailed by C.O.~~		1 Cdn C Tpt Coy
Lt	F.A. KAVANAGH ~~To be detailed by C.O.~~		5 Cdn Armd Div Tpt Coy

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	NIL		

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
	NIL		

On Active Service in the Fd

in ITALY (*Country.*)

(*Signed personally. RP 105 fn 2.*) C.E. Bulmer Lt-Col (Rank.)

Date 29 Dec 44

Commanding (C.E. Bulmer) Lt.-col. HQ RCASC 1 Cdn C Tps Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

4/38A CFAS6 (In lieu of AFA3) 40/P & S/1697 (4031)

MEDICAL OFFICERS CERTIFICATE

I certify that No. R28085 Pte. Touchette, E.H.

Unit 5 Canadian Armoured Division Transport Company RCASC

is x fit to undergo trial by Court martial.

Signature of Medical Officer

x Insert "fit" or "unfit"

Field
2 Jan 1945

2 January 1945.

Mr. President and Members of the Court.

The accused, Pte Edward Henry Touchette who stands before you is a young man of twenty-five years. He is married and has one child two and a half years old.

He joined the Army on the 18th day of March 1938 and has nearly seven years service.

His passed record of crimes are of a minor nature and would not indicate that he is of a bad character.

Since leaving Canada he has had very little leave and on the two occasions that leave was granted, this was cancelled.

E.L.

Pte Touchette has spent considerable time during the last two years in hospital, suffering from Stomach trouble and skin infections and for this reason he has not been with any one Unit sufficiently long to warrant a leave.

When in 7 Bn. 1CBRU he made many requests to be regrouped from a clerk to a driver, this was refused. He naturally feels a certain resentment as he does not desire clerical work.

Pte Touchette has of late been quite worried about the welfare of his child. He has not heard from his wife for three months and from his Mother he learns that his wife is working against his wishes. He feels that the child is being neglected.

Pte Touchette realizes that he has done wrong in going absent, and pleads guilty.

May the Members of the Court in passing sentence show leniency toward this man.

J. D. Shiels
Captain.

Exhibit "A"

SUMMARY OF EVIDENCE

in the case of :

No. P28085 Private Touchette, E.H., 5 Canadian Armoured Division Transport Company, R.C.A.S.C., a soldier of the Canadian Army Overseas.

The Officer Commanding directs that the evidence be taken under oath.

FIRST WITNESS **B87531 Corporal Greenfield, B., 5 Canadian Armoured Division Transport Company, R.C.A.S.C. having been duly sworn, states:**

"On the evening of 31st of October 44 I was duty NCO in Wksp Platoon, 5 Cdn Armd Div Tpt Coy., RCASC. At 2245 hrs I made a check in the platoon lines to see if all personnel were in at tattoo. P28085 Pte. Touchette, E.H., whom I recognise here present, wksp clerk, was absent and I reported him absent without leave at 2245 hrs 31 October 44. I reported the absence to L7301 M.S. Sgt. Rhinelander, A.A., Wksp duty sergeant on that night. Pte. Touchette remained continually absent without leave from 2245 hrs 31 October 44 until he surrendered to L67226 Cpl. Greenshields, D., 5 Cdn Armd Div Tpt Coy., RCASC at 1530 hrs 12 December 44."

The accused declines to cross examine the witness:

B. Greenfield
.....
B87531 Cpl. Greenfield, B.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

SECOND WITNESS **L7301 M.S.S. Rhinelander, A.A., 5 Canadian Armoured Division Transport Company, R.C.A.S.C. having been duly sworn, states:**

"On the evening of 31 October 44 I was duty Sergeant in Wksp platoon 5 Cdn Armd Div Tpt Coy., R.C.A.S.C. Shortly after tattoo which is at 2245 hrs, B87531 Cpl. Greenfield, B., duty corporal, reported that P28085 Pte. Touchette, E.H. was absent without leave from the platoon lines. Pte. Touchette, whom I recognise here present, was still absent on morning parade 1 November 44 and has been continually absent from 2245 hrs 31 October 44 to 12 December 44, when he was reported as having surrendered to L67226 Cpl. Greenshields, D., 5 Cdn Armd Div Tpt Coy., RCASC."

The accused declines to cross examine the witness:

A.A. Rhinelander
.....
L7301 M.S.S. Rhinelander, A.A.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

.....2

THIRD WITNESS

L67226 Corporal Greenshields, D., 5 Canadian Armoured Division Transport Company, R.C.A.S.C. having been duly sworn, states:

"I am L67226 Cpl. Greenshields, D. Admin. clerk, Wksp Platoon, 5 Canadian Armd Div Tpt Coy., R.C.A.S.C. On the 12 December 44 I was proceeding in a 15 cwt truck from Wksp to Coy. H.Q. At a point on the road a soldier, whom I recognised as P28085 Pte. Touchette, E.H., waved me down to a stop and asked me if I was going to Coy. H.Q. He accompanied me to Coy. H.Q. where I turned him over to E14501 C.S.M. Madeau, A., as an absentee. It was approximately 1530 hrs 12 December 44 when the accused, whom I recognize here present, surrendered to me, voluntarily, sober and properly dressed in uniform."

The accused declines to cross examine the witness:

.....
L67226 Cpl. Greenshields, D.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

FOURTH WITNESS

L7079 C.Q.M.S. Canham, R.C., 5 Canadian Armoured Division Transport Company, R.C.A.S.C. having been duly sworn, states:

"I am L7079 C.Q.M.S. Canham, R.C., 5 Cdn Armd Div Tpt Coy., R.C.A.S.C. On or about 4 November 44 I received into my stores the kit of P28085 Pte. Touchette, E.H. who was reported absent without leave from Wksp platoon 5 Cdn Armd Div Tpt Coy., RCASC. Pte. Touchette's kit was not touched or examined until 23 November 44 when I made an inventory of his kit. The following articles, which to the best of my knowledge, Pte. Touchette, whom I recognize here present, had, immediately prior to going absent without leave, were missing."

List Of Articles		Vocabulary Price
Battle dress blouse	1	$ 5.25
Boots, ankle	1 pr	$ 5.46
Drawers, cellular	1 pr	$ .43
Jersey pullover	1	$ 1.79
Shirt angola drab	1	$ 2.03
Socks, prs	1	$ .37
Trousers, battle dress	1 pr	$ 5.39
Badge, cap	1	$ .09
Brass cleaning	1	$ .04
Brush, button, brass	1	$ .26
Brush, clothes	1	$ .48
Brush, shoe	1	$ .28
Combs, hair	1	$ .04
Forks, table	1	$ .07
Knife, table	1	$ .15
Spoon, table	1	$ .07
Water bottle	1	$ .82
Water bottle carrier	1	$ .58
Mugs, drinking	1	$ .13
Sheet, ground	1	$ 2.94
TOTAL		$26.51

The accused declines to cross examine the witness:

.....

FOURTH WITNESS Continued from page 2

L7079 C.Q.M.S. Canham, R.C., 5 Canadian Armoured Division Transport Company, R.C.A.S.C.

Continued - " The accused declines to cross examine the witness"

.....
L7079 C.Q.M.S. Canham, R.C.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

FIFTH WITNESS

L7677 Corporal Richardson, E.G., 5 Canadian Armoured Division Transport Company, R.C.A.S.C. having been duly sworn, states:

"I am corporal in charge of Regimental Police 5 Cdn Armd Div Tpt Coy., RCASC. On 12 December 44 P28085 Pte. Touchette, E.H. whom I recognize here present, was handed over to me by the C.S.M. as an absentee. At about 1720 hrs I checked the clothing and kit he was wearing when handed to my charge. He had the following articles:

Articles		Vocabulary Price
Blouse, battle dress	1	$ 5.25
Boots, ankle	1 pr	$ 5.46
Trousers, B.D.	1 pr	$ 5.39
Cap Field Service	1	
Shirt angola drab	1	$ 2.03
Shirt, under, cellular	1	
Socks, prs	1	$ .27
TOTAL		$18.50

The accused declines to cross examine the witness:

.....
L7677 Cpl. Richardson, E.G.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

The accused was warned as follows: "Do you wish to make any statement or to give evidence onoath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused, P28085 Pte. Touchette, E.H. sworn, makes the following statement on oath:

"I am P28085 Pte. Touchette, E.H., 5 Cdn Armd Div Tpt Coy., RCASC. I have been in the army six years and nine months. In Canada I was stationed mostly in outposts. I came Overseas to U.K. in July 1943 and to Italy in November 1943. My first leave in Italy was cancelled, and since I have not been in a unit long enough at one time, due to being in hospital, to warrant another another leave.

Before leaving 7 Bn 1 CBBOp, after hospitalization, I requested to be regrouped as a driver instead of as a

.....

Statement of P28085 Pte. Touchette, E.H., the accused, continued from Page 3:

"instead of as a" ...clerk. The request was refused. All my service had been as a clerk. This and family troubles made me decide to 'go over the deep end' and to go absent without leave. I was fed up. I decided to have a bit of recreation on my own time."

The accused declines to call a witness in his own behalf.

E.H. Touchette
.....
P28085 Pte. Touchette, E.H.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

I certify that the foregoing Summary of Evidence consisting of four (4) pages was taken down by me in the presence and hearing of the accused, and that Rules Of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

W.A. Villeneuve
.....
(W.A. Villeneuve) Lieut.,
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

I, P28085 Pte. Touchette, E.H., desire Captain J.G.K. Shillington of 5 Canadian Armoured Division Transport Company R.C.A.S.C. to defend me at my forthcoming Court Martial.

E.H. Touchette
.....
P28085 Pte. Touchette, E.H.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE

1st Witness: B87531 Cpl. Greenfield, B.
5 Cdn Armd Div Tpt Coy.,
RCASC.

2nd Witness: L7301 M.S.S. Rhinelander, A.A.
5 Cdn Armd Div Tpt Coy.,
RCASC.

3rd Witness: L67226 Cpl. Greenshields, D.
5 Cdn Armd Div Tpt Coy.,
RCASC.

4th Witness: L7079 C.Q.M.S. Canham, R.C.
5 Cdn Armd Div Tpt Coy.,
RCASC.

5th Witness: L7677 Cpl. Richardson, R.G.
5 Cdn Armd Div Tpt Coy.,
RCASC.

Statement of P28085 Pte. Touchette, E.H., the accused, continued from Page 3:

"instead of as a" ...clerk. The request was refused. All my service had been as a clerk. This and family troubles made me decide to 'go over the deep end' and to go absent without leave. I was fed up. I decided to have a bit of recreation on my own time."

The accused declines to call a witness in his own behalf.

E.H. Touchette
.....
P28085 Pte. Touchette, E.H.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

I certify that the foregoing Summary Of Evidence consisting of four (4) pages was taken down by me in the presence and hearing of the accused, and that Rules Of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

W.A. Villeneuve
.....
(W.A. Villeneuve) Lieut.,
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

I, P28085 Pte. Touchette, E.H., desire Captain J.G.K. Shillington of 5 Canadian Armoured Division Transport Company R.C.A.S.C. to defend me at my forthcoming Court Martial.

E.H. Touchette
.....
P28085 Pte. Touchette, E.H.
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C.

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE

1st Witness:	**B87531 Cpl. Greenfield, B.** **5 Cdn Armd Div Tpt Coy.,** **RCASC.**
2nd Witness:	**L7301 M.S.S. Rhinelander, A.A.** **5 Cdn Armd Div Tpt Coy.,** **RCASC.**
3rd Witness:	**L67226 Cpl. Greenshields, D.** **5 Cdn Armd Div Tpt Coy.,** **RCASC.**
4th Witness:	**L7079 C.Q.M.S. Canham, R.C.** **5 Cdn Armd Div Tpt Coy.,** **RCASC.**
5th Witness:	**L7677 Cpl. Richardson, R.G.** **5 Cdn Armd Div Tpt Coy.,** **RCASC.**

EXHIBIT "A"

DECLARATION

of a Court of Inquiry held on 24 Nov 44 at 5 Cdn Armd Div Tpt Coy., RCASC, in the Field, to inquire into the illegal absence of P28085 Pte. Touchette, E.H.

The Court declare that P28085 Pte. Touchette, E.H., 5 Cdn Armd Div Tpt Coy., RCASC, illegally absented himself without leave in the Field on the 31st day of October 1944 at 2245 hrs, that he is still so absent and that on 23 November 1944 he was deficient and that he is still deficient of the following articles of kit.

LIST OF ARTICLES		VOCABULARY PRICE	VALUE OF UNEXPIRED WEAR (75% of voc price)
x Battle dress blouse	1	$5.25	$3.94
x Boots, ankle	1	$5.46	$4.10
Drawers, cellular	1	$ .43	$ .32
Jersey pullover	1	$1.79	$1.34
x Shirt, angola drab	1	$2.03	$1.52
x Socks, pr	1	$ .37	$ .28
x Trousers, battle dress	1	$5.39	$4.04
Badge, cap	1	$ .09	$ .07
Brass, cleaning	1	$ .04	$ .03
Brush, button brass	1	$ .26	$ .20
Brush, clothes	1	$ .48	$ .36
Brush, shoe	1	$ .28	$ .21
Combs, hair	1	$ .04	$ .03
Forks, table	1	$ .07	$ .05
Knife, table	1	$ .15	$ .11
Spoon, table	1	$ .07	$ .05
Water bottle	1	$ .82	$ .62
Water bottle carrier	1	$ .52	$ .39
Mug, drinking	1	$ .13	$ .09
Sheet ground	1	$2.94	$2.21
Total		$26.61	$19.96

Signed in the Field this 24th day of November 1944.

PRESIDENT (sgd) (J.G.K. Shillington) Capt., 5 Cdn Armd Div Tpt Coy., R.C.A.S.C.

MEMBER (sgd) (H. Harrod) Capt. 5 Cdn Armd Div Tpt Coy., R.C.A.S.C.

MEMBER (sgd) (W.A. Villeneuve) Lieut., 5 Cdn Armd Div Tpt Coy., R.C.A.S.C.

(sgd) (R.G.C. Hughes) Capt., A/Officer Commanding, 5 Cdn Armd Div Tpt Coy., R.C.A.S.C.

x Articles recovered on surrender from A.W.L. [illegible].

Certified true copy of original entry in Regimental Conduct Book
M.B. 68
....(W.A. Villeneuve) Lt. A/O
5 Cdn Armd Div Tpt Coy., RCASC.

Exhibit 8

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-639
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
P28085	Private	Edward Henry, TOUCHETTE	5 Cdn Armd Div Tpt Coy RCASC

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

~~Within the 12 months~~ ~~Since enlistment / last leave~~

~~For~~ ~~times~~

~~For~~ ~~times~~

~~For~~ ~~times~~

~~For~~ ~~times~~

or,

~~No entries in respect of conduct~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act A.F.A. 73 ~~Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused is under sentence as follows~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody ~~20 days 18 hrs 30 min~~ days in military custody, making a total of 20 days 18 hrs 30 mins days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years

6. ~~The last conviction recorded in the accused's~~ ~~conduct sheet~~

7. ~~The conviction recorded in the accused's conduct sheet~~

8. ~~The accused has been convicted by the Court of Canada~~

9. The accused is in possession of or entitled to no ~~military~~ decoration ~~military~~ ~~and has not been recommended for any~~ ~~decoration~~.

10. ~~The accused has been convicted by the Court of Canada~~

11. ([illegible] of others) The [illegible] in the Royal Canadian Air Force [illegible]

[illegible]

12. The [illegible] served as a [illegible] other [illegible] without reduction [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[illegible]

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court	Date and Place	Charge upon which	Sentence of the	Punishment
[illegible]				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of December 1944 [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

Exhibit "C"

This will certify that MFM 6 of P-28085 PTE. TOUCHETTE, E.H. is not in possession of this Unit and that the following Regimental Entries are extracted from P-28085 PTE. TOUCHETTE's MFM 14:-

17.7.40	Sec. 15(1) A.A.	AWL from 13.4.40 to 14.4.40 TTA 2 Days
21.8.40	Sec. 15(1) A.A.	AWL from 19.8.40 to 20.8.40 TTA 1 day 7 hrs. Punishment awarded 7 Days C.B. - 2 days automatic forf of pay.
22.4.43	Sec. 15(1) A.A.	AWL from 2200 hrs 22.4.43 until 0730 hrs 8.5.43. TTA 15 days 9½ hrs. Forf 16 days pay FIMAI 149(2) and 28 days Detention On 8.5.43. 13 days remission on 22.5.43
16.8.43	Sec. 22 A.A.	Awarded 14 days C.B.
6.5.44	Sec. 15(1) A.A.	AWL 13 hrs Awarded stoppage of 3 days pay and automatic forf of 1 days pay.

[redacted]

(W.A. Villeneuve) Lt. A/O
5 Cdn Armd Div Tpt Coy.,
R.C.A.S.C. C.M.F.

4 M – 118

Plé. Touche. H.F

RECEIVED
5 JAN 1945
JAG BRANCH
O.M.H.Q.
Correspondence to be PINNED

RECORDED AT CMHQ IN AB 160 4/11-118

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

PROCEEDINGS REVIEWED
JUDGE ADVOCATE GENERAL
JAG BRANCH, C.M.H.Q.

On Active Service, this seventh day of December, 1944. (Order convening the Court)

Whereas it appears to me, the undersigned, an officer in Command of 3 Parachute Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ~~ordinary~~ General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint :—~~
~~*(1. Three Officers to form the Court.)~~
~~*(2. A Field Officer as President.)~~
~~for the following reasons, namely :—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.		
Rank.	Name.	Regiment.
Major	R.E Combe, MC.	Herefordshires
Members.		
Rank.	Name.	Regiment.
A Capt	To be detailed by OC 1(Gdn) Para Sqn Coy Bn	
A Subaltern	To be detailed by OC 9 Para Bn	

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding 3 Parachute Brigade.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G-720 Pte TOUCHE H.F. 1(Gdn) Para Trg Coy	AA Sec 15(1) W.O.A.S. absenting himself without leave.	N.G	Guilty absence only from 0615 hrs 13.11.44 to 18.30 hrs on 13.11.44	Confirmed 17.12.44 ..... BRIGADIER, COMD. 3 PARACHUTE BRIGADE.
			6 months detention to 28 days	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ..... (Signed) R I Combe Major
Brigadier, Commanding 3 Parachute Brigade. Convening Officer (*c*)
H. Hereford, Lt. R President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15 day of Dec., and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable

were duly sworn.

Signed this 15 day of Dec. 1944

R I Combe Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 17 day of December 1944

Brigadier
Asst. 3 Parachute Bde Confirming Officer.

Promulgated and extracts taken in the case of C 720 Pte Touche, H.F.

(*a*) (Dated) 18 Dec 44 (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33066) Wt.28530/411 60,000 12/42 A & E.W.Ltd. Gp.698

A Attachment

CHARGE SHEET

The Accused G-720 Pte Touchie, H.F., 1st Cdn Para Trg Unit, Canadian Army Overseas, a soldier of the Canadian Army Overseas placed on Active Service is charged with:-

CHARGE

A.A. Sec 15 (1)

When on Active Service
Absenting himself without leave
in that he
in the field did absent himself
without leave from 0615 hrs 13 Nov 44
until 1845 hrs 24 Nov 44.
Total absence 11 days 14 hrs 30 mins.

2 Dec 44,
Carter Barracks,
Bulford Wilts.

(D.J. Wilkins) Major,
CO 1st Cdn Para Trg Unit.

To be tried by F.G.C.M.

13 Dec 44

COMD. 3 PARA

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

Held in the Field on the 15th day of Dec 1944

- - - - - - - - - - - - - - - - -

The members detailed are :-

	Rank	Name	Regt	Detailed by
1.	Captain	R.E. Harrison	1 Can. Para. Bn.	O.C. 1 Can. Para. Bn.
2.	Lieut.	R.O. Blair	9 Bn. Para. Regt.	O.C. 9 Bn. Para. Regt.

(NB - See HP 100(c). These names must not be written by President on Page 1 of AF A3)

Trial of :- No. G: 720 ..... Name Pte. Tuchie H.F. ..... Unit 1 Can. Para. Trg. Coy.

x Prosecutor Lieut. T.A.J. Halley ..... Defending Offr Lieut. D.O. Belding .....

Offrs under Instruction:- None/one list marked " " attd.

1. The accused answers to his name and number
2. The convening order is read in his presence
3. The accused is asked whether he objects to trial by the President or any members and he answers ...No.....
4. The President and members are sworn
5. The Judge Advocate, the officers under instruction, the Shorthand Writer, The Interpreter are sworn.
6. The Charge Sheet annexed to the Convening Order is signed by the President Marked 'A' and attached to the proceedings
7. The accused is arraigned on the charge(s) in Exhibit 'A'
8. ~~The accused having pleaded guilty to the .....charge(s) by 7(a)~~ ~~is complied with~~
9. The accused's answer to the question at the foot of page 2 of AF A3 is .....No.....
10. The prosecutor makes no/~~the attached~~ opening address marked " " att.
11. The evidence for the prosecution is recorded on sheets marked " 1 " att.
12. The prosecution is closed
13. The accused is informed of his rights in accordance with HP 40(a) and Note 2 on page 664 of the Manual of Military Law.
14. The accused makes the following answers to the following questions :-
    (a) Do you wish to give evidence as a witness on oath? Ans...Yes .....
    (b) Do you intend to call any witnesses in your defence? Ans...Yes.....
    (c) Are they witnesses as to character only ? .....No..... "B"
15. The Defending offr makes the opening address recorded on sheet " " (He is only entitled to make an opening address if the answers to the questions in 14 are yes - yes - no).
16. The evidence for the defence is recorded on sheets " 2 " attached.
17. The Defence is closed
18. Speeches. prosecutor marked " D ". Defending Officer marked " C ". (Here record the closing speeches of the prosecutor and the defending offr in the order indicated in HP 40(c). Having been recorded they should be attached in that order.)
19. The Court is closed to consider the Findings which is entered on page 2 of AF A3.
20. The Court is re-opened and the Findings of Not Guilty are read in open court.
21. x The provisions of HP 57(b) and (c) are complied with
22. x The accused is found guilty of the charges mentioned in 8 above and the Finding is entered on page 2 of AF A3.
23. x The Summary of Evidence is read marked " " signed by the President and attached to the proceedings.

x Insert rank, name, unit and "Barrister" or "Solicitor" if such be the case.

x If the accused pleads guilty to all charges, numbers 8, 21, 22 & 23 only are used before the finding
If the accused pleads Not Guilty to all charges, all paras except 8, 21, 22 and 23 are used
If the accused pleads Guilty to one or more and Not Guilty to one or more charges all the paragraphs are used.

To sheet 2.

Sheet 2

AFTER PLEADING

(If there is a finding of guilty the President announces that the findings of the Court on charges .....I.....will be promulgated in due course and asks the prosecutor if he has any evidence as to character)

EVIDENCE OF CHARACTER

25. ...Lance Matlin C.P.I.U. a sworn witness states :-

I produce a certified copy of AF B122 marked "X" and attached and AF B295 marked "X1" and attached relating to the accused whom I recognise.

26. The accused is asked the following questions :-
"Do you wish to call witnesses as to character or to address the Court in mitigation of sentence ?" Answer ....NO.....

26. The accused calls witnesses to character recorded on sheet marked "1"

27. The accused's/Defending officer's statement in mitigation is recorded on sheet marked "Y"

The Court is cleared to consider sentence.

Y

Plea in Mitigation

In camp after period of reporting to Criminal Rm.
Accused enjoined with procedures.

MEDICAL OFFICER'S REPORT

I certify that No G 720 Pte, TOUCHIE H.F.
of ~~8666~~ 1 CPTU is in a GOOD state of health,
and FIT to undergo Trial by Court martial.

Bradley Capt RAMC
Medical Officer

Station Bulford Wilts

Date 15 Dec 44

Allowable 14 days

M. F. B. 246
35M—6-41 (792)
H.Q. 1772-39 680

Prosecution

1st witness B 57340 Sgt Mackenzie A. H. 1. C.P.T.U

Sworn states:-

On 13.11.44 I took Reveille Roll Call. The accused was absent. I searched but could not find him. Result was OBIS

I next saw him on the 24.11.44 approx 18.30 hrs in the hut. I put him under open arrest.

Between these two times I have not seen him

Cross examined

I was Coy Sgt Sgt. I remember the morning. It was not raining.

On the 13.11.44 I had a recce patrol out. Till then I had had little trouble with this Platoon.

I did not see him between these times

I searched & enquired of the men.

There were 2 others at this time.

24 was a Friday.

No re-examination

Close of the Prosecution

B

D. O. Quarrying soldiers.

accused was not absent as in charge. charge is not correct.

Defence

1st witness S. 720 Pte Howells The accused Sworn states:-

I had 36 hrs pass in Nov, expiring on Nov 13 at 0200 hrs. I did not return at that time being with a friend. He was pretty tight & would not go back. I stayed therefore with him in B'ham.

At 0145 in YMCA we were checked for pass. Nothing more said. My friend was made to the CQMS & they put him under arrest. I stayed till 12.30 on the 13 trying to locate him. I could not take him back with me. It was now 8 hrs abt.

I came the 13.30 train to Camp. reported to the Gd Rm Thereafter my pass. He said OK. This was 18.30 hrs. It was now

18 hrs abs. He worked at me + said OK.
I went to the hut + saw in the hut a Sgt.
I went to Mishow + at 1845 I saw Pt Nicholson
+ Rake at the Show. I was in Camp on the 13th.

Cross examined

I knew I was abs without leave. I knowed
in pass, + wanted especially to be put in charge
for 16 hrs abs. He looked at me. I took it that
I was to go. I only reported to Guard Commdr.
I talked to an N.C.O, name Bishow + went to
Naafi. Lights out is at 22.15 hrs. No night Roll
Call is made.
Roll Call is not called regularly in the Troop
in that hut. I don't remember Roll Call on the 14th
I got up usual time. So far as I remember I slept
in my own bed that night. I do have trouble with
my memory at time

Re examination

Re by Court.

2nd witness. F 92827 Pt R.A. Nicholson 1. C.P. Bn.
sworn states:-
I know Brown accused since April 44.
I had 36 hrs leave in Bn on 11th expiring at
0200 hrs. I am in accused platoon.
There was section parade in Camp that night.
I saw the accused with 2 females 2 mins after
18.30 hrs.

Cross examined
I was in his pt then. My bed was 3rd bed
away from accused. I can't say if accused
slept in his bed that night.

re examined
Lights were not out when I went to bed.
Some come in after this.

3rd witness. B115756 Pt Ed. Rake 1. Cdn. Para Bn. Para Reg. Cert. sworn states:-
I know accused since March 44
I had 36 hrs pass expiring at 0200 hrs on 13.11.44
There was a meeting in YMCA in Upper Dyke
I went there. I saw accused in Dyke at
approx 1800/2000 hrs. Lights were on.
No cross examination

D.O. Closing address. C
accused was in Camp on 13th at 18.30 hrs
Incorrectly charged.

Closing address & Punishment D
No record & time in Camp on 13th
Next time & reporting for duty.

X Allowance

G-17720 Pte TOUCHIE H F 1st Cdn Para Trg Unit.

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AA Sec 40 1 AWL 1

AA Sec 40 1

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Summary of Evidence

in the Case of

G-720 Pte. Onchis H.F. 1 Cdn Para Bn that a soldier of the Canadian Army placed on active service

Charge: Absent without leave A.A. Sec 15 (1).

The Commanding officer directs that the evidence shall be taken upon oath.

First Witness: B57340 A/Sgt Mackenzie A.W. 1 Cdn Para Bn unit CA having been duly sworn states. I am the platoon sergeant of No 2 platoon Rifle Coy 1 Cdn Para Bn unit. At 0615 hours on 3 Nov 44 I called the usual roll call of my platoon. Pte Onchis did not answer to his name. I made a search for Pte Onchis and enquired from members of the platoon as to his whereabouts. He could not be found and none of the platoon had seen him that morning. I then reported Pte Onchis to the Company Orderly Room as being absent without leave.

On the evening of 3rd Nov 44 at approx 1830 hours I was giving my platoon briefing on a recce patrol they were to make that night. This took place just outside the platoon quarters. When I had completed this briefing & the platoon had left on the patrol I went into the platoon quarters. I found Pte Onchis in the quarters by his bed. I asked him what he was doing there and he replied he had just returned from being absent without leave. I placed him under open arrest and notified the Rifle Coy Orderly Sergeant of Pte Onchis's return.

(SIGNED) B.57340 A/Sgt. A.W. Mackenzie A/Sgt.

B57340 A/Sgt MACKENZIE A.W.

The accused declined to cross-examine the witness.

Caution to the Accused

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say in any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make a statement.

Taken down by myself at Carter Barracks on the twenty fifth day of November 1944. I certify that Rules of Procedure 4 (b) (c) (d) (e) & (f) have been complied with.

[illegible] Lt. R.C.Sig.
A/D/C Canadian Army Unit.

HI-132

PTE TOUGAS JR

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.140599 Pte Roland TOUGAS

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

Accused ~~was~~ ~~convicted~~ ~~sentenced~~ "JRC" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for TWO years

(Sgd) ..... Judge-Advocate, if any. 17 Nov 44 Date awarded. (Sgd) JOHN R CAMERON" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

FINDINGS AND SENTENCE CONFIRMED

~~I remit the sentence to be carried into execution~~ "PEB"

(1. AA 57A. Delete if not used.)

(Sgd) "P E BERNATCHEZ" Brig

Date 21 Nov 44 Commanding 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D.140599 Pte Roland TOUGAS	22 Nov 44	"J R ROUSSEAU" Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (D.M. Owen) Capt., Aide de Camp

RECORDED AT CMHQ IN AB 160 4E-132

CFAB5 (To Dep. of AFA&I) 40-7-M-B/1808 (2001)

FIELD GENERAL COURT-MARTIAL 4/38B

Convened by Order of Brig JPE Bernatchez Comd 3 CID dated 15 NOV 44

Cdn Sec GHQ 2 Ech AAI

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.140599	Pte	Joseph Roland	TOUGAS	R22R

PROCEEDINGS REVIEWED
7 Dec 44 "WP TAYLOR" Major
DJA
Cdn Sec GHQ 2 Ech AAI

PROCEEDINGS OF TRIAL

Held in the Fd in (country) Italy on (date(s)) 16 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA "JRC", assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3) "JRC"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 "JRC" hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor states that accused elected to be tried by court-martial.~~ "JRC"

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1.1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the~~ J52795 Pte Therlault, JM R22R as interpreter? Ans No

The Interpreter is sworn.(1) ~~The Interpreter is not sworn.~~ "JRC"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2) "JRC"

(1. RP 110. 2. If no objection, waiting member retires, RP 66(B). If objection, see procedure AA 51, RP 25, 71, 1d, MML p 742.)

A7. The President, Members, JA ~~and Judge-Advocate~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J R CAMERON	WNSR
Member	Capt	C R SEGEE	CYR
Member	Capt	R DESRIVIERES	R22R
Judge-Advocate	~~.....~~		
Prosecutor	Lieut	M K D J ST PIERRE	R22R
Defending Offr	Lieut	P E VINCENT	R22R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D.140599 Pte Tougas, R. before arraignment make(s) (no) (~~a~~) plea ~~in bar of trial~~ "JRC" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is (~~are~~) no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. NAME corrected on Charge Sheet. "CJR"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 80, 85; calling of witnesses by Court, etc, see RP 75-79, 85, 116; Statement and Evidence of Prior see RP 17(E) fn 6; duty and responsibility of JA or Pres to record proceedings see RP 91, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
"JRC" 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
"JRC" (1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)
"JRC"

D2. The Prosecutor makes his (his) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s) / Charge(s) / Fire Charge preferred, and makes a submission(2). The Court is re-opened, and the President announces that the submission is allowed on the charge(s) / charge(s) / charge(s) and allowed on the charge(s) / charge(s) / charge(s), and that, accordingly, the Court will proceed on the former but the accused is not found Not Guilty on the latter charge(s)(3).
"JRC"
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans NO Do you intend to call witnesses on your behalf ?
Ans NO Are they witnesses as to character only ? Ans N/A
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)
"JRC"

D7. The Court is closed to consider the finding(s) (1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)
"JRC"

D8. The President announces the finding of Not Guilty and states to the accused that the finding of the Court on the First charge, being subject to confirmation, will be promulgated later (1)
Or, The President announces that the finding of Not Guilty of Attempted Murder, but Guilty of Manslaughter, and that the finding of the Court on the charge, being subject to confirmation, will be promulgated later (1)
Or, The President announces that the finding of the Court on the charge(s) is recorded in Part I of the Schedule (2)
"JRC"
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM p.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

D.148099 Pte Joseph Roland TOUGAS a soldier of the Royal 22e Regiment Canadian Army (Overseas CMF, on active service is charged with:

First Charge
AA Sec 12 (1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the field, in ITALY, on the 23 Oct 44 at apprx 1330 hrs, whilst serving in a forward area with his platoon, absented himself without leave, with intent to avoid so serving, until he surrended himself at 4 Bn C.B.R.Gp. at 0800 hrs the 31st Oct 44.

Total absence:- 7 days 18 hrs 30 mins

"JRC"

In the Field
23 Oct 44

"G.A. TURCOT"
(G.A. TURCOT) Major
T/COMMANDING ROYAL 22e REGIMENT

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field
15 Nov 44

"P E BERNATCHEZ" Brig
Comd 3 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 140599	Pte		Joseph Roland	TOUGAS	R22R

"JRC"

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 NOV 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial". "PEB"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ "PEB"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. "PEB"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "PEB"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J R CAMERON	WNSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C R SEGEE	CYR
Capt	R DESRIVIERES	R22R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J J M JARRY	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.) "P E BERNATCHEZ" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 15 Nov 44 Commanding 3 Cdn Inf Bde Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAS (In lieu of AFA3) 40/P & S/1007 (4851)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. D.140559

Rank Pte Name Tougas, R. of R 22e R

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station In the Field

Date 16-11-44 "JRC"

"G DANDENAULT" Capt
(MEDICAL OFFICER)

"JRC" MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. D140599

Rank Pte Name Tpugas, R. of R 22e R

and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial.

Station In the Field

Date 17-11-44

"G DANDENAULT" Capt
(MEDICAL OFFICER)

First Witness for the Prosecution

D 38043 A/Sgt Cotmoir, AA R22R sworn states:-

I am D 38043 A/Sgt Cotmoir A.A. R22R of "A" Coy. I recognize the accused as Pte Tougas. On 23rd Oct 44, I was A/CSM of "A" Coy. During N/22/23 Oct. Near midnight Pte Tougas came to me and told me he was suffering from shock and that he couldn't stand the front anymore. I told him I could only do one thing for him i.e., evacuate him to the R.A.P. that same night. Awhile later Pte Tougas started for the R.A.P. and I imediately phoned the R.A.P. and asked for information concerning Tougas. The next morning I went to the RAP between 0730 and 0745 hrs and met the RAP Sgt and the M.O. who told me that Tougas could go back to his Coy. Tougas was present at the time. Pte Tougas and I then went back to our Coy. When we returned to the Coy I told Tougas to go back to his Pl and report to his Pl Sgt. The same night at 1700 hrs., Sgt Poulin reported to me the absence of Pte Tougas. He was absent from between 1300 and 1330 hrs. Pte Tougas had been told by me to return to his Pl at about 0900 hrs. The next time I saw Tougas was 31st Oct or 1 Nov 44. He was in custody by the Provost, at that time we were back about 1000 yds to reorganize the Coy.

No cross examination by Defence.

(R.P. 83 (b) complied with)

Second Witness for the Prosecution

E.5763 A/Cpl Caissy, L. R22R Sworn states:-

I am E.5763 A/Cpl Caissy, L., R 22 R, Comd 8 Sec., 9 Pl., of "A" Coy. I recognize the accused as Pte Tougas, he

was a rifleman in No.7 Sec., 9 Pl. On the 23rd Oct I was acting as Pl Sgt of 9 Pl. In the afternoon of the 23rd L/Cpl Blanchette reported to me the absence of Pte Tougas. The next time I saw Pte Tougas was when he was paraded at the Coy Orderly Room. He was under escort.

Cross Examination by the Defence:

Q - Was the Coy in a fighting position when Pte Tougas was reported absent?

A - No. We were about 1½ miles behind the line. There were two more coys ahead of us.

Q - Did you expect tb make any more action as forward Coy?

A - We didn't know at that time.

Q - Did Pte Tougas sleep with your Pl the night before he went absent?

A - No, Sir.

Q - When did Pte Tougas report to you?

A - He didn't report to me, but I saw him in the Pl during the morning.

Q - How long have you known Pte Tougas?

A - Over four months, Sir.

Q - Was he a good soldier?

A - Always until that time.

(R.P. 83 (b) complied with)

Third Witness for the Prosecution:

D 142858 L/Cpl Blanchette, R., R22R Sworn states:

I am D142858 L/Cpl Blanchette, Sec Comd 7 Sec., 9 Pl., "A" Coy. I recognize the accused as Pte Tougas who was a rifleman in my Sec. On 23rd Oct 44 I was Sec Comd of 7 Sec 9 Pl when we were in position a bit behind the line, where we did guard duties.

Pte Tougas was very nervous. He had slept at the RAP the night before. When he returned I put him on guard at about 0830 hrs. He was still nervous. Awhile after dinner I looked for him to detail [illegible] guard, but I couldn't find him. I then reported him absence to Cpl Caissey, who was at the time acting as Pl Sgt at about 1300 hrs. I next saw him under escort, about six or seven days ago. I don't remember exactly.

Cross Examination by the Defence:

Q - Did Pte Tougas stay at his post when posted there at about 0800 hrs?

A - Yes.

Q - Did you see Pte Tougas after he was relieved at his post?

A - Yes, during the forenoon with the rest of the Pl.

Q - Was Pte Tougas warned that he was to take another tour of duty?

A - No, Sir.

Q - How long had Pte Tougas been with your Sec?

A - About a week.

Q - Were you satisfied with him as a rifleman?

A - He always did what I told him to do.

Question by the Court.

Q - Did you place Pte Tougas on guard for a second time?

A - Yes, Sir at about 1000 hrs for one hour. He completed this hour on guard.

Q - When was Pte Tougas's next tour of duty on guard?

A - 1300 hrs.

Q - Did he do this guard?

A - No. I looked for him but could not find him.

Q - Were you under enemy fire during the day?

A - We were under enemy shelling.

(R.P. 83 (b) complied with)

Fourth Witness for the Prosecution

Lieut MKDJ St Pierre R22R Sworn states:

I am an officer of R22R, I produce certificate under AA 163 (1) (j) perporting to refer to the accused D.145099 Pte Tougas, J.R., R22R. Certificate admitted in evidence, marked Exhibit "A" initialed by the president and attached to the proceedings.

(R.P. 83 (b) complied with)

Statement in Mitigation

This is a soldier of eight months service with [redacted] has been through the toughest action and was considered by his Sec Comd's as one of the best soldiers. The evidence produced could not in such a case give him a record of defaulters. His conduct sheet has not a single entry. This soldier had just a moment of weakness which is sometimes unavoidable in the front line. Therefore I ask that the Court be most lenient to a man that did his duty.

N.B. - The Prosecuting and Defending Officers were given full opportunity to make closing addresses but declined to do so.

"JRC"

The Court opened at 0930 hrs 16 Nov 44 and adjourned this case till 1130 hrs 17 Nov 44 - All members of the Court present.

"JRC"

RCOY

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1)(j)

I Capt A.E. Davidson certify that D.145099 Pte TOUGAS, J.R. of the R 22e Regiment surrendered himself to Sgt Bouchard, A 4 Bn at 0800 hrs on the 31st day of October 1944 as an absentee without leave. HE WAS SOBER AND WEARING KINGS UNIFORM.

Date Oct 31 1944 Signature "A.E. DAVIDSON" Capt Adjt 4 Bn CBRGp

Exhibit "A"

"JRC"

NoD-140598 Name TOUGAS JR Sqn, Battery or Company | Corps C IC | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Nil entries as of 26 Dec 44					
				CERTIFIED TRUE EXTRACTS FROM MFM 4					
				(D.M. Owen) Capt. for Officer i/c Cdn Sec GHQ 2nd Ech AAI.					

(PTO)

Ex 'B' "JRC"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.140599	Pte	LAND. Robert TOUBAS	Royal 22e Regiment

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Nil times	Nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused. N/A

2. The accused has not been previously convicted, *or* N/A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A, beginning on the N/A day of N/A

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~xxxxxxxxx~~ is 21 years

6. The date of his ~~xxxxxxx~~ attestation specified in his ~~xxxxxxxxxxx~~ attestation paper is 2 May 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(*22847) W4381/708/1077 10,000 10/42 A & E.W.Ltd. Gp.6/9
(*21481) W4122/7/451 15,000 5/43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D.140599 Rank Pte Name Roland TOUGAS of Royal 22e Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of November 1944

"P.A. TREMBLAY" Lieut
Adjt R 22e R

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years,
In the rank of	years,
In the rank of	years,

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be inserted from such sources as are available and the paragraphs incurred amended accordingly.)

MFM 6
(AFH 122)
40/P&S/136 (3438)

No. 140599 Name TOUGAS J R | Sqn. Battery or Company "A" | Corps CIC | Date of enlistment 8 May 43 | CC Badges | Service or Proficiency Pay N/A

Company Conduct Sheet Date of last entry in | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc "C GAGNON" Lt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				SHEET DESTROYED AFTER 6 MONTHS SERVICE ACC R.O.319 & 2084					
				CERTIFIED TRUE COPY OF ORIGINAL FROM REGT'L BOOKS IN MY POSSESSION					
Ex "C"									
"JRC"				"P.A. TREMBLAY"...Adjutant Royal 22e Regiment CAO					

(FTO

4Y-22.

Rte. Boulevard S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E-10144 Pte Solomon POULEM Regt de la Chaud att 1 Cdn Dis Centr

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)Sec	Guilty	Guilty	
2nd AA 15(1) Sec	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majesty's Service.

(Sgd) ..... Judge-Advocate, if any. 12 Mar 45 Date awarded. (Sgd) J M Bowman Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) C S N Gostling Brig
Date 12 Mar 45
Commanding 2 Cdn Base Rft Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E-10144 Pte Poulem S	22 Mar 45	A O Hood Lt Col Condg 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4/-22

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA96) 40/P & B/1600 (6/44) 4/388

Convened by Order of Brigadier CSN Gostling ED Comd 2 CBRD dated 11 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10144	Pte		Solomon	POULEM	Regt de la Chaud att 1 Cdn Disc Centre

CERTIFIED TRUE COPY
[illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 12 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26/70

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to N/A as interpreter ? Ans N/A
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer ? Ans N/A
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J M Bowman	48th Highrs att 1 Cdn Disc C
Member	Capt	G R Cartmel	RCA att 1 Cdn Disciplinary C
Member	Lieut	E F McManus	RCE 9 CBR Bn
Judge-Advocate			
Prosecutor	Capt	P S Karn	CIC att 1 Cdn Disc Centre
Defending Offr	Capt	J H Labrie	CIC att 1 Cdn Disc Centre

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E-10144 Pte Solomon POULEM before arraignment make(s) (no) (a) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and affirming witnesses see RP 80 ; questioning by Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~(The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his/their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex N/A respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, I am ashamed.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. AA 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-10144 Pte Solomon POULIN,
Le Regt De La Chaudiere, attached to 1 Cdn
Disciplinary Centre, a soldier of the Canadian
Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1900 hrs 23 Aug 44 until apprehended at 2100 hrs 12 Sep 44 (Absent 20 days 2 hrs)

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1700 hrs 21 Oct 44 until he surrendered himself at 2015 hrs 22 Feb 45 at GHENT Belgium. (Absent 124 days 3 hrs 15 minutes)

[redacted]

In the Field
10 Mar 45

Sgd A O Hood Lt Col
OC 1 Cdn Disciplinary Centre

To be tried By Field General Court Martial.

In the Field
11 Mar 45

Sgd GSN Gostling Brig
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/FA8/1507 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-10144	Pte		Solomon	POULEM	R de Chaud att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 11 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior (qualified offr)~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J H Bowman	48th Highrs att 1 Cdn Dis Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C B Cartmel	RCA att 1 Cdn Dis Centre
Lieut	to be detailed by OC 9 CHR Bn	9 CHR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

G S N Gostling (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(GSN Gostling)

Date 11 Mar 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS' CERTIFICATE

I certify that I have this day examined B-10144 Pte Foulem S and in my opinion he is fit to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 12 Mar 45

A M Davis Capt (Sgd)
(Medical Officer)
Unit 1 Cdn Disciplinary Centre

Ex B

Plea of Mitigation
in the Case of
M-10144 Pte Solomon Poulem (R de Chaud)

Gentlemen of the Court:

You have in front of you a soldier 34 years old. A Category, Enlisted A/F July 40. Arrived in England July 41 done a lot of hard training. Landed on the assault of France 6 June 44 fought till Aug, feel sick in his Kindneys and rumatism asked the doctor to examined him and the only answers was "You look all right and go and fight".

He took himself a rest and he is apprehended on his way back to his unit.

Again he askes to the F A P and states he was suffering of the same troubles and fairts were very bad "No satisfaction"

His MFM 6 is just for small offences, he was a good soldier on the training, he is not a coward but sick.

I recommand him for a medical board for his own satisfaction and having him known if it is really able to be a good soldier because when a man is over 34 years old he lost a bit of his fitness, and he is more worry than a young one.

I ask this court to take this case into consideration and remember that Pte Poulem has more than five years as rifleman He is ready to go back if he has justice.

Henri Labrie
Capt
Def Off.

EXA

Summary of Evidence in the case of H-10344
Pte Solomon POULEM, Regt De La Chaudiere, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave (2 Chgs)

By directions of the CO the evidence in taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 62 dated 15 Sep 44

Exhibit "B" - Certified true copy of Extract from Pt II Order No 95 dated 28 Nov 44

Exhibit "C" - Certified true copy of Extract from Pt II Order No 95 dated 28 Nov 44

Exhibit "D" - Certificate of apprehension dated 22 Feb 1945

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. No.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

Dated in the Field
Mar 45

Sgd W D Hungerford Capt
Officer detailed to take Summary of Evidence

Exhibit "C"

PART II ORDER EXTRACT FORM

TO: A.G.

99/20/Chaud/1 (A5c)

7 Mar 45

EXTRACT FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No 62 dated 16 Sep 44

ABSENT WITHOUT LEAVE

AWL from 1900 hrs 23 Aug 44 Still absent 1900 hrs 31 Aug 44
(8th day)
B-10244 Pte POULEM S

Certified to be a true extract from the regimental books and documents in my custody.

Exhibit "A"
WD Hungerford Capt

?? Penelon Capt
Officer IC Records
Cdn Sec 2 Mch HQ 21 A Gp

Originating Clerk's Initials GO

PART II ORDER EXTRACT FORM

EXTD

TO: A.S.

99/20/Chaud/1 (A5c)

7 Mar 45

EXTRACT FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No 95 dated 28 Nov 44

ABSENT WITHOUT LEAVE

AWL from 1900 hrs 23 Aug 44 App from AWL 2100 hrs 12 Sep 44
H-10144 Pte Poulem S

Exhibit "B"
W D Hungerford Capt

Certified to be a true extract from the regimental books and documents in my custody.

?? Penelon Capt
Officer IC Records
Cdn Sec 2 Mch HQ 21 A Gp

Originating Clerk's Initials GB

EaE

PART II ORDER EXTRACT FORM

A.F. A.8. 99/20/Chaud/1 (A5c)

7 Mar 45

EXTRACT FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No 95 dated 28 Nov 44

ABSENT WITHOUT LEAVE

AWL from 1700 hrs 21 Oct 44 Still absent 1700 hrs 29 Oct 44
(8th day)
R-10644 Pte Poulem S

Certified to be a true extract from the regimental books and documents in my custody.

Exhibit "C"
WD Hungerford Capt

?? Penelon Capt
Officer IC Records
Cdn Sec 2 Mch HQ 21 A Gp

Originating Clerk's Initials GO

JWB

Ex G

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

Certified that No D-10144 Rank Pte Name Pullum S of the Regt de Chaud "A" Coy 3 Div Regt, surrendered to No D-131773 Rank L/Cpl Name Gagnon J P of the 2 Cdn L of C Pro Coy at Ghent at 2015 hrs on the 22 day of Feb 45 as an absentee without leave.

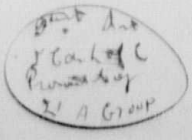
He was wearing Military Uniform at the time of his Surrender.

Place Field

Date 22 Feb 45

Sgd C Wood Capt DAPM 2 CBRG
Canadian Pro ost Corps

Exhibit "D"
W D Hungerford Capt



E x F

ARMY FORM B.396 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-10144	Pte	POULIN S	Regt De la Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For MTM 6 not available ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for No

beginning on the nO day of NO

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 18 days in military custody, *i.e.*, No days in open arrest, 18 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 34

6. The date of his attestation is 8 July /940

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(24094) Wt.42129/4599 M.300 11.44 A.& E.W.Ltd. Gp.693 Forms C.2.8/(War).

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record available.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12th day of March 45

J M Dibb Capt Admin Offr
1 Cdn Disciplinary Centre

Toupin A. Pte E-5139

125
10-T-121

10-T-121

125

125

Clement - Lee 154

E-43159 Pte Lavallee E
K-77077 " Newton F
C-37202 " Tobias D
E 4678 " Wilson R

Above appear on agenda of Court (Schedule - AFA 3) with notation "not yet tried". No proceedings or recording
5 May 42. Gue 5 Sept

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this Seventh day of October, 1940.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

~~*(1.—Three Officers to form the Court.)~~

~~*(2.—A Field Officer as President.)~~

~~*(3.—Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—]~~

P.J.M.

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Lieut-Col.	Louis Keene, ED.,	"I" Flag. No 1 Cdn. Base Depot.

Members.

Rank.	Name.	Regiment.
Major	S.O.P.Gemmill,	No 1 Arty Holding Unit.
Captain	G.C.D'Arcy	No. 1 Arty Holding Unit.
Captain	H.R.Cleveland	No. 1 Gen. Holding Unit.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed P.J.Montague
(P. J. Montague) Major-General
Commanding Senior Officer
Canadian Military Headquarters.
8 Oct. 1940

Proceedings checked and found in order
24 Oct 1940
(W. G. Kerr) Lieut-Col.
D.A.A.G. (Courts-Martial)

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No.E.5688 - Pte. P.E.Clement - No.2. Cdn. Inf. H.U.	First Charge. Under A.A.Sec. 15 (1)	not guilty	Guilty	Finding and Sentence Confirmed. Recommendation to Mercy not approved.
	Second Charge. Under A.A.Sec. 15 (1)	not guilty	Guilty 120 days detention	
No.K.52783 - Pte. K.C.H.Henry - No. 3. Cdn. Inf. H.U.	First Charge. Under A.A. Sec.12 (1)a.	not guilty of absence without leave.	not guilty of absence without leave.	Finding and Sentence Confirmed. Recommendation to Mercy not approved.
No.E.4359 - Pte. E. Lavallee. No.2.Cdn. Inf. H.U.	First Charge. Under A.A.Sec. 12.		Detention for six months	
	Second Charge. Under A.A.Sec. 24 (2).	Sentence attached		
No.K.22077 C.S.M.(W.O.II) C.F.Newton. No 1 Cdn. (M.G.). H.U.	First Charge. Under A.A.Sec. 9 (2).			
	Second Charge. Under A.A. Sec. 40.	Sentence attached		
No.C.32202 - Pte. D.Tobias - No 2 Cdn. Inf. H.U.	First Charge. Under A.A. Sec. 12 (1)a.			
	Second Charge. Under. A.A. Sec. 22.			
	Third Charge. Under A.A.Sec.24(2).			
	Fourth Charge. Under A.A.Sec. 22.	Sentence attached		
No. E. 5139. - Pte. A.Toupin. No. 2. Cdn. Inf. H.U.	First Charge. Under A.A.Sec. 41.	Not guilty	Guilty, Detention for six months.	Finding and Sentence Confirmed. Recommendation to Mercy not approved.

(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
24 OCT 1940

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) P. J. Montague
(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
8 OCT 1940

(Signed) [illegible]
Convening Officer (c)

(Signed) [illegible]
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18th day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. The interpreter

* Omit if not applicable

~~4. The officers under instruction~~ were duly sworn.

Signed this 18th day of October 1940

[illegible]
President of the Court Martial.
President.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded the authority having such authority recommends suspension.

Signed this 24th day of October 1940

(P. J. Montague) Major-General
Senior Officer
Canadian Military Headquarters
24 OCT 1940

Promulgated and extracts taken in the case of K 52783 Pte Henry K.C.

(a) (Dated) 4th November 1940 (Signed) [illegible] Lt Col

Promulgated and extracts taken in the case of E-5688 Pte. CLEMENT. P.E.

(Dated) 29th Day. October. 1940. (Signed) [illegible] Maj

Promulgated and extracts taken in the case of E-5139 Pte. TOUPIN. A.

(Dated) 29th Day. October. 1940. (Signed) [illegible] Maj

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41759) Wt. 40115—251 300 M 1/40 P. St. G. 640

SCHEDULE (CONTD).

Number, Rank (a) Name and Unit of Accused (b).	Offence Charged.	Plea.	Finding, & if Convicted. Sentence. (c)	How dealt with by Conf. Office (d).
E.4675 - Pte. R. Wilson - No. 2. Cdn. Inf. H.U.	First Charge. Under Sec. 22 of A.A.			Not yet tried
	Second Charge. Under Sec. 40 of A.A.	Evidence attached		

(P. J. Mc...)
Senior Secretary
Canadian Military Headquarters
24 OCT 1940

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for ~~General and District~~ Courts-Martial.

Proceedings of a ~~District~~ Field General Court-Martial held at Bordon, Hants on the 18th day of October 1940 by order of Major-General P. J. Montague, C.M.G., D.S.O., M.C. Commanding Canadian Military Headquarters dated the 8th day of October 19 40

President.

Lieut. Col. Louis Keene, E. D.
"I" Wing, No. 1 Infantry Base Depot

Members.

Major S.O.P. Gemmell, #1 Arty. Holding Unit
Capt. G. C. D'Arcy, No. 1 Arty. Holding Unit
Capt. W. B. MacIsaac, No. 2 Inftry Holding Unit

, Judge Advocate.

Trial of*

E-5139 Private Armini Toupin, Royal 22nd Regiment, No. 2 Inftry. Holding Unit, C.A.S.F.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. M. A. McPherson, HQ, Holding Unit

Counsel‡ or defending officer† Lieut. G. Rinfret, R.22e R. No. 2 Cdn.Inftry H.U.

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

Louis Keene President.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

P9/30) W.L.W.24/94-1866 10,000 10/39 K. & M., Ltd. 6657/11. Forms A 9-55.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

The Accused does not object to

B-26026 Spr. F. J. Nathercut, R.C.E., C.M.H.Q. Court Stenographer

The Court Stenographer is duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

NOT GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET.

The accused No. E 5139 Pte. Armini TOUPIN, Royal 22nd Regiment (No.2 Canadian Infantry Holding Unit.) a soldier of the Canadian Active Service force, is charged with:-

Sec. 41 Army Act.

When on active service, committing a civil offence, that is to say, common assault,

in that he,

at Bordon Camp, England, on 27 Sep 40, assaulted E 4152 S/Sgt. Rouleau, R. Royal 22nd Regiment (2 Cdn. Inf. Holding Unit.), by overpowering him and batterying his head on the pavement also gouging S/Sgt. Rouleau's eyes with his fingers.

F.S. Mathewson

(F.S. Mathewson.)Major.
Officer Commanding.
No.2 Cdn. Inf. Holding Unit.

"B2"

Louisburg Bks.
Bordon Camp.
4th October 1940.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. NO

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

Prosecutor - Lieut. M. McPherson, Holding Unit

Defence Counsel - Lieut. G. Rinfret, R. 22e Regt. No. 2 Cdn. Inftry. H. U.
The Accused has no objection to
Court Interpreter - D-57161 Sgt. A. Guay, No. 2 Infty. H. U.
The Court Interpreter is duly sworn.
Court Stenographer - B-26026 Spr. Nethercut, F. J. C. M. H. Q. London

Q. 1 - Do you object to being tried by me as President or any member of the court.
A.1 - No.

1st Witness for the Prosecution, E-4152 S/Sgt. Rouleau, R. having been duly sworn is examined by the Prosecutor

Q.2 - Staff, you understand English?
A.2- Yes sir
Q.3 - You have no objection to being examined in English?
A.3 - No sir. If I can't understand I will ask to have it said in French?
Q.4 - You know the accused?
A.4 - Yes, sir.
Prosecutor - Would my learned friend object to my leading a little?
Defence - No
Q.5 - You were, on the night of 27 Sep 40 returning from Farnham and you stopped for a beer at Half Way Inn on the Farnham-Bordon Road. Would you tell the Court what occurred when you were at that Inn?
A.5 - When I was inside nothing special happened except that I was talking with Cpl. Bourassa and Pte. Hubbard. First I came in the Public Bar and when I saw there were too many there I went in the private bar and there I just had a little argument with a private but nothing special. Afterwards we went out, Cpl. Bourassa, Pte. Hubbard and I. Cpl. Bourassa was walking ahead with his flashlight to try and find the way back. I was walking a few feet behind him and Pte. Hubbard. I was assaulted but I didn't recognize who assaulted me.
Q.6 - You were assaulted? Now what was the first thing you realized when you say somebody assaulted you? What was the first thing you noticed?
A.6 - I received something very hard on my head and I fell down.
Q.7 - You fell down as a result of what?
A.7 - I thought first it might be somebody hit me on the head.
Q.8 - Then what?
A.8 - I remember I got up again and then I was knocked down again on the road and someone was hitting my head on the pavement and then he told me his name in French.
Q.9 - Did you recognize him before he spoke to you?
A.9 - No. He was knocking my head on the pavement and was trying to put his fingers in my eyes and what happened after I don't remember.
Q.10- Had you known Toupin before?
A.10- Oh, yes.
Q.11- Did you have much to do with him?
A.11- No
Q.12- Did you know him in Canada?
A.12- No. Only after we joined the Army.
Q.13- Had you had anything to do with him that evening? Did you see him in the Halfway Inn?
A.13- I must have seen him but we did not have any words.
Q.14- Were you injured at all by this alleged assault?
A.14- Sure, I was sent to Bramshot Hospital
Q.15- How long were you in Bramshot?
A.15 -3 Days
Q.16- Have you any lasting injuries - scars?
A.16- Yes sir, I have a scar on my head
Q.17 - You say that was caused by the accused Pte. Toupin hitting your head on the pavement in front of Halfway Inn on 27th Sept.
A.17 -Yes sir

Cross-examination by Defence Counsel

Q.18- You were hit on the head?
A.18- I think so. I am not quite sure.
Q.19- You are not quite sure whether you were hit on the head or pulled by the collar?
~~A.19- Someone pulled~~

A.20 - Someone pulled me by the collar because my tunic was torn.
Q.21 - You didn't know who it was?
A.21 - No. Not until Toupin told me his name
Q.22 - Do you remember if you asked Toupin the way to Bordon and then told him to mind his own damn business.
A.22 - I don't remember that.
Q.23 - Was it a fist fight or wrestling? Do you remember that?
A.23 - No sir. I only remember well when he was knocking my head on the pavement.
Q.24 - And you say it was Toupin here who did it?
A.24 - Yes sir
Q.25 - Did he use two hands or one?
A.25 - At the time I was not sure.
Q.26 - How many beers and rums did you have that afternoon and evening?
A.26 - Well, I had a few in the Halfway Inn and in Farnham I went to the Theatre.
Q.27 - Would you say that every one of you were sober or rather drunk?
A.27 - I did not have enough to be drunk
Q.28 - Did Bourassa go with you to the Hospital or did you go by yourself?
A.28 - I went to the hospital in a car. Some others were along but I don't remember who they were.
Q.29 - You don't know whether Cpl. Bourassa was with you?
A.29 - I didn't see at the time.

2nd witness for the Prosecution, E-5145 Cpl. Bourassa C. R.22eR. No. 2 Cdn. Inftry. Holding Unit having been duly sworn is examined by the Prosecutor

Q.30 - You are E-5145 Cpl. Bourassa C. R. 22e R. No. 2 Cdn. Inftry Holding Unit?
A.30 - Yes sir
Q.31 - On the evening of 27 Sep 40 you were at Halfway Inn?
A.31 - I was sir
Q.32 - Who were you with?
A.32 - I was in the Company of S/Sgt. Rouleau
Q.33 - And there were a few occurrences that evening. Will you give us your version of the facts leading up to the particular occurrence in which we are interested?
A.33 - As far as I can remember we were granted a pass that afternoon for the purpose of going to Farnham. We went to Farnham - S/Sgt Rouleau and I. We were at the theatre and then went to the Halfway Inn. We were cut off at closing time at the Halfway Inn at about 10 o'clock. We walked a distance of about 200 feet back the Highway from Farnham to Bordon and I was leading the way to find the right road when I heard a commotion behind me. Everything was done very quickly. I heard noises which sounded like fighting. I saw someone down and someone else on top of him. Which one I don't know. I then heard the words "This is Toupin speaking. Do you understand S/Sgt Rouleau?"
Q.34 - In French or English
A.34 - In French
Q.35 - Did you go back there?
A.35 - Sir, I tried to get in close to them but there werequite a few strangers around and I could not get to them. They all assembled when they heard the noise and I could not get near them. After the commotion was over I helped them up with others who were there and he complained that he felt dizzy. With the flashlight I noticed there was a bump on his head so we stopped a car we saw and helped him along to get to the hospital and I came on on foot from there to camp.
Q.36 - And you heard the words "~~This is Toupin~~ It is Toupin. Do you understand S/Sgt Rouleau?"
A.36 - Yes
Q.37 - Did you see Pte. Toupin?
A.37 - No sir, there were too many there.
Q.38 - Do you know his voice?
A.38 - Yes sir. To my estimation it was him.

Cross-examination by Defence Counsel

Q.39 - You say "In my estimation the voice I heard saying those words was Toupin?

Q.39 - Yes sir.
Q.40 - Where did you sleep that evening?
A.40 - I slept for some time on the roadside. I laid down and slept. I came down here around 2 or 3 o'clock.
Q.41 - You slept in a field. That means that you had a little too much to drink and yet you say you heard the voice of Pte. Toupin? When I called on S/Sgt Rouleau on the 28 Sept to see him I asked where was Rouleau and you said "In Hospital". I asked you what happened and you said "He was in a fight". You also said "I know who did it and you said it was Pte. Hubbard. I said "Be sure of that because you might be on a Court Martial and you said "I don't care. It was Hubbard who did it". Do you remember saying that?
A.41 - I remember you coming in the Office and asking me questions.
Q.42 - I don't mean that. I mean the first time I came
A.42 - I don't recall that.
Q.43 - You were in the Office. You were there and you were crying. I asked you what was the matter with you and you said "I was drunk all night and slept in the field". Now here is a man who was drunk all night and he says he could recognize the voice of a man he only knows to see.

Cross-examination by [redacted]

Q.44 - You remember this affair quite well do you in front of the pub?
A.44 - Yes sir
Q.45 - How far away were you?
A.45 - About 200 feet outside the pub.
Q.46 - And how far is it from Halfway Inn to Bordon camp?
A.46 - I can't tell you the distance because I really don't know the distance exactly
Q.47 - Would you say five, seven or ten miles?
A.47 - They claim it is about 11 miles from Bordon to Farnham and if the name Halfway is correct it would be to my estimation about five miles.
Q.48 - And you walked all the way?
A.48 - I walked all the way.
Q.49 - How far were you from the Inn when you decided to lay down?
A.49 - I don't recall that.
Q.50 - You can't say how far you had walked exactly?
A.50 - No sir

3rd Witness for the Prosecution E-5082 Pte. Hubbard, G.B.G. R. 22e R. No. 2 Cdn. Inftry Holding Unit, having been duly sworn is examined by the prosecutor

Q.51 - You are E-5082 Pte. Hubbard G.B.G.?
A.51 - Yes sir.
Q.52 - R. 22e. R.?
A.52 - Yes Sir
Q.53 - 2nd Cdn. Inftry Holding Unit?
A.53 - Yes sir
Q.54 - Do you speak English?
A.54 - Yes sir
Q.55 - On the evening of the 27th September 1940 you were, I believe, at Halfway Inn. In whose Company?
A.55 - I was in the company of Pte. Toupin, another chap and later, about ten minutes after that I joined S/Sgt Rouleau.
Q.56 - Is Pte. Toupin in this room?
A.56 - Yes sir
Q.57 - And he is the man who was with you at Halfway Inn on the night of 27 Sep 40?
A.57 - Yesbsir
Q.58 - And were you there when the bar closed that evening?
A.58 - Yes sir
Q.59 - What happened after the bar closed?
A.59 - After the bar closed we came out and it was dark and we were trying to find the way to get back to camp. I was with S/Sgt Rouleau and Cpl. Bourassa and we were debating which road to take. Somebody came out of Halfway Inn and we were speaking English and this party came over to us and spoke to us and said he was Pte. Toupin and he

had some grievance against him one way oranother and started to talk back and forth and then there was sort of a commotion. I tried to separate them and they started again. We separated them again and after that - -

Q.59 - Could you see this very well?
A.59 - Well, I couldn't see it very well because it was very dark.
Q.60 - And Pte. Toupin there was the same Pte. Toupin. Is that correct?
A.60 - Yes sir
Q.61 - But there was a scuffle?
A.61 - Yes sir
Q.62 - Could you see exactly what happened?
A.62 - To see exactly what happened - no I couldn't sir.
Q.63 - Well, what happened later?
A.63 - Well then after the scuffle more or less ended S/Sgt Rouleau got up and asked we asked him if he was hurt badly and he said "No" he didn't think he was hurt badly". I put my hand on his head to see if he was bleeding or hurt on the head and then Cpl. Bourassa and myself got him up and wiped off his head. There was a car coming down the road and we tried to hail the car and the car didn't stop. We waited a while and another car came along. We hailed that car and S/Sgt. Rouleau and Cpl. Bourassa got in the car. In I tried to get in the car but there was no room for me and the car pulled off.

Cross-examination by Defence Counsel

Q.64 - You heard Toupin say that he had something to settle with Rouleau?
A.64 - Words to that effect
Q.65 - He said it in French or English?
A.65 - As far as I remember it was in French.
Q.66 - You don't remember what he said?
A.66 - No, I didn't catch what he said
Q.67 - Do you understand French enough to know what he said?
A.67 - Yes sir, I do.
Q.68 - But you can't remember just what he said?
A.68 - No sir. I can't.
Q.69 - Then you saw Cpl. Bourassa get in the car with S/Sgt. Rouleau?
A.69 - Well, when I got out of the car I saw Cpl. Bourassa in the car.
Q.70 - Well, Cpl. Bourassa admits he slept in the field
Court - You can't bring that up in evidence. That is the reason that we bring in witnesses separately.
Q.71 - When I saw you a couple of days ago you said you didn't know how it came about.
A.71 - Well just as I said sir, there was a scuffle but in the dark and I couldn't see whether it was a fight or scuffle or what.
Prosecutor - I wish to object here as to our friend for the Defence contacting witnesses for the Prosecution without my knowledge whatsoever. It is to say the least very unethical.
Defence - I have seen all the witnesses
Prosecutor - I want to object to that
Defence - I saw most of them before the Court Martial. I belong to this Regiment and heard about the fight and talked to these men before the case ever come up.
Prosecutor - As Counsel for the Defence I don't think he had any right to see these witnesses or to cross-examine them on those conversations.
Court - You must not refer to anything you talked to a witness about a couple of days ago
Defence - What I am trying to do sir is to prove that this man says he saw Cpl. Bourassa going to the hospital with S/Sgt Rouleau while we understand that Bourassa slept in a field.
Q.72 - How many drinks did you have that night?
A.72 - Oh, I would say about six or seven.
Q.73 - Rum or beer?
A.73 - Well we had some rum and also beer.
Q.74 - Had you any drink in the afternoon?
A.74 - No sir

4th witness for the prosecution E-14365 Pte. Huard, J.W.N. having been duly sworn is examined by the prosecutor

Q.75 - You are E-14365 ?

Q.75 - Yes sir
Q.76 - Pte. Hubbard, J.W.N.?
A.76 - Yes, sir
Q.77 - R. 22e R.No. 2 Cdn. Inftry. Holding Unit?
A.77 - No, sir ArmyService Corps.
Q.78 - R.C.A.S.C.No. 2 Cdn. Inftry Holding Unit?
A.78 - Yes sir
Q.79 - You speak English?
A.79 - A few words.
Q.80 - If you don't understand, stop me and if necessary we have an interpreter here. On the evening of the 27th September you were at Halfway Inn between Bordon and Farnham. That is right?
A.80 - Yes sir
Q.81 - Now, there was a bit of a fracas there. Now can you tell the Court anything about that?
A.81 - I don't know anything about the fight. All I heard was a man say "It is Toupin, do you understand S/Sgt Rouleau?" That is all I know about it.
Q.82 - How close were you to the, shall we call it fracas?
A.82 - I was a little bit away from the road
Q.83 - You heard the fight?
A.83 - O only heard part of it. I only heard something going on and I heard a voice say "It is Toupin"
Q.84 - Now, when a voice said "It is Toupin" whose voice said that?
A.84 - I couldn't say whether it was Toupin or the other one
Q.85 - Who did you think Toupin was? Do you see him here today?
A.85 - Yes sir
Q.86 - And when sombody said "It is Toupin" you thought they meant that man. Had you seen this man before that evening?
A.86 - Yes he was there
Q.87 - Did you see him after the fight?
A.87 - Well, yes, we came home together.
Q.88 - Did he say anything about the fight?
A.88 - No. I was walking a little way from him. He was walking behind me.
Q.89 - How far is it from Halfway Inn to the Camp?
A.89 - It can't be very far - about four and a half or five miles

Cross-examination by Defence Counsel

Q.90 - You heard a voice say "It is Toupin". But you can't swear it was this man?
A.90 - No, I can't swear it. I heard a voice say "It is Toupin" but I couldn't see because someone had to lead me home myself.

5th Witness for the Prosecution, E-4693 Pte. Lalonde, L. R. 22e R. No. 2 Cdn. Inftry Holding Unit having been duly sworn is examined by the Prosecutor

Q.91 - You are E-4693? That your number?
A.91 - Yes
Q.92 - Pte. Lalonde, L.?
A.92 - Yes sir
Q.93 - R. 22e R.?
A.93 - Yes sir
Q.94 - No. 2 Canadian Infantry Holding Unit?
A.94 - Yes sir
Q.95 - On the night of 27 Sept 40 you were at Halfway Inn?
A.95 - Yes
Q.96 - After the bar closed you went out of the bar and what happened?
A.96 - When I went out of the bar I went out to the road and there was a group there. Toupin and S/Sgt Rouleau were together. I tried to separate them and when I saw I couldn't do anything I went away
Q.97 - Were they fighting?
A.97 - No, just together
Q.98 - Who were
A.98 - Toupin and S/Sgt Rouleau

At this stage of the proceedings, the Court decides to avail themselves of the services of D-57131 Sgt. A. Guay, No. 2 Inftry.H. U. Interpreter

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. YES

Question. Do you intend to call any other witness in your defence ?

Answer. YES

Question. Is he a witness as to character only ? *Answer.* NO

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence ?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Q.99 - What did you see that evening?
A.99 - After the bar closed I came out of the bar and saw S/Sgt Rouleau and Pte. Toupin talking outside the inn.
Q.100 - How far away was that?
A.100 - It was in the road sir, about 50 yards from the hotel
Q.101 - Were they fighting?
A.101 - No, they were not fighting.
Q.102 - What were they doing?
A.102 - They were together and discussing certain matters.
Q.103 - Were they talking loudly?
A.103 - No, sir, not very loud
Q.104 - In English or French?
A.104 - In French
Q.105 - There was no scuffle while you were there?
A.105 - No but we tried to stop them having the discussion
Q.106 - Do you recognize Pte. Toupin here this morning?
A.106 - Yes sir

Cross-examination by Defence Counsel

Q.107 - You say that S/Sgt Rouleau and Pte. Toupin were talking very quietly. They were together and talking quietly?
A.107 - They were not yelling but were talking between each other.
Q.108 - Was it a big discussion
A.108 - I can't say
Q.109 - Why did you try to separate them then?
A.109 - Because they were in discussion
Q.110 - What distance were you from them?
A.110 - Just alongside of them
Q.111 - And you could see very well?
A.111 - No sir it was very dark
Q.112 - It was very dark and yet you could recognize both S/Sgt Rouleau and Pte. Toupin?
A.112 - Yes sir
Q.113 - You swear to that?
A.113 - Yes sir
Q.114 - And they were both standing up?
A.114 - Yes sir
Q.115 - Did you go out of the bar before Pte. Hubbard and S/Sgt Rouleau?
A.115 - Can't say whether I went out before or after them.
Q.116 - And were S/Sgt Rouleau and Pte. Toupin alone or was there someone else there?
A.116 - A lot of others but I don't know them all
Q.117 - But you knew Toupin?
A.117 - Yes sir
Q.118 - You have known him a long time?
A.118 - Since in Bordon

Court - Do you apply to give evidence yourself as a witness?
Accused - Yes
Court - Do you intend to call any other witness in your defence?
Defence - Yes, Pte. Webb
Court - Is he a witness as to character only?
Defence - No sir

1st witness for the defence, E-5139 Pte. Armini Toupin, R. 22e R. No. 2 Cdn. Inftry. Holding Unit, having been duly sworn is examined by the Defence

Q.119 - Pte. Toupin, can you tell us exactly what happened that night. You went from Frannham to Halfway Inn?
A.119 - Yes sir
Q.120 - When you came out of the Inn, who was with you?
A.120 - Pte. Webb. There were six or seven but some were walking ahead and I was walking behind with Pte. Webb.
Q.121 - And you heard some voice asking the road to Bordon. It was very dark. What did they say?
A.121 - There are three forks on the road, one to right, one to left and one to centre. They asked if they took the centre road to go to Bordon so I told them to take the centre one.
Q.122 - How far from them were you?

A.122 - About 25 to 30 feet
Q.123 - Did you know who was there?
A.123 - It was the gangthat was inside.
Q.124 - What did you say?
A.124 - I told them to take the centre road which was the right road to Bordon.
Q.125 - How far away were you when you said that?
A.125 - About 30 to 35 feet
Q.126 - Then what happened?
A.126 - S/Sgt Rouleau came to me and told me to mind my own business.
Q.127 - Then what happened
A.127 - He then came to me and gave me a slap
Q.128 - Where did he slap you - In the face?
A.128 - In the face on the side
Q.129 - Then what happened?
A.129 - I told him to mind his own business that I was not speaking to him.
Q.130 - And then what did youbtell him?
A.130 - I told him "It is Toupin that is speaking" and "Leave me alone. I don't want to start any row".
Q.131 - Why did you say that to him?
A.131 - Because I was with him
Q.132 - Did you drink together that night?
A.132 - No sir
Q.133 - But you were with him. Why did you tell him to leave you alone
A1133 - Because he grabbed hold of me and threw me down or we fell down.
Q.134 - You fell down, both of you and then what happened?
A.134 - I was underneath. I meant to get up from under and when I got up from under he fell on the pavement.
Q.135 - And what did he do then?
A.135 - Then he had me by the throat. I asked him then to let me go.
Q.136 - And what did he do?
A.136 - He didn't want to. I then put my hand into his face and gave a jerk backwards and got away from S/Sgt Rouleau's grip. That was all. We started walking.
Q.137 - Who was there? Did you see anyone else but Rouleau?
A.137 - Those that were there I couldn't recognize because it was too dark
Q.138 - Were you sober or drunk?
A.138 - I had three glasses of beer at the Pub.
Q.139 - You swear to that?
A.139 - Yes sir
Q.140 - Any rum?
A.140 - No sir

Cross-examination by Prosecutor

Q.141 - You know the road from Bordon to Halfway Inn?
A.141 - Yes
Q.142 - You have been over it quite often?
A.142 - Yes sir
Q.143 - How far is it?
A.143 - You mean Halfway Inn to Bordon?
Q.144 - Yes
A.144 - I figured once on a truck a bout 7 miles.
Q.145 - 7 Miles from here to Halfway Inn?
A.145 - 7 or 8 miles but no more
Q.146 - Who did you think you were speaking to when you said "Take the centre road to Bordon"
A.146 - With the gang who was in front of me - six or seven of them.
Q.147 - Did you know they were not all private soldiers?
A.147 - I didn't know. I couldn't see.
Q.148 - You just yelled back "Centre road" Is that what you did?
A.148 - Yes sir
Q.149 - And then someone said "Mind your own business". Is that what you heard?
A.149 - Yes sir
Q.150 - And that someone was who?
A.150 - S/Sgt Rouleau and he walked towards me.
Q.151 - Did you treat Rouleau with all the respect that is due his rank?
A.151 - I told him that I was not speaking to him and that I didn't intend to insult him but to mind his own business.
Q.152 - You said to "mind his own business?"

A.152 - Yes. That I was not speaking to him.
Q.153 - To mind his own business?
A.153 - I told him to mind his own business. I was not speaking to him.
Q.154 - Do you consider that it was his business that he as a S/Sgt was spoken to in a disrespectful manner by a private soldier?
A.154 - It was not done with the intention of dictating to him. My intention was to put him on the right road.
Q.155 - Who struck the first blow?
A.155 - S/Sgt Rouleau slapped me
Q.156 - He slapped you?
A.156 - Yes
Q.157 - He didn't hit you?
A.157 - Just a slap
Q.158 - With the open hand?
A.158 - Yes sir
Q.159 - Not with the fist
A.159 - No sir
Q.160 - With the open hand?
A.160 - Yes sir
Q.161 - Then you grabbed him?
A.161 - He came towards me [illegible] and he grabbed me by the neck and I grabbed him by the neck
Q.162 - And then the fight began?
A.162 - No sir, we fell, and I fell underneath
Q.163 - Didn't you understand it is a serious business for a private soldier to fight with someone of a higher rank?
A.163 - Yes I realized that and I didn't want to fight with him because I realized he was a Sergeant
Q.164 - How many drinks did you have at Halfway Inn?
A.164 - Three bottles of Beer
Q.165 - That was the only pub you were in?
A.165 - Yes sir
Q.166 - You went from Bordon to Halfway Inn?
A.166 - From Farnham to Halfway sir.
Q.167 - How many beers did you have in Farnham?
A.167 - Two
Q.168 - And how many did you have before that?
A.168 - I didn't have any
Q.169 - Five altogether. You sure about that?
A.169 - Yes sir

2nd witness for the Defence F-44897 Pte. Webb, W. B. R. 22e R. No. 2 Cdn. Infantry Holding Unit, having been duly sworn is examined by the Defence

Q.170 - Your name is F-44897 Pte. Webb, W. B.?
A.170 - Yes sir
Q.171 - W.N.S. R. 2 Cdn. Inftry Holding Unit?
A.171 - Yes sir
Q.172 - Can you tell us what happened after you left Halfway Inn with Pte. Toupin?
A.172 - Well sir, we started on home and they were talking and getting into an argument in French.
Q.173 - Who?
A.173 - S/Sgt Rouleau and the accused
Q.174 - And then what happened?
A.174 - The S/Sgt turned and slapped his face
Q.175 - You saw it?
A.175 - Yes sir. They clinched and fell. I walked over, took hold of this fellow and told him to stop his "damned foolishness". That was all and when we got up a ways we went into a field and laid down.
Q.176 - Who were with you?
A.176 - Me and Toupin
Q.177 - Who were the others?
A. 177 - I couldn't tell you their names sir
Q.178 - Going back to the camp was there any talk of a fight?
A.178 - No talk whatever
Q.179 - And you saw S/Sgt Rouleau hit this man first. They both fell and went down and it was while they were down you picked him up. You told him to "Stop his foolishness and go home".
A.179 - Yes sir

Q.180 - You don't know of any fighting which took place when they were down?
A.180 - No sir
Q.181 - You did not hear anyone get hit on the pavement? You say they were on the ground - not fighting just clinch. That is all?
A.181 - Yes sir

Cross-examination by prosecutor

Q.182 - Why did you say "Stop that damned foolishness"?
A.182 - Just a common saying of mine, I suppose sir.
Q.183 - It is foolish for a man to defend himself?
A.183 - You would not call it damned foolishment but that is a common saying of mine.
Q.184 - You would not call it damned foolishness for him to defend himself. But if he assaulted a Sergeant you would have called it "damned foolishness" would you not?
A.184 - No sir, it is just a word of mine I often use.
Q.185 - How did you know he was a S/Sgt.?
A.185 - He was called that in the pub and has three stripes up.
Q.186 - You saw him in the pub?
A.186 - Yes sir
Q.187 - Did he have any words with Toupin in the pub?
A.187 - No sir
Q.188 - Were you with Toupin all evening?
A.188 - No sir. I met him when we came by bus from Farnham and went in with him.
Q.189 - With Toupin?
A.189 - Yes sir
Q.190 - You went into the Halfway Inn?
A.190 - Yes sir
Q.191 - What time
A.191 - I can't exactly say what time it was
Q.192 - 7, 8, 9?
A.192 - I can't say definitely as I didn't have a watch
Q.193 - It was after dark? After blackout?
A.193 - Yes sir
Q.194 - You slept in the field that night too?
A.194 - Yes sir, we were in a field.
Q.195 - Pte. Toupin, yourself and who else?
A.195 - Two other fellows. I don't know their names.
Q.196 - In your statement you said Cpl. Bourassa.
A.196 - No sir, I didn't say that. I can't call the men by name.
Q.197 - How many drinks did Toupin have that night? - with you?
A.197 - Three small beers
Q.197 - How many did you have?
A.197 - Three small beers.
Q.198 - How many did you have before that?
A.198 - None sir
Q.199 - None whatever
A.199 - No sir
Q.200 - None in Farnham?
A.200 - No, sir

Summing up by Defence

I want to bring out the fact that most of the witnesses were under the influence of liquor and that, although they all didn't know exactly what took place, every one of them knows it was Toupin's voice although one of them knew him before but they all swear it was his voice. I want to bring out that Hubbard's statement and what he says on his evidence is not the same. I will say and I stress the fact that, although they never saw Toupin before they swear it was his voice. It was dark and they could not see his face but by the voice they knew it was Toupin.

Summing up by Prosecutor

Of course, the Court realizes that there was a scuffle and that the scuffle was between Toupin and the S/Sgt. as was admitted by Toupin himself so the main point in this matter is "Who assaulted whom?" Did the Sergeant

assault the accused as the accused alleges or is the accused guilty in that he assaulted the Sergeant?

The Court is well able to decide the matter for itself but I want to point out outstanding features which appear both in the summary of evidence and in the evidence as given here today and they are exact words and when exact words are quoted time and time again as these particular words are quoted today it is submitted that they are the words that were used. I refer particularly to the phrase "It is Toupin who speaks". Toupin himself admits he used those words when fighting with the Sergeant. The Sergeant gives evidence to that effect and other disinterested persons give evidence to that effect. He says "It is Toupin who speaks". Why would he want to identify himself to the Sergeant and then a little while later to say "I am not speaking to you". It may be alleged that he may have meant "I don't intend to speak to you" or "I don't want you to think I am speaking to a S/Sgt" but at any rate he said "I am not speaking to you". These two phrases indicated to me that there was some, you might almost say, viciousness on the part of Toupin. They corroborated the statement given by the S/Sgt and other witnesses brought in by the prosecution.

Now, as to the evidence given by the defence, there is another word of phrase that I wish to bring out and that is the phrase "stop that damned foolishness" which was used by Webb. As I brought out in cross-examination it is not damned foolishness for a private soldier to defend himself if he is attacked by a S/Sgt but it is certainly damned foolishness for a private to attack a S/Sgt. Therefore, why did this manmuse the words "damned foolishness". If it is a common phrase peculiar to the West Nova Scotia Regiment that damn foolishness means "horse play" then the defence should have come forward with evidence on that line but the two phrases "This is toupin who speaks" and "stop this damned foolishness" indicates that the accused had attacked the Sergeant and they are from the mouths of the accused himself and the accused's only witness

Court - Have you any evidence to produce as to character and particulars of the accused.

Prosecutor - I have here a statement of character of the accused and a certified copy of the accused's conduct sheet. The conduct sheet shows that he has been convicted of three military crimes, breaking out of quarantine, absent without leave once and failing to obey an order and given 7 days C. B.

Court - These are admitted by the defence?

Defence - Yes

Court - Do you wish to address the Court?

Defence Counsel - I wish to state that Pte. Toupin has a good reputation with us (R.22e R.) and that there is very little I can say apart from the evidence which to my knowledge is true on his part.

Court is closed

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E-5139 Pte. Armini Toupin, R. 22e R. No. 2 Inftry. Holding Unit, C.A.S.F. is

GUILTY

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

[Illustration.—If by reason of the nature of the service of the accused in a regimental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment, the attention of the Court is to be specially called by the Judge Advocate to the fact, and the Court must inquire into the nature and amount of that exceptional punishment.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence

The Court sentence the accused

E-5139 Pte. Armini Toupin, Royal 22nd Regiment, No. 2 Infantry Holding Unit, C.A.S.F.

to undergo detention for a period of six (6) months

Signed at Bordon, Hants. this 18th day of October, 1940

(Louis Keene) Lieut. Col.
PRESIDENT

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. E 5139 Pte. TOUPIN, A.

Regiment ROYAL 22nd REGIMENT (No.2 Cdn. Inf. Holding Unit.

is fit to undergo trial by Court-Martial.

Signature of Medical Officer: C.O. Nadeau Major R.C.A.M.C.

Date 19 Oct 1940.

SUMMARY OF EVIDENCE

in the case of

E 5139 Pte. Armini TOUPIN, Royal 22nd Regiment,
(No.2 Canadian Infantry Holding Unit.)

1st Witness for prosecution

E 4152 S/Sgt. Rouleau, R. Royal 22nd Regiment (No.2 Cdn. Inf. Holding Unit.) being duly sworn, states:-

On the afternoon of the 27 Sept. 40 I had been to Farnham and about 2030 hrs. I took the bus to come back to camp. On the way I stopped at the Halfway Inn together with Cpl. Bourrassa. We both went in the public bar then we went to the private bar where we both had a couple more bottles of beer and a glass of Rum each. We had something to eat, then we both decided to leave for Camp.

Pte. Hubbard joined us. Whilst in the private bar Pte. Huard came to speak to us, I told him that we were quite and that we did not want to be disturbed.

On leaving the tavern on or about 2200 hrs. or 2230 hrs. I heard people talking together, but as it was very dark I did not pay any attention and tried to find my way for camp. I pull out my electric torch and I give it to Cpl. Bourrassa. Bourrassa preceeded us by a few feet, just about that time I was pull by the collar of my tunic by someone from the rear and thrown on the pavement of the road. I was overpowered and the accused was saying "It is me Pte. Toupin who is speaking, do you recognized me", he was gouging my eyes with his fingers and battering my head on the pavement. I was then more or less unconscious. When I came to I was in the ditch next to the road and Cpl. Bourrassa & Pte. Hubbard were with me who told me do not make any noise as there was someone coming.

I was taken in an Army car that was passing by and driven to the C.M.C. and from there to Bramshott Hospital.

On my way between the C.M.C. and Bramshott hospital I lost consciousness and came to on entering the Hospital.

The accused declines to cross-examine this witness.

2nd Witness for prosecution

E 5145 Cpl. Bourrassa Conrad, Royal 22nd Regiment, (No.2 Cdn. Inf. Holding Unit.) being duly sworn, states:-

On or about 2200 hrs. 27 Sep 40 on leaving the Halfway Inn, after having had a few drinks of beer, I was walking with S/Sgt. Rouleau and Pte. Hubbard. It w as very dark and I asked S/Sgt. Rouleau for his electric torch and I preceded Rouleau & Hubbard by a few feet. Suddenly I heard a scuffle, taking place behind me, and I heard the accused saying to S/Sgt. Rouleau "it is me Pte. Toupin who is speaking to you S/Sgt. Rouleau do you hear me" and I could also hear the noise of the head striking violently against the pavement.

On hearing this I tried to separate them but it was very dark and other soldiers prevented me from reaching them After a few minutes the accused and a few other soldiers left and I looked after S/Sgt. Rouleau.

By using the electric torch I managed to stop a car going by and got S/Sgt. Rouleau on board and had him taken to the C.M.C.

Quest: by the accused.
How many bottles of whisky did you had on you?

Ans. I had none.

Quest: How many miles from the HalfWay Inn did you sleep?

Ans. I do not remember exactly but I sat on the side of the road and I went asleep.

Quest: Can you say if the fight took place on the road from the Halfway Inn to Bordon or on same other road?

Ans. About 200 ft. outside the Tavern on the road from the Halfway Inn to Bordon.

in the case of

E 5139 Pte. Armini TOUPIN, Royal 22nd Regiment,
(No. 2 Canadian Infantry Holding Unit.)

2nd Witness for prosecution (cont'd)

The accused declines to further cross examine this witness.

3rd witness for prosecution.

E 5082 Pte. Hubbard, G.B.G., R. 22nd Regiment, (2 Canadian Infantry Holding Unit). being duly sworn, states

On the evening of the 27 Sep 40, S/Sgt. Rouleau, Cpl. Bourassa and myself had about four drinks apiece at the Halfway Inn. We came out as the "Bar" closed and went to the Fork road debating what road to take when I heard a voice calling to us "We were a bunch of French Canadians speaking English". The accused came over to us and started a scuffle with S/Sgt. Rouleau but as it was very dark I could not see exactly what was taking place, but I heard S/Sgt. Rouleau say to have the accused put under arrest. The arrest was not made. During the scuffle that took place I heard the accused saying "it is me Pte. Toupin who is speaking to you, do you know me", or something to that effect. I heard the accused to say that he had a grievance to settle with S/Sgt. Rouleau. I did everything I could to separate them.

We then hailed the first car that came along without success, we then hailed a second car who took S/Sgt. Rouleau away with him together with Cpl. Bourassa.

Ques. by the accused;- When I call out in the street was I alone or with others?

Ans. You were with other persons.

Ques. On what road did the scuffle take place?

Ans. About the fork of the roads.

Que. How many glasses of beer did you take in the Public Bar?

Ans. I had a glass of Rum and a couple of glasses of Beer.

The Accused declines to further examine this witness.

4th Witness for prosecution.

E14365 Pte. Huard, J.W., Royal 22nd Regiment, (No. 2 Canadian Infantry Holding Unit.) being duly sworn, states;-

On the evening of 27 Sep 40 L/Cpl. Guevrain and myself had a few drinks of beer and spirits at the public bar of the Halfway Inn. At the closing of the "Pub" I walked out and I heard the accused saying "it is Toupin Rouleau" there was a big gathering in front of the Inn and everyone were speaking out loud, but I could not see what was going on as it was too dark.

in the case of

E 5139 Pte. Armini TOUPIN, Royal 22nd Regiment,
(No. 2 Canadian Infantry Holding Unit.)

4th witness for prosecution (cont'd)

I took the road leading to Bordon Camp and on my way there accused and Pte. Webb caught up with me and we came to camp together. Nothing was mentioned as to the scuffle which had taken place.

Ques. by the accused;- When you heard "it is Toupin Rouleau" can you say who was saying this?

Ans. No,it was too dark and I could not say.

Ques. Can you say if it was just in front of the Inn that the scuffle took place.

Ans. It was across the road in front of the Inn.

The accused declines to further examine this witness.

5th witness for prosecution.

E 4693 Pte. Lalonde, L. Royal 22nd Regiment, (2 Canadian Infantry Holding Unit). being duly sworn, states;-

On the evening of the 27 Sep 40 I met the accused and Pte. Webb at Farnham and we came back together on the Bus, then we stopped at the Halfway Inn on the way to Bordon. The three of us must have had four or five glasses of beer together, I also had a bottle of wine and I gave Pte. Webb a glass but not to the accused. At the closing of the "Bar" I went out and just about the fork of the road I saw a gathering of soldiers where the accused and S/Sgt. Rouleau were having a scuffle. L/Cpl. Guevrain and myself tried to separate them but we were unable to do so and we both left for camp. I positively recognized the accused holding S/Sgt. Rouleau because I tried to separate them.

Ques. by the accused;- Who paid the drinks at the bar?

Ans. I do not remember who did pay.

Ques. Was it three or four or four or five drinks that we had?

Ans. I could not say for sure.

The accused declines to further examine this witness.

(Continued) SUMMARY OF EVIDENCE

in the case of

E 5139 Pte. Armini TOUPIN, Royal 22nd Regiment, (2 Canadian Infantry Holding Unit).

1st Witness for defence

F44897 Pte. Webb, W.B. West Nova Scotia Regiment, (2 Canadian Infantry Holding Unit). being duly sworn;- states;-

On the evening of 27 Sep 40 I got on the Bus at Farnham and I met the accused in the Bus, we both got off at the Halfway Inn on the way to Bordon. The accused and myself had three small glasses of beer in the public bar. At the closing of the bar I walked out with the accused and as we came out I heard an argument in French between the accued and S/Sgt. Rouleau who was just in front of us.

I could not understand what was being said as I don't understand French. S/Sgt. Rouleau slapped the accused in the face and then they both clinched and went down on the pavement. I got hold of the accused and told him to stop that foolishness and tc come to camp which he did.

I have known the accused since I have been at Bordon Camp,we work together on sanitary fatigue and we are both good friends.

To my knowledge the accused was sober that evening.

That night the accused, Cpl. Bourassa, Pte Huard and myself slept in the field somewhere between the Halfway Inn and Bordon Camp.

The accused declines to cross examine this witness.

The accused was given the following caution;-

Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused requests that a Medical Certificate be obtained to show in what state S/Sgt. Rouleau was when he was admitted to Hospital.

The accused declines to give evidence or to make any statement and reserves his defence.

R.P. 4 (C), (D), (E) & (F) were complied with.

Taken by me in the presence of the accused this 2nd day of October 1940 at Louisburg Barracks.

P.E. Belanger

(P.E.Belanger) Major
No. 2 Can. Inf. Holding Unit.

ARMY FORM B 116.

No.2 Canadian Infantry holding Unit ..... *REGIMENT*

STATION Louisburg Barracks Bord n nants Date 3rd October 19 40

Application for a DISTRICT ..... *Court-Martial*

SIR,

I have the honour to submit one charge against No.E 5139 Private Armini Toupin Royal 22nd Regiment of the unit under my command, and request you will obtain the sanction of Senior Officer C.M.H.Q. that a district Court-Martial may be assembled for his trial at Louisburg Barracks, Bord n, nants

The Case was investigated by (*a*) Capt.F.F.Northup Major F.S.Mathewson D.S.O. and Major P.E.Belanger

A Court of Inquiry was held on (*b*) ..... (date)

..... (Station).

President		Ranks, Names and Corps.
Members		

The accused is now at Bordon His General Character is (*c*) good

I enclose the following documents (*d*) :—

1. one Charge Sheet (in duplicate) (*e*).
2. Summary of Evidence, original (*f*) and one copy.
3. [redacted] (*g*).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
5. [redacted] (*h*).
6. [redacted] (*g*).
7. Statement as to character (A.F.B. 296) and regimental and company, etc., conduct sheets of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (*h*). [R.P. 14 (B)].

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer } J.P.Belanger Major

Commanding No. 2 Inf.(Rifle) Holding, C.A.S.F.

To Commanding Officer "A" Group Holding Units.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. E 5139 Pte.A.Toupin R 22e R Regiment is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer H.G.Rader Major RCAMC

* Insert "fit" or "unfit."

(*a*) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence [R.P. 19 (B) (iii)].

(*b*) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges; otherwise to be struck out [R.P. 19 (B) (iii)].

(*c*) To be filled in by the Commanding Officer.

(*d*) Any items not applicable to be struck out.

(*e*) One copy to be sent to the President; one copy to be filed with the application for trial.

(*f*) Original summary of evidence to be sent to the President.

(*g*) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.

(*h*) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 65 (5) the fact should be recorded at the top of this form.

W.L.23753/315 20,000 8/39 A & E.W.Ltd. Op.698
W.L.23776/810 60,000 1/40 " " Forms/B116/16

STATEMENT BY ACCUSED TO HAVE AN OFFICER ASSIGNED TO REPRESENT HIM AT HIS TRIAL.

I, Number E 5139, Private Armini Toupin, Royal 22nd Regiment 9No. 2 Canadian Infantry Holding Unit) ~~Reserve~~ to have an Officer assigned to represent me at my trial by Court Martial.

I desire the services of Lieut G. Renfrew

if he is available.

Louisburg Barracks
Bord n, nants

(Sgd) A Toupin

LN

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of October 1940

Adjutant,
No. 2 Infantry Holding Unit (C.A.S.F.)

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Essex Pte R. Taupin of the Regt 22nd Regiment

1. The following is a fair and true summary of the entries in the [illegible] Regimental and Squadron, Battery or Company Conduct sheets† of the said accused, exclusive of convictions by a court martial or a civil court, of which particulars are set out in the summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For Reading and Remarking	/ times	/ times.
For A.W.L.	/ times	/ times
For Failing to obey an Order	/ times	/ times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

† Instructions.—It should be stated whether the entries in the Conduct sheets are favourable or unfavourable, and the number of each kind should be given separately and distinguished under each entry.

* The numbers, terms stated should correspond with the entries in the Conduct sheets, previously given, and the number given under each entry should be separately and distinguished under each entry.

Army Forms, 1914, K.R.

W5. 42565/984. 50,000. 8/40. W. & Ltd. 11—4084.

3. The accused is not under sentence at the present time,

or,

~~The accused at the present time is under sentence~~ for ~~beginning on the day of~~.

4. The accused has been in confinement, awaiting trial on the present charges

for — days in Civil Custody,

and 7 days in Military Custody.

Total 7 days.

Of which none days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 40 years.

6. The date of his ~~commission~~ / attestation specified in his ~~record of service~~ / attestation paper is 24-2-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is —.

8. The accused is entitled to deferred pay or gratuity in respect of — years' service.

9. The accused is entitled to reckon — years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

of the

Army Number, Rank and Name

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which Tried, or Rank of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*

R 22e Regt. (CASF) Date of enlistment 21-2-40 Sheet No.

No. E5139 Name TOUPIN A Sqn., Batty., or Company Corps

Date of last entry in Company Conduct Sheet } No. and date of last drunk } G.C. Badges } Long Service and G.C. Pay } Signature O.C. Company, etc.) Capt Simonds

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	30/3/40	PTE		I Breaking out of Quarantine II A W L from 1900 hrs until 2250 hrs 31-3-40 (1 day 3 hrs 50 min) W E Morgan Major Certified correct	Sgt Paquet Capt Robitaille	3 days 2nd Proy	3-4-40	Col Leclerc	Forfeit 2 days pay for R & R Regs.
Borden Hants 22/8/40				WOAS failing to obey a Order	Capt Bayne Capt Burns	3 days C.B.	23-8-40	A A Northey Capt	

Certified true Copy.

J W Armitage Capt
Adjutant,
No. 2 Inf. Hille Holding Unit, (C.A.S.F.)

[P.T.O.

Army Form B.122

Army Form B.122

22nd Reg. (CASF) Date of enlistment 21-2-40 Sheet No.

No. E5139 Name TOUPIN A Squ., Batty., or Company Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. Capt Simard

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Quebec	30/3/40	PTE		I Breaking out Quarantine II AWL from 1700 hrs until 2250 hrs 31-3-40 (1 day 3 hrs 50 min) W E Morgan Major Certified correct	Sgt Paquet Capt Robitaille	3 days Conf Fat	3-4-40	Col Leclerc	Forfeit 2 days pay FR & D Regs.
Borden Hants 22/8/40				WOAS failing to obey an Order	Capt Bayne Capt Burrill	3 days C.B.	23-8-40	A/A Northy Coast	

Certified True Copy.

J. W. Annudge Capt
a Adjutant,
No. 2 Inf. Rifle Holding Unit, (C.A.S.F.)

[P.T.O.

R22e Reg. (CASF) Date of enlistment 21-2-40 Sheet No.

No. E5139 Name TOUPIN. A. Squ., Batty., or Company Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc. EO Guimond Major

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aubrey	30/3/40	PTE		I Breaking out of quarantine II A W L from 15 hrs until 2250 hrs 31-3-40 (1 day 7 hrs 50 min) ME Morgan Major Certified correct	Sgt A Pageau Cpl Robitaille	3 days Confined pay	3-4-40	Lt Lecture	Forfeit 2 days pay for each Offence
Boston Hpts	22/8/40	PTE		W.O.A.S. Failing to obey an Order	Cpl Boyce Cpl Labrie	7 days C.B.	23-8-40	FJ Worthy Capt	

Certified true Extr.

J W Guimond Lt Adjutant,
No 9 Can. Field Hospital, C.A.E.F.

[P.T.O.

5 V - 24

Pte. Trupin, Jos. L.

Missing no documents received with this envelope

4 S 47

Pte. Turangeau P.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-113028 Pte Paul Emil TOURANGEAU CAN/NO CDN Re

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Sixty days Detention less time in confinement awaiting trial. (25 days)

(Sgd) ..... 4 Jan 1945 (Sgd) G.H. Halmarson Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 5 JAN 45 Commanding (G.S.O.) Gostling) Brig 2 CDN BASE RET GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-113028 Pte Paul Emil TOURANGEAU	16 30 hrs 6 Jan 45	for Maj 10 C Coy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD AT CMHQ IN AB 160 45-47

4 FEB 1945

FIELD GENERAL COURT-MARTIAL

CFAAS (In lieu of AFA31) 40/1/A.B./1698 (41441) 4/38B

Convened by Order of ..... Comd ..... dated .....

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-113028	Private		Paul Emil	TOURANGEAU	21 Army Bn

PROCEEDINGS REVIEWED 15 JAN 45 Maj Rp Lowthey Capt REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 4 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

18/130.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	G. W. H. HALMARSON	X4 LIST C&E
Member	CAPT	L.T. HORG	12 CBRBn X4 LIST R. ENG
Member	LIEUT	W. J. DALTON	12 CBRBn X4 LIST C.I.C
Judge-Advocate	~~LIEUT~~	~~J. W. VARTY~~	~~X4 LIST C.I.C~~ Nil
Prosecutor	LIEUT	J. W. VARTY	X4 LIST C.I.C
Defending Offr	LIEUT	L.T. HACHEY	X4 LIST C.I.C

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (1) plea

..... (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 C.B.R.B Vol II P-117

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to less etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on FIRST charge(s). The accused is (are) so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly~~. BWH
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 74 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. BWH

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, B119228, Pte Paul Emil TOURANGEAU (CIC) on the strenght of 42 Coy 10 C.B.R.Bn., a soldier of the Canadian Army Overseas.

is charged with

FIRST CHARGE
A.A.Sec.9 (2) WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field at [redacted] ordered by M16957 Sgt STEVENS J M of 10 C.B.R.Bn, to start and work, refused to do so saying, " I left home for less than this." When again ordered to start work by Sgt STEVENS J M refused to do so saying, " I refuse to work in this mud."

(F.M. MITCHELL) Lt-Col.,
C.O., 10 C.B.R.Bn.

In the Field
16 Dec 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

G.W. Gosling Brig
Comd
2 Cdn Base Hft Gp

In the Field.
2 Jan 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-119220	Private		Paul Emil	TOURANGEAU	CIC 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 JAN 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	G W CHAMBERS, K-A Lt. C.O.C.	2 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut	to be detailed by OC 12 CBR Bn	12 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (*Country.*)

(*Signed personally. RP 105 fn 2.*) Brig Gen (*Rank.*)

(G.R.N. Gooderham), Cdg 2 Cdn Base Sub Area

Date 2 Jan 45 Commanding 2 Cdn Base Sub Area
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(*See overleaf for oaths and notes for use on trial.*)

1 CANADIAN BASE REINFORCEMENT BATTALION

Gut.

I HEREBY CERTIFY THAT I HAVE THIS MORNING EXAMINED

B119228 (Number) Rfn (Rank) TOURANGEAU P.E. (Name) 10 C&SR Bn (Unit)

AND IN MY OPINION HE IS FIT/~~UNFIT~~ TO UNDERGO TRIAL BY COURT MARTIAL.

DATE 11 Jan 45

STATION Field

(MEDICAL OFFICER)

Mr President and Members of the Court.

There are certain factors surrounding this man's army life which should be taken lessening the serious of the charge.

The accused arrived in England in June 44 and one month later was in action in France. He fought continuously from the 10th of July to the 13th November when he was evacuated suffering from bronchitis and a severe cold due to the mud and water of the Holand front. On coming out of hospital being still in a weak physical condition he was once more sent digging in water and mud to his knees. You can well see gentlemen the discouragement and disgust of a fighting soldier to find himself in such a condition instead of being on a well deserved leave.

I therefore ask you gentlemen of the court to take these points into consideration in mitigation of sentence. namely, 1st his long service at the fighting front, 2nd the circumstances leading up to ~~and surrounding the~~ the offence.

~~I am also asking the court to recommend a medical board~~

R.S.M. Hockey Asst.

Exhibit 2

SUMMARY OF EVIDENCE

In the case of B-119228 Pte TOURANGEAU Paul Emil, on the strength of 42 Coy 10 C.B.R. Bn., a soldier of the Canadian Army overseas.

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

B-16597 Sjt STEVENS, J. H., on the strength of 49 Coy 10 C.B.R. Bn., having been duly sworn, states:

" I am B-16597 Sjt. STEVENS, J. H. of 49 Coy 10 C.B.R.Bn. On the 11 Dec 44 at approximately 1000hrs I was in charge of a work party building a range. Noticing ——— accused whom I now recognize, sitting down I told him to start to work. He immediately replied. " I left home for less than this." I then ordered him again to start work, and he said " I refuse to work in this mud." I asked the accused e for his pay book, from which I took his number and name and rank. I then placed the accused under close arrest in the guard room.

R P 83(b) Complied with.

(J. H. STEVENS) Sjt.
B-119228

The accused declined to cross examine the witness.

SECOND WITNESS
Prosecution

B-85517 Cpl. ADAMS, J. H., on the strength of 42Coy 10 C.B.R.Bn., having been duly sworn states:

" I am B-85517 Cpl. ADAMS, J. H.. On the 11 Dec44 at approximately 1000hrs, I was present when Sjt. STEVENS came up to the accused who was sitting down at the time and Sjt. STEVENS ordered the accused to get to his feet and start to work. The accused said " he had left home for less than this" and that he wouldn't work in the mud. Sjt. STEVENS then asked the accused if he was refusing to obey an order and the accused said he was. Sjt. STEVENS then took the accused pay book and wrote down his name and number. The accused had ample time and opportunity to comply with the order before he was placed under arrest and taken away by Sjt. STEVENS.

R P 83(b) Complied with.

(J. H. ADAMS) Cpl. B-85517

The accused declined to cross examine the witness.

The accused having been cautioned as follows: "Do you wish to make a statement or give any evidence on oath ? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence. Having been duly ~~sworn~~ affirmed states: There were five of us soldiers sitting down having a smoke in some scrub underbrush. The Sjt. came along to get us to work. Before the Sjt. ever spoke to me I made the remark that I had left home for less than this, as it was very muddy work that we had been doing. After this the Sjt. came over to me and ordered me to get up and go to work,

asking if I refused to obey his order. I said I was refusing to work unless he got me some clothes to work in suitable for that type of work. He immediately asked me for my pay book. I gave it to him and he took me away soon after to 49 Coy building and placed me under arrest with the Provs.

R P 83(b) Complied with.

(P.E. TOURANGEAU) Pte.
B-119228

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused.

I certify that R P 4(e)(3)(c)(and (f) have been complied with.

(J.W. VANCE) Lieut.
Lorne Scots Officer
detailed to take the
Summary of Evidence.

LIST OF WITNESSES

FOR THE PROSECUTION

R-16697 Sjt. STEVENS, J. M. 49 Coy 10 C.B.R. Bn.
R-05517 Cpl. ADAMS, J. H. 42 Coy 10 C.B.R. Bn.

FOR THE DEFENCE

Nil.

LIST OF EXHIBITS

Nil.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, LIST OF WITNESSES, AND LIST OF EXHIBITS

I DO DESIRE TO HAVE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL

P.E. Tourangeau

(P.E. TOURANGEAU) Pte.
B-119226

Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.119228	Pte	TOURANGEAU, F.E.	10 Cdn Base Rft Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

~~There are no entries~~ in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~as~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and ~~NIL~~ 25 days in military custody, making a total of ~~NIL~~ 25 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ is 29 yrs 8 mths 28 days

6. The date of his ~~attestation~~ ~~enrolment~~ specified in his ~~record of service~~ ~~attestation paper~~ is 13 Nov 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 1 mth 5 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 1 mth 5 days service.

9. The accused is entitled to reckon 1 yr 1 mth 5 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____, dated _____, and in his regiment (*or* corps *or* department) the rank of _____ dated _____

(*25806) Wt.24898/1750 20,000 10/43 A.& E.W.Ltd. Gp.698
(28906) Wt.55034/1450 12,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ____ Rank ____ Name ____ of ____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~[illegible]~~ 4th day of ~~December 1944~~ January 1945

~~[illegible]~~ Lieut

---

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(Instruction—If any matter in any of the above five entries cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

MFM 6
(AFS 122)
10/P&C/136 (3428)

No B119228 Name TOURANGEAU, Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment 13-11-4[illegible] — GC Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet P.B. N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character G.S. Lynch Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed after 6 months service - Nil cases of drunkenness 13 May 44								G.S. Lynch Capt.	
Field	25-11-44	Pte		A.W. Sec 15 (1) AWL from 0830 hrs 25 Nov 44 until 0830 hrs 27 Nov 44. (absent 2 days)	Sgt Fox, J.C.	Forf 12 days pay 7 days C.B.	29Nov44	Lt-Col.F.M. Mitchell	Forfs 2 dys pay FR2I 149(1)(a)

CERTIFIED TRUE COPY

(C.J.C. ARTHURS) Capt
Adjt., 10 C.I.C. Bn.
(Officer having custody of Regtl books)

(PTO)

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

5A-1

B-2139 Re. Touraryan, K.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-20139 Pte Roland TOURANGEAU 6/ Coy, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~N/A~~ beginning on (date) ~~N/A~~ (1)
(1. Insert sentence being served, or dates. ~~If not applicable.~~ See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 14 days detention and to be placed under stoppages to the amount of $42.28

(Sgd) ..... Judge-Advocate, if any. 13/Feb/45 Date awarded. (Sgd) ..... President. (RP 46, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6/46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

Date 15 FEB 45 (Sgd) (G S N Gostling) Brig
Commanding 2 CDN BASE RPT GP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B20139 Pte Roland TOURANGEAU 9 CBR Bn	19-2-45	Pte Gostling 9 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT GAMIQUIN AB 160 SH-1

FIELD GENERAL COURT-MARTIAL

CFA96 (To be used on AF A1-1 40/P & S/1608)

4/368

Convened by Order of Lt-Col J. Rinfret, MC A/ Comd 2 CBRB dated 11 Feb 45

RECEIVED 1 MAR 1945 JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 15 Mar 45 Z.Y. Dick, Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
		Roland	TOURANGEAU	9 CBR Bn

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 13 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ~~N/A~~ as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.G. MacKENZIE, MBE	FGH X-9 List att 3 Cdn RETD
Member	~~CAPT~~	~~D. MITCHELL~~	~~Regt No X-9 19 CBR 12 RN~~ ~~3 Cdn RETD~~
Member	Lieut	D.W. PEAT	1 Cdn Para Bn 11 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	A.T. MANN	CIC 11 CBR Bn
Defending Offr	LIEUT	R.E GROVES	CIC HQ CBR.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-20139 Pte Roland TOURANGEAU before arraignment make(s) (no) ~~N/A~~ plea
..... (3)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG. W.D. P. 95

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling witnesses by Court see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. no .(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ~~the~~ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B; initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. no .(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ~~No~~ charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No . Do you intend to call witnesses on your behalf? Ans. no . Are they witnesses as to character only? Ans. no .
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Second charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~(2) Part I of the Schedule is dated and signed.(3)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. no .
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. *MFB 355 or AFB 29e.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. no .(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-80159 Pte. Tourangeau, Roland
on strength 64 Coy, 9 CBR Bn, 2 CBR Gp.,
a soldier of the Canadian Army Overseas is
charged with:

First charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the field, did absent himself without leave from 2330 hrs 18 Jan 45 until reporting to 64 Coy CBR at 2300 hrs 19 Jan 45.

Total absence 23 hrs 30 mins.

Second charge
AA Sec 24(a)

WHEN ON ACTIVE SERVICE IS CHARGED WITH LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

in the field, at approximately 2300 hrs on 19 Jan 45 was deficient.

1 Cap comforter	.34
2 Drawers, Cell. short	.86
1 Dressing, F.F.	.24
1 Shirt Angola, drab	2.05
1 Pr. socks, worsted	.37
2 Towels, hand	.64
1 Boots, ankle, prs.	5.46
1 Greatcoat, 1939 Patt.	11.85
2 Vests, woollen	2.40
1 Pack, WE Patt '37	7.84
2 Straps, web supporting	.26
4 Blankets	12.28
1 Respirator AG light	3.26
2 Ointment AG	.20
6 Eyeshields, AG	.45
	$48.25

In the Field
5 Feb 44

(H.W. Rick) Lt.-Col.,
Commanding,
9 Bn, 2 C.B.R.Gp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(J. Ramsis), Lt-Col.,
A/Commander
2 Canadian Base Reinforcement Group.

In the Field
11 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-20139	Pte		Roland	TOURANGEAU	9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~6. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G.G. MacKENZIE, MBE	PGH, X-9 List att 3 Cdn BRTD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	L H TAYLOR,	CIC, 10 CBR Bn
Lieut	D.N. PEAT	1 Cdn Para Bn 11 CBR Bn

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

(J. Runcie)

Date 11 Feb 45

A/ Commanding 2 CDN BASE ROT GP.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)

I certify that I have this day examined B20199.
(No.)

PTE TOURANGEAU R.
(Rank.) (Name)

and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD.

Date. 19-2-45

(Sgd)
Medical Officer
Unit 9 C.B.R. Bn.

C/5548 C.Q.M.S. Bottomley W.J. 64 Coy 9th Bn CEF

[illegible] duly sworn and [illegible] identified the accused states

The accused was on my company strength. I am satisfied that the accused had in his possession the articles as shown in his part III pay book (Exhibit 14)

On the night that the accused was posted AWL his kit was brought into my stores, I checked his kit that night and made a tour of his barrack room the following morning I checked the equipment, he took to the guard room. I made a list of all this equipment which was turned in and checked it against his Part III I found deficiencies as follows. I made a list of the deficiencies I would be able to recognise this list — the deficiencies listed in the charge sheet are identical with the list I turned in.

On several occasions before this
when the supply was short and
new drafts comming in we had
to recall on blanket from each
man. I am satisfied that Pvte Tanner
had four blankets the day he
went AWL

Q. By Court

Q. Are other rates required to sign
for the blanket

A. This was not the general practice

Q. Then there is no entry in your
books of blankets on charge
to be accused

A. No

Q If a man comes down and is
short one blankets do you
issue one

A Yes sir it is an automatic issue

6

46868 Pte McKenzie having been duly sworn & having identified the accused states

~~On the morning of the~~ On a day early in January the accused had drawn equipment from Q.M. stores on a parade arranged to bring men short of equipment up to scratch. After the parade he said he did not care whether he had the equipment or not if he could get money for it he would.

2nd

B44985 Pte Abrahams P.E.

Having been duly sworn & having identified the accused states

On the 12th Jan 45 I noticed that all the blankets were missing from Pte Tarangi's bed. I spoke to pte Tarangi on the following morning concerning these, he said that he had got drunk and sold them. On the 17th Jan 45 I saw the accused in the evening

he was wrapping a blanket under his coat. He said he was taking the one out & coming back for the other. He then left the room with that blanket, as if he were on his way outside

Cross by Defense

Q Do you recall any statement made about his greatcoat & him stolen

A Yess

Q Could he wrap a blanket around to keep warm

A Yes I suppose so

Q Was there anyone else there

A Gen. Default was there

Re. by Prosecutor

Q The greatcoat & the blankets which went first.

A The Blankets in boat 2 days

The accused elects to make a statement under oath. & having been duly sworn states

I was on duty as fatigue on the morning of the 18 Jan. 45 Between 10 & 11.00 hrs the L/Cpl came over & told us to turn our blankets in, as the others were told on parade I went back to get my blanket but found them gone & took it that the others had turned them in for use. I keep my defence kit in my large pack on my bed. I remember seeing my large pack on the morning of the 18 Jan 45

The C.O. usually came around once or twice a week to check blankets Pte Abrahams inference that I took my blanket outside, I just folded it the room.

The remark I said to Pte Mackenzie re webb equipment was "Im kind of fed up with packing this stuff around."

X by Prosecution

Q Did you ask any one to turn in your blankets

A No Sir

Q Did you check to see if they were turned in?

A I was working & took it for granted that they were.

Q Do you remember how your Greatcoat, Holder & remarks, to the Adjt.

A Yes.

Q Did you report the matter to Co

Hn. No.

Q Why

A Because there was nothing being done about it when the others reported things were lost

Q What happened to your Greatcoat

A I don't know

J M Readdy

Plea of Mitigation

B-20139 Pte. Tourangeau J.

Joined the Forestry Corps in August '40 and remained with the Forestry Corps both in Canada and Scotland until a company was sent overseas in Oct '41

He came over as a reinforcement, but has remained doing guard duty, fatigues and drill without any signs of joining the corps in action.

All Pte. Tourangeau's friends are in the Forestry Corps. He feels intirely alone where he is, and wants to rejoin the Corps as soon as possible. He has never lost equipment before. I ask the Court to consider a man who has spent most of his army career with friends, in the corps of his choice, and the demoralized state which he has adopted while doing duties which are foreign to his trade. in that the Court will recommend this mans immediate dispatch to his unit.

Pte. Tourangeau J.

This is Exhibit "A" referred to in the affidavit of B 70139 Le Sauvageau, K sworn before me this 9th day of February 1945

D Emmerson

Upon details of Take Summary of Evidence

TICLE	QUANTITY						
	1						
rous	1						
ianter							
	2						
ldh, prs							
lish, prs							
ish	1	1					
ition							
or short, prs	2						
ps, prs	2						
, drab, prs	1						
	1	1					

new column. Old column will be ruled out as ---

6. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

7. See instructions re kit inspections on inside of back cover.

Greatcoat, drab

Initials of QM or Rep

Initials of Soldier

15 AA/B

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	
Battle Dress, blouse	
Battle Dress, trousers	
Cap or bonnet	
Boots, ankle	
Gloves	
Facepiece, respirator	
Greatcoat	
Helmet steel, lining	
Overalls, combination	
Jersey, pullover	
Shirts, Angola, drab	
Vest, woollen	
Drawers, cellular	
Drawers, woollen	

MILITIA BOOK M-1

PART III

40/P&S/1808/30(2)

CANADIAN ARMY

Clothing and Equipment Statement

Regt No. B-20137

Rank PTE

Name [redacted] R.

This is Exhibit "A" referred to in the affidavit of B 70139 Pte Tauranga Jan, taken before me this 23rd day of February 1945

Officer detailed to take Summary of Evidence

ITICLE	QUANTITY						
s	1						
hose	1						
hanter							
s	(1) 2						
rish, prs							
hirt, grn							
rish							
Belt	1	1					
ation							
lar short, prs	2						
ves, prs	2						
d, drab, prs	1						
	1	1					

new column. Old column will be cross-ruled out.

6. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on repayment.

7. See instructions re kit inspections on inside of back cover.

Greatcoat, drab

Initials of Soldier

Initials of QM or Rep

ER

d are responsible
k on their person

signify that you
this entered.

obedience of this
inary action will

your Commanding

MASTERS

personal clothing

pecial clothing for
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mum. The remain-
arried forward into

new)

6. No entry will be made on this statement when unserviceable articles are exchanged for serviceable ones or when issues are made on replacement.

7. See instructions re kit inspections on inside of back cover.

1

ARTICLE		QUANTITY					
Anklets, web, prs	✓	1					
Blouses, Battle-dress	✓	1					
Bonnet, tam-o'shanter							
Boots, ankle, prs	①	2					
Boots, rubber, high, prs							
Boots, leather, high, prs							
Bonnet, drab, Irish							
~~Cap, field service~~ Beret		1	1				
Cap, mechanic							
Cap, tank battalion							
Drawers, Cellular short, prs		2					
Drawers, Woollen, prs		2					
Gloves, knitted, drab, prs	✓	1					
Greatcoat, drab		1	1				
Initials of Soldier							
Initials of QM or Rep							

ARTICLE	QUANTITY						
Jacket, sweater, or jersey pullover	1	1					
Overalls, combination							
Overalls, blouses, denim							
Overalls, trousers, denim							
Shirts, Angola, drab	2						
Shoes, canvas, prs							
Socks, prs	2						
Trousers, battle-dress, prs	1						
Vests, woollen	2	2					
Badges, cap							
Badges, arm, drab, crowns							
Badges, arm, drab, crown in wreath							
Badges, arm, Tank Bn							
Badges, shoulder, "CANADA", prs							
Initials of Soldier							
Initials of QM or Rep	[illegible]						

ARTICLE	QUANTITY						
Badges, arm, drab, Royal Arms							
Badges, arm, drab, Royal Arms in Wreath							
Bags, kit, universal							
Braces							
Brass, cleaning							
Brush, button, brass							
Brush, clothes							
Brush, hair							
Brush, shaving							
Brush, shoe, blacking							
Brush, shoe, polishing							
Brush, tooth							
Cap, comforter							
Chevrons							
Initials of Soldier							
Initials of QM or Rep	[illegible]						

4

ARTICLE	QUANTITY
Comb, hair	1
Dixie, identity, sets, with cord	1
Dressing, field	1
Fork, NS Table	1
Holdall	1
Housewife, complete	1
Knife, clasp	
Knife, table	1
Lanyard, knife	
Razor, safety, with blade	1
Patches, distinguishing, prs	
Shorts, gymnasium	
Spoon, NS dessert	1
Vest, cotton, gym	
Initials of Soldier	
Initials of QM or Rep	

5

ARTICLE	QUANTITY
Towels, hand	2
Unit or Corps titles, prs	1
Attachments, brace	2
Bag, ration	1
Belts, waist	1
Bottles, water	1
Braces, WE Right	1
Left	1
Carriers, cartridge	2
Carriers, waterbottle	1
Cases, binocular	
Cases, pistol	
Covers, breech, rifle	
Initials of Soldier	
Initials of QM or Rep	

6							
ARTICLE	QUANTITY						
Cover, mess tin	10						
Frogs, web, bayonet	1						
Haversack	1						
Helmet, steel	X	1					
Net camouflage helmet	X						
Packs	1						
Pockets Compass							
Pouches, ammo, pistol							
Pouches, basic	2						
Pouches, utility { Front / Rear }							
Slings, rifle, web	1						
Straps, shoulder, haversack { left / right }	1						
Straps, web, supporting	2						
Tins, mess, TF	1						
Initials of [illegible]							
Initials of QM or Rep	[illegible]						

7							
ARTICLE	QUANTITY						
Veil, face camouflage	1						
Yoke	1						
	1						
	1						
Capes, A/G	1						
Respirators, A/G, complete with haversack	1						
Outfits, A/D	1						
Ointment, A/G	1						
Eyeshields, A/G, pk of 6	1						
Detectors, Individual, prs	1						
Wallet, A/G	1						
Blanket	1						
Mug, drinking	1						
Sheet, ground	1						
Initials of Soldier							
Initials of QM or Rep	[illegible]						

ARTICLE	QUANTITY
OC 13875 Regt'd No.	
Rifle No. 7762355	1
Bayonet No. w/ scabbard	1
Bottles, oil	1
Pullthroughs, single	1
Rods, cleaning, pistol	
Regt'd No.	
Carbine, Mach. ( )	
Magazines, Carbine	
Pistol Revolver Regt'd No.	
No. ( )	
Ctges, SA, revolver .380 in	50
Ctges, SA, .300 in Mk VII	

Initials of Soldier

Initials of QM or Rep

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AT EACH KIT INSPECTION

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

Signature	Date	Signature	Date
R. Pattenden	13/11/44		
R. Pattenden	13/11/44		

Exhibit B

Summary of Evidence

In the case of B.20139 Pte. Tourangeau, R. of 64 Coy., 9 CBR Bn (Formerly of 12 CBR Bn) 2 CBRD, Canadian Army Overseas.

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

B.9.869 C.S.M. Cohan, R.W. of 64 Coy. 9 CBR Bn (formerly of 12 CBR Bn) sworn states at approximately 0900 hrs 18 Jan 45 I sent my Orderly Sgt. for the accused B.20139 Pte. Tourangeau, R. He could not be found and a thorough search was made of the barracks in general without result. I then posted him A.W.L. I personally checked the accuseds quarters at 2230 hrs 18 Jan 45 and he had not returned.

Ex B

On 19 Jan 45 at approximately 2200 hrs the accused B.20139 Pte. Tourangeau, R. reported voluntarily to me in the Coy. C.M. Stores. I placed him under close arrest and placed him in the unit detention cells.

R.W. Cohan

The accused declines to cross-examine the witness.

Second Witness

C.15598 C.Q.M.S. Bottomley, W.J. of 64 Coy. 9 CBR Bn (formerly of 12 CBR Bn) sworn states: The kit of B.20139 Pte. Tourangeau, R. was brought to 64 Coy Stores by the Orderly Sgt at approximately 2200 hrs 19 Jan 45, with his kit for a kit inspection to to ascertain deficiencies. After checking the kit that was turned in and his kit that he took to the guard room. I found the following deficiencies;

Cap Comforter	1	34	34
Drawers, Cell Short	2	43	86
Dressing F.F.	1	24	24
Shirts Angola drab	1	2.03	2.03
Socks, worsted prs.	1	37	37
Towels, hand	2	32	64
Boots, Ankle, prs.	1	8.46	8.46
Greatcoat 1939 Patt.	1	11.55	11.55
Vests, woollen	2	1.20	2.40
Packs, WE Patt '37	1	1.84	1.84
Straps, Web Supporting	2	13	26
Blanket, C1098	1	3.07	3.07
Respirator A.C. light	1	3.26	3.26
Ointment A.G.	2	15	30
Eyeshields A.G.	6	07½	45
			$33.07

In addition to the above deficiencies three accomodation blankets were not returned to the 64 Coy. C.M. Stores. Pte. Tourangeau was issued with three accomodation blankets.

W.J. Bottomley. C.Q.M.S.

The accused declines to cross-examine the witness.

The KMA I Part III which was used to check the kit in the evidence of the above witness is attached hereto as Exhibit "A"

(B.P. Innes) Lieut.

Officer detailed to take summary of evidence

Third Witness B.44935 Pte. Abrahams, P.E. of 64 Coy., 9 CBR Bn. (formerly of 12 CBR Bn) sworn states: On 12 Jan 45 at approximately 2130 hrs I returned to my room and noticed that Pte. Tourangeau's blankets were missing from his bed. I asked him about it the following morning and he replied "Oh, I got drunk and sold them all". A day or so later he said his greatcoat was stolen. I told him he had better report it and he said it was no use doing that.

On 17 Jan 45 in company with N.1082452 Cpl. Dufault, P. I saw the accused wrap a blanket around his body under his tunic. He said he was coming back later to get his other blanket. I reported this to B.923869 C.S.M. Cohan, R.W. the next day.

I saw the accused leave the room with the blanket under his tunic.

I had the following articles stolen and reported the loss to the C.S.M.

1 Greatcoat
1 Wallet (in greatcoat pocket) on 6 Jan 45
1 Towel - new
1 Pr. coveralls (new) on 18 Jan 45)

Pte Abrahams

The accused declines to cross-examine the witness.

Fourth Witness. N.1082452 Cpl. Dufault, P. of 64 Coy, 9 CBR Bn (formerly of 12 CBR Bn) sworn states: On Wednesday night 17 Jan 45 in company with B.44935 Pte. Abrahams, P.E. I witnessed the accused Pte. Tourangeau wrap one blanket around his body and pull his uniform over it. With the remark that he was coming back and getting the other blanket which I saw he had left. I reported this matter to C.S.M. Cohan. Articles lost by me between the date of 12 Jan 45 to 20 Jan 45 is one complete suit of winter underwear drawers and vest, the loss of which was reported to C.S.M. Cohan.

Cross-examined by the accused.

Q.1 Did you see me take the blanket out of the room.

A.1 I saw you wrap a blanket around your body and you said you were taking it out and coming back for the other. I did not see you take it out of the room because I left before you did.

P.J. Dufault

Fifth Witness K.38686 Pte. MacKenzie, W.N. of 64 Coy., 9 CBR Bn. (formerly 12 CBR Bn) sworn states that: I, on Friday 12 Jan 45 was speaking to Pte. Tourangeau, after he had drawn web equipment and he told me that he did not care whether he had the equipement or not and if he thought he could get any money for it he would do so.

W.N. MacKenzie

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Q.1 Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A.1 I want to make a statement.

Q.2 On oath or not on oath?

A.2 On oath

The accused sworn states:

I was a fireman at the back of the barracks and I heard sometime between 1000 and 1100 hrs that we were supposed to turn our blankets in. When I went up to get my blankets they were gone, and I thought someone else had turned them in. There were no blankets on any of the other beds. When I came back to camp at 2100 hrs that night my small pack was turned out on the bed and my big pack was missing.

The accused does not call any witnesses.

R. Tourangeau

I certify that the foregoing summary of Evidence, consisting of three pages was taken down by me in the presence of the accused and that R.P. 4(e), (d), (f)(2) and (g) have been complied with.

(B.F. Innes) Lieut.
Officer detailed to take summary of evidence.

In the Field
5 Feb 45

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
R-20139	Pte.	Tourangeau, R.	9 CAN Bn.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but it not to be annexed to the proceedings. The numbers herein inscribed should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be placed separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Original AFW 4 unavailable ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 25 days in military custody, i.e., nil days in open arrest, 25 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation / calling up for military service is 15 Aug 40

7. The service which the accused is allowed to reckon is 4 yrs 6 mons

† State the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & Clasp

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 5/44 S1-472 Ltd. Forms B.296/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Original AFM 6 Not Available.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 13th day of Feb 45

(C.L. Nelson) Captain,
Adjutant,
9 Bn. R.C.B.R.Bn.

TOS 9 CBR Bn 22/1/45 Ex D

3/17 MFM 6 (AFD 112) 40/PAM/136 (5418)

No. B 20178 Name Tourangeau, R | Sqn, Battery, or Company | Corps | Date of enlistment 15/8/40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Temporary | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order cancelling with this	By whom awarded	Remarks
				TOS 9 CBR Bn 22 Jan 45 Certified true copy of book and documents held in my possesion. (C.L. Nelson) Captain, Adjutant, 9 Bn, 2 C.E.R. Bn.					

(FTO)

FEB 09 1945

Date

2 CBRG

1. I hereby acknowledge receipt of the Copy of Charge Sheet and the copy or the Summary of evidence delivered to me

R. Tamangpan

2. (a) I request that

if available, be appointed, OR

✓ (b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

R. Tamangpan

I hereby certify that Lt R E Grove was appointed to defend B 20139 Pte Tamangpan R at his forthcoming trial by Court Martial and that the said Lt R E Grove was notified that he was defending officer on FEB 09 1945

R Grove Capt

LIST OF WITNESSES

in the case of

B-20139 Pte. Tourangeau, 64 Coy., 12 CBH Bn. 2 CBH Gp.

FOR PROSECUTION

1. B.98369 C.S.M. Cohan, R.W. 64 Coy., 9 CBH Bn
2. B.18898 C.S.M.S. Bottomley, W.J. 64 Coy., 9 CBH Bn
3. B.44985 Pte. Abrahams, P.N. 64 Coy., 9 CBH Bn.
4. B.102458 Gnr. Dufault, P. 64 Coy., 9 CBH Bn
5. B.83698 Pte. MacKenzie, H.N. 64 Coy., 9 CBH Bn.

FOR DEFENCE

Nil.

LIST OF EXHIBITS

in the case of

B-20139 Pte. Tourangeau, R. 64., Coy., 12 CBH Bn, 2 CBH Gp.

(A) NDHQ 1 Part III

FFF 70

SPR TOURANGEAU W M.

9

45

ENTERED IN RECORDS OF C.M. FFF70

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 26 day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Engineers (1 Cdn. Div.), on active service, that the person named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said person, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint :-~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

for the following reasons, namely :—]

R. Deacon Wills. Capt. as Wing Adj.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	S.J.Simons	2 Fd. Park Coy., RCE.

Members.

Rank.	Name.	Regiment.
Capt.	C.C. Gray	4 Fd.Coy., R.C.E.
Lieut.	C.T.Young	H.Q., R.C.E.
Lieut.	D.B.McLellan (Waiting)	4 Fd.Coy., R.C.E.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed K.J. Southern Lt. Col.
(K.J.Southern)
Commanding R.C.E. 1 Cdn. Div.
Convening Officer.

D27

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-2212 Spr. Fredrick, William, Milton, Tourangeau	AA.15 (1) see attached charge.	Guilty	Guilty 90 days detention [illegible] Major 4 Feb 44.	Confirmed [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (Signed) [illegible] Major

Commanding RCE, Cdn Inf Div / 2 Cdn Fd Pk Coy RCE
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4 day of Feb 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 4 day of Feb 1944.

[illegible] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

N.A

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 4 day of Feb 1944

[illegible]
Confirming Officer.
CRE, Cdn Inf Div

Promulgated and extracts taken in the case of C 2212 Spr Fredrick William Tourangeau 22 Fd Coy RCE

(*a*) (Dated) 5 Feb 1944 (Signed) RB Fraser Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.T. 47787/1937 35 M. 5/41 K.B.&S.(2) Gp. 698/3
W.T. 25...0/1426 6 M. 9/41 K.B.&S.(2) Gp. 698/3

CHARGE SHEET

The acussed No C-2[illegible]12 Spr Fredrick, William, Milton, Tourangeau.
3 Cdn Fd Coy R.C.E., a soldier of the Cdn Army C.M.F.,
is charged with:

AA
Sec. 15(1) when on active service absenting himself without leave
in that he at ORTONA absented himself from 0700 hrs on 19 Jan 44 till 1615 hrs on 25 Jan 44. Total absense 6 days 9 hrs and 15 minutes.

Remanded for F.G.C.M.

In the Field
26 Jan 1944.

R B Fraser
Major R.B.Fraser D.S.O.
OC. 3 Cdn Field Coy R.C.E.

To be tried by .F.G.C.M.

In the Field
26 Jan 1944.

Lt-Col J.K. Southern D.S.O.
CRE 1 Cdn Div.

B.

MEDICAL OFFICER'S CERTIFICATE. 4 Feb. 44.

I certify that No C-2212 Spr. Tourangeau, F.W.N., R.C.E. Regiment

is fit to under go trial by Court- Martial.

(Signature of the Medical Officer)

insert "fit" or "unfit".

Accused C2212 Spr Frederick William Milton TOURANGEAU 3 Cdn Fd Coy RCE
(No.) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ITALY on 4 FEB 44
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	S.J. SIMONS	2 Cdn Fd Pk. Coy RCE
MEMBERS:	CAPTAIN	C.T. GRAY	4 Cdn Fd Coy RCE
	LIEUT.	D.B. McLELLAN	4 Cdn Fd Coy RCE

JUDGE ADVOCATE: _____
(if any)

OFFICERS UNDER INSTRUCTION: N.A.

PROSECUTING OFFICER: CAPTAIN J. WINN Lawyer? Ans NO

DEFENDING OFFICER: LIEUT. B.S. BROWN Lawyer? Ans NO

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(~~s~~) and Summary of Evidence. (RsP 17(E), 22(A)).

The President, in closed court (RP 22, fn 1), reads the Convening Order and the Charge Sheet(~~s~~) to the Members, and the Court satisfy themselves that it is properly convened (AA 49; RP 105) and constituted, that the accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence. (RP 106).

The accused is (~~are~~) brought before the Court, and at 1015 hrs, the trial commences.

The Prosecuting Officer produces a Medical Certificate under KR (Can) 557 (See CMHQ Circular Letter 173) that the accused is (~~are~~) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to N.A. as interpreter? Ans _____

The interpreter is duly sworn.

Do you object to N.A. as Shorthand Writer? Ans _____

~~The Shorthand Writer is duly sworn.~~ (Forms of Oath on Page 'D')

The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (RP 10)

President to accused
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans NO

The President, Members, ~~Judge Advocate and Officers under Instruction~~ are duly sworn (RP 26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(~~s~~) is (~~are~~) initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112). He pleads as follows:

First Charge Guilty

Second Charge

Third Charge N.A

Fourth Charge

Fifth Charge

Sixth Charge

Seventh Charge N.A

Eighth Charge

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. RP 35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s (RP 37(B)) Ans NO

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (RP 37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (RP 37(C)). Ans Yes

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination).

5. President to Accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (RP 37(C)). Ans NO

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

6. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "A", and "B", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).

7. President to accused:
Q. Do you wish to address the Court on your Statement of Character, Service and Conduct in further mitigation of punishment? (RP 46(D)). Ans NO (No cross-examination). (Record address, if any, on separate sheet, initialled by the President and attached hereto).

8. The Court is now closed to consider sentence. (Record on Page 2 of AFA.3).

(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, RP 48). Sentence should be dated).

The sentence is **not** announced to the accused by the Court.

J. A. Simms Major
(Signature of President)

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (RP 39(A)). Ans._____

2. The Prosecutor's opening address (if any) (RP 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').

3. The Prosecution is closed. (If submission that there is no prima facie case established, see RP 40 fn 1; RP 70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (RP 40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (RP 40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans._____
Q. Do you intend to call any other witnesses in your defence? Ans._____
Q. Is he a witness as to character only? (RP 40(B)) Ans._____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see RsP 40, 41 and 42).

8. The Court is now closed to consider the finding (RsP 43 and 117)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (RP 117(B)).

10. Statement of Character and Service (AFB.296) and Field Conduct Sheet (MFM.6) signed in the manner required by AA 163 (1) (h) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings (RP 46; Overseas RO 3131).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (RP 46(D)).
Ans._____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto).

12. The Court is now closed to consider the sentence (Record on Page 2 of AFA.3)
(Punishments, AA 44, MR (Can) 563 - 566; one sentence only awarded, (RP 48); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

Pg1.

STATEMENT BY ACCUSED (in mitigation of punishment)

I have been on Active Service for 4 years and 4 months of which over 4 years have been overseas. I have been with my unit without any interuption since it landed at Sicily. I regret my recent action and am anxious only to stay at the front. If the penalty to be imposed could be as far as possible a deduction from pay rather than detention, I feel I would be of more use and a better soldier as a result.

F. W. Tavernor Cpl.
(F. W. Tavernor Cpl.)

(C=2812 Spr Tourangeau.) F.W.)

TRIAL BY FGCM OF C2212 SPR. TOORANGEAU F.W.

The prosecuting officer presents AFB296 and on being duly sworn states

I am Capt of Winn of 3 Cdn Fd Coy RCE. I present statement as to character & particulars of Service of accused. also MFM 6 from records in my possession these documents are correct

Summary of Evidence in the case of
C2212 Spr Lonangeau F.

The commanding officer directs the evidence be given on oath.

1st Witness. C 2101 Cpl Kilmartin T having been duly sworn states. I am C2101 Cpl Kilmartin T.E commander of number 6 section 2pl. On the morning of 19 jan C2212 Spr Lonangeau reported to me that he was going on sick parade at 0700 hours. I then went out to work and when I returned to the billets Spr Lonangeau was not in his room. At 2000 hours I reported to Sgt Brooks and asked him if he had seen Spr Lonangeau. He replied he had not and I did not see Spr Lonangeau again until 25 jan.

Cpl Kilmartin T.E.

The accused declines to cross examine the witness.

2nd Witness. C 2148 Sgt Foley J.E having been duly sworn states. I am C2148 Sgt Foley J.E of No 2 Pl. On the evening of the night of 19 jan Cpl Kilmartin came up to my room to report to Sgt Brooks that pte Lonangeau and Kinnard had left to attend 0700 hours of 19 jan mentioned appears were not on any of the works nor did they stay in their rooms between the 19 jan and 25 jan. I saw them both again at approximately 1615 hours 25 jan. I placed Spr Lonangeau

List of witeness for the case of C-2212 Spr. Tourangeau F.W.W. as follows.

C-2101 Cpl. Kilimartin, T.E.

C-2148 Sgt. Foley, J.E.

C-2034 L/Cpl Cushby H/

under your arrest. I then asked him if Rawcroft was back also and he said "yes". I then placed Joe Rawcroft under your arrest.

He answered he chose to do so reserving to say nothing.

He was then asked "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

He answered declined to make any statement.

Certified under Section 40(3)(b)(ii) of Police Act.

Taken down by me in writing this 26 day of January 1944

J.W. Capt.

Additional Summary in the case of
C2217 Gpr Cunningham F W.

The commanding officer directs the evidence be given on oath.

1st witness C2034 H/Cpl Rushby H having been duly sworn states: I am C2034 H/Cpl Rushby-H medical orderly of B Coln 4th Coy R.C.E.

Q: All men going on sick parade report to you, do they?

A: Yes sir.

Q: Did Gpr Cunningham report to you on the morning of 19 Jan

A: No sir.

H/C. H. Rushby

The accused declines to cross examine the witness.

Certified that Rules of Procedure 41(c)(d)(e)(f) have been complied with.

Taken down by me in writing this first day of February 1944

J. Winn
Capt.

Summary of Evidence in the case of

C-2212 Spr. Fredrick, William, Milton Tourangeau.

The commanding officer directs the evidence be given in oath.

1st Witness. C-2101 Cpl Kilimartin, E. having been duly sworn states. I am C-2101 Cpl Kilimartin T.E. commander of number 6 section 2 pl. On the morning of 19 Jan C-2212 Spr Tourangeau reported to me that he was going on sick parade at 0700 hrs. I then went out to work and when I returned to the billets Spr. Tourangeau was not in his room. At 2000 hrs I reported to Sgt. Brooks and asked him if he had seen Spr. Tourangeau. He replied he had not and did not see Spr. Tourangeau again until 25 Jan.

signed:- C-2101 Cpl Kilimartin.E

The accused declines to cross examine the witness.

2nd Witness. C-2148 Sgt. Foley, J.E. having been duly sworn in states. I am C-2148 Sgt. Foley, J.E. of No 2 Pl. On the evening of the 19th of Jan Cpl Kilimartin came up to my room to report to Sgt Brooks, then pl sergeant, that Sprs Tourangeau and Raincock had left at approx 0700 hrs of 19 Jan to attend sick parade. The above mention sappers were not on any of the works nor did they sleep in thier rooms between the 19 Jan and 25 Jan. I saw them both again at approximality 1615 hrs 25 Jan. I place Spr. Tourangeau under open arrest. I then asked him if Raincock were back also and he said "yes" I then placed Spr Raincock under open arrest.

signed:- C-2148 Sgt. Foley, J.E.

The accused declines to cross examine the witness

The accused is asked "Do" you wish to make any statement or to give evidence upon oath? you are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement.

Certified rules of procedure 4(c)(d)(e)(f) have been complied with.
Taken down by me in writing this 26 day of January 1944.

J. Winn (Capt.)

Additional Summary in the case of

C-2212 Spr. Tourangeau F.W.M.

The commanding officer directs the evidence be given on oath.

1st Witness:- C-2034 L/cpl Rushby H. having ~~duly~~ been duly sworn states :- I am C-2034 L/cpl. Rushby H. medical orderly of 3rd Fd Coy R.C.E.

Question:- All men going on sick parade report to you, do they ?
Answer:- Yes sir.
Question:- Did Spr. Tourangeau report to you on the morning of 19 Jan 44.
Answer:- No Sir.

signed:- L/cpl. H Rushby.

The accused declines to cross examine the witness.
Certified that Rules of Procedure 4(c)(d)(e)(f) have been complied with.
Taken down by me in writing this first day of February 1944.

signed:- J,Winn, Capt.

M.F.M. 6.

No. C-2012 Name Toursngeau, F. Sqn., Battery, or Company 3rd Field Coy R.C.E. Corps Date of enlistment 18 Sept. 39 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
	18-3-40			No entries on sheet, destroyed when this soldier reached 6 Months service				Lieut	
Crocker Hill	(AA) 15(1)	WOAS.		Absent from ttattoo roll call 18-7-40	CSM Channing	3 days C.B.	19-7-40	D.H.McCallum	
Field	17-9-40	Spr.		(AA 15) WOAS. AWL from 2200 hrs 17-9-40 to 2290 hrs 17-9-40 (absent 40 mintues)	a/L/sgt Easter	3 days C.B.	19-8-40	Major G.Walsh.	
Field	31-1-41	Spr.		(AA 40) Conduct to the prejudice of good order and military dieipline Inthat he when warned for piqued said "I wont take it as I have a costs."	Sgt Easter L/cpl. Payes.	2 days C.B.	31-1-41	Major J.E.M Flowers.	

P.T.O.J

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-3-41	Spr	N11	(AA 15) WOAS? AWL. from 2359 hrs 15 Mar 41 until 1315 hrs 17 Mar 41 (Absent 1day 13 hrs 16 minutes)	Sgt. Easter	14 Days FD Punishment	17 Sep 41	Major J.K.M. Fleeman.	
Field	29-7-41	Spr		(1) AA 40) Conduct to the ~~xxxxx~~ prejudice etc i.e. ~~xx~~ when fallen out of a route march at approx 1000 hrs 29 Jan 44 and told to report to his section HQ. Spr Failed to do so (2) Breaking out of barracks whilst under open arrest.	Sgt. Easter Cpl. Chapman Cpl. Law	28 days FD Punishment	30 Jul 41	Major Welsh	
Field	21-9-41	Spr		(1) AA 15(1) AWL from 2100 hrs 26 Sep 414 Being until 2200 hrs 26 Sep 41 absent 1 hr and masquerating another soldier being posted for his duty	Cpl. Chapman	7 days C.B. ~~xxxxxxxxxx~~ ~~xxxxxxxxxx~~ ~~xxxxxxxxxx~~

M.F.M. 6

No. C-2212 Name Tourangeau, F. Sqn., Battery, or Company 3rd Field Coy R.C.E. Corps Date of enlistment 18 Sept [illegible] G.C. Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 39 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				C.O. AA 40 Conduct to the prejudice, in that he by previous indulgence of alcoholic stimulants, becamo unfit for guard duty.					
Field	17 May Spr.			Sec. 15 AA AWL from 0200 hrs 17 May 42 until 1230 hrs hrs 18 May 42 Absent 1 day 1 day 10 hrs 30 minutes.	L/sgt. MacCallum Cpl. Sorefleet.	Deprived 7 days pay	18 May 42	Major Lilley	Forfeits 7 days pay Fd.A.I 149
Field	29 Aug Spr.			Sec 40 AA Conduct etc. Failed to obey camp standing orders.	Lieut McManus Cpl Goodwin	27 days detention	31 Aug 42	O.C. Lilley Major.	

P.T.O.

M.F.M. 6
(A.F.W. 122)
175M—7-41 (1315-26)
H.Q. 1772-39-1052

No. C-8212 Name Tourangeau F. Sqn., Battery, or Company 3rd Field Coy R.C.E. Corps

Date of enlistment 18 Sept 40 G.C. Badges

Service or Proficiency Pay

Character

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field C.E.	20 Nov 40	Pte.		AA 40 Failing to comply with an order	L/Sgt. Wainright	14 days C.B.	4 Dec. 40	R.B.Fraser Major.	

This is a certified true copy

R.B.Fraser Major
OC.3rd Field Coy R.C.E.

(P.T.O.)

"A" 9.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-2212	Sapper	Tourangeau F.W.	Royal Canadian Engineers.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this statement may be compiled from the said conduct sheets. The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided leave given to this need obtain offence to each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	1 times	5 times.
For AA (SEC 40)	2 times	4 times.
For AA (SEC 22)	times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~or—~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence~~ for ..... beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 8 days in military custody, making a total of 8 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 18 Sept 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 4 mos

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 4 mos service.

9. The accused is entitled to reckon 4 yrs 4 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, ~~or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward))~~ CANADA VOLUNTEER MEDAL AND CLASP

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated ....., and in his regiment (or corps or department) the rank of ..... dated .....

(*18230) Wt.15832/144 125,000 6/42 A.&E.W.Ltd. Gp.498

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C-2212 Rank Sapper Name Tourangeau, F.E. of R.C.E. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 day of February 1944

J. Davis Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected accordingly.)

BE-133.

Ike, Tousignant, H.

RECORDED AT CMHQ IN AB 160 SE-133

FIELD GENERAL COURT-MARTIAL

(Court convened under) Order of Brigadier J.E. Bernatchez dated 2 Cdn Inf Bde dated 6 May

REF TO JAG 27 APR 1945 C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 123016	Pte	ALBERT	TOUSIGNANT	R22R

PROCEEDINGS REVIEWED
28 Apr 45
Capt.
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 6 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 108, 119, 137.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to D115473 Pte Corkey RC as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to~~ as shorthand writer? Ans ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Major	W.E. Garber	West N S R
Member	Capt	W.T. McGRATH	C Y R
Member	Lt	F.S. LAVE	R22R.
Judge-Advocate	NA	NA	NA.
Prosecutor	Lt	J.M. Richard	R22R
Defending Offr	Capt	J.H.C. Lemaire	R22R

Questions by President: Is the Prosecutor a lawyer? Ans. NO. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 25)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rcnk and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

H 54 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 123016 Pte TOUSIGNANT A.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AWOL	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

[redacted]

At present under sentence for A.A. beginning on (*date*) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which N/O days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of sixty (60) days.

(Sgd) Judge-Advocate, if any. 6 Mar 45 Date awarded. (Sgd) W.E. Garber Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct~~ that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

(Sgd) E. Bernatchez Brig

Date 30 March 45 Commanding 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 123016 Pte Tousignant A	1 Apr 45	[signature] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1) If there is no Summary, or if it is inadequate, comply with *RP 37(B).* If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Recrd.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. *If "yes", see RP 39(A) for procedure. Statement, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes. As to Pros. opening address see RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Pros. giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... and Not Guilty on charge(s), and that, accordingly, the trial will proceed on the former, but the accused is acquitted the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply as per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) Record per Notes addresses, statement, evidence and any summing up by the JA under *RP 42, 103(e).*)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E.*

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s), of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pieces of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1, para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(1)(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. As to assembly and disposal of record after trial see instrs on back of Convening Order. Confirming Offr see KR Can 567. As to release from arrest by*

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ~~F~~ 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and priveleges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans No . Do you intend to call witnesses on your behalf ? Ans No . Are they witnesses as to character only ? Ans NA .
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the findings, if any, of Not Guilty, and states to the accused that the findings of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~He~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No .
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *NFB 355 or AFB 296.* 2. *MFM p.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No .
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Court opens at 1400 hours 6 Mar 45

124 Witness for Pros

£5292 Sgt Moreau A. medical orderly. R22R having been duly sworn states:-

I recognize the accused as Pte Lonsignant A. At approximately 2000 hrs Lonsignant came in the R.A.P. in a quarrelsome mood. He seemed to be under the influence of liquor. Pte Simard happened to be there at the time. He was speaking with ~~there~~ during Pte Lonsignant came in and thought Pte Simard was ~~speaking~~ to him. Pte Lonsignant began to argue with him telling him he was big and that he wanted Pte Simard to have a fight with him. Simard got a hold on him the evening ~~one~~ two or three ~~other~~ struggling. While Pte Lonsignant finally got free and kicked him on the head. When the R.P.s came in and put Lonsignant under arrest. Lonsignant kicked Simard first.

Cross examination

When Pte Lonsignant came in the R.A.P. he asked for Dejardin. Pte Simard ~~in my opinion was not drunk at the time He was not to be a sober man~~ I can not say if Pte Simard was drunk or not, he acted as a sober man

No re-exam

A witness by the Court.-

Pte Lonsignant grabbed Pte Simard first. Pte Simard after being kicked was not hurt very badly. He was not evacuated

RP 93(b) complied with.

2nd Witness for Pros

K 41164 ~~Pte~~ Sjt Simard A, signaller Rank having been duly sworn states:-

I recognize the accused as the consignment. At approximately 2000 hrs I was up to the R-P to see the M.O. and a few minutes later the consignment came in and he asked for somebody. He was looking for some Frenchman, I guess. He asked for somebody and I told him that person was not there. He came up to me and started to shake me by the collar and told me he would be very glad to fight me. I didn't know the consignment very well and had no quarrel, personally, with him. The Norman said that the R.A.P. was no place to fight in and the consignment started for the door. He came back and grabbed me by the collar again and then we started to wrestle when we were fighting I fell down and the consignment kicked me in the head and I became unconscious when I woke up some people were holding me and I couldn't fight any more. Major Sneddon came in and ~~I~~ called the R.P.'s who put the consignment under arrest.

Cross examination

I was not on duty and had had a few drinks that night. When consignment started for the door the first time I did not say anything to him.

No 2. cont

Questions by the court

On that night I had had quite a bit to drink and I was drunk. When I was woked I was lying on the floor and the accused standing up.

R v 83(b) complied with

Prosecution closes

The Defending officer submits that the evidence for the Prosecution does not establish a prima facie case against the accused, as the charge of assault has not been proven.

The Pros declines to reply

Address by Proc 6 March 1945

Mr President,
Gentlemen of the Court

The accused, Pte. Tousignant, A. was sent to be tried before you by the Commanding officer R 22 R under a charge of assaulting a comrade. It was mine to prove this with facts, and the witnesses brought have established that, regardless of any reason for it, Pte Tousignant grabbed Pte Simard without any provocation, wrestled with him to some extent, ending up by kicking him on the head hard enough for the Medical officer to have to ~~some stitches to close the wound then inflicted~~ attend him for. G.

These facts stand out clearly regardless of any circumstantial evidence which may have been brought up.

This assault, Gentlemen, is a crime of a most serious nature as it is in direct opposition to the traditions and teachings of the Man's Regiment and of the Canadian ~~nature~~ Army, besides being an offence of a cowardly nature on a comrade. Therefore, I would suggest that the Court be not inclined to be lenient because of what may appear to be the lack of importance of this case.

G.

Closing address Def Offr

On the 1st March 48 the Consignant was not sober. But Simons was drunk when he met Consignant. Simons decided in himself that Consignant was looking for trouble and as soon as Consignant asked for the Respondents. Simons answered him and gave some insolent answer. So Consignant thought too that Simons was looking for trouble and there it started.

Furthermore Consignant has always been a good soldier and he has a very good conduct sheet. And I would like that the article in M M Ln page 18 para 4 & 5 should be brought to the attention of the Court before they decide on the punishment if there is any.

D123.16

Lieutenant General Sir R

Smithfield

6-3-45

Phaldein

G.

Exhibit "A"

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A-123016	Pte	Consignant. A	Royal 22e Regt Field

1. The following is a fair and true summary of the entries in the ~~regimental and squadron~~ battery or ~~company~~ conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 977, K.R., 1940.

* The periods [illegible] are to be shown separately for each period of service in the enlisted status, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For under A.R. sec 11	Two times	Two times
For under A.R. sec 15	one time	Two times
For under A.R. sec 40	one time	one time
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries~~ in the conduct sheets of the accused.

2. The accused has not been previously convicted, ~~or~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence of~~

~~imprisonment (or detention) for a period of ... beginning on the ... day of ...~~

4. The accused has been in confinement, awaiting trial on the present charges, for Two days in civil custody, and 6 days in military custody, making a total of 6 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11 June 41

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ...~~

8. The accused is entitled to deferred pay or gratuity in respect of 3 years service.

~~9. The accused is entitled to reckon ... service for the purpose of determining his pension.~~

10. The accused is in possession of, ~~or entitled to~~, no military decoration or military award (or is in ~~possession of or~~ entitled to (*state any military decoration or reward*)) 1939-45 Star

~~11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer was held the rank of~~ rank of ...

12. (*In the case of an officer.*) The accused holds in the army the rank of ... dated ...

~~and in his regiment (or corps or department) the rank of ... dated ...~~

(P.1858) W.11682/144 125,000 6/41 A.&E.W.Ltd. Gp.4/9

Exhibit "A"

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 1603016 Rank Pte Name Armstrong A. of Royal 22e Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of March 1945

Lt Col
O/C 1 R22R

To be entered only when the accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years.

Date of Promotion .....

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such records as are available and the paragraph completed accordingly.)

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. D 123014 Name TOUSIGNANT A. Sqn., Battery, or Company — Corps C.A.C. C.A. — Date of enlistment 11 DEC 41 — G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 1 FEB. 42 — No. and date of last drunk NIL — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character Exemplary Sgt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				2D SHEET DESTROYED 11 DEC 43					
FIELD	12 JUNE 43	4/CPL		AA. Sec 11. W.O.R.S. failing to obey Unit Orders Reduced Barrack area No 3 C.A.C.A.D. without a pass	S/Sgt Ferguson 4/Cpl Mc Lean Sgt Moran	Reverted to permanent grade	26 JUNE 43	Col D.W. Little	
FIELD	15 MAR 44	Sgt		(1) Sec 11 AA R.O.R.S. neglecting to obey Standing Orders in that he did absent himself from camp during the hours of parade (2) Sec 15 (1) AA R.O.R.S. After parade 1830 hrs 15 MAR 44 until 1720 hrs 15 MAR 44 (Absent 4 hrs. 15 mins)	Sgt Whitbeck Sgt Hallett	21 F.P.	16 MAR 44	S/M J.H. Dumbo Major	7 days 21 days per months F.R. Act 139 (1) (a)

Exhibit "B"

Exhibit "B"

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	12 April 1944	Pte		Sec 40 A.A. Act. Neglect etc in that he failed to get up when called	R.Q.Ms Malone C.P. Sgt Stuart	1 days F.D.	2 Apr. 1944	(R.J.R. Donnelly)	forf 1 days pay ——— dd F.R. & I. 144 (2)
FIELD	1 June 1944	Pte		A.A. Sec 40 Disobey lawful command in that he failed to parade at 1500 hrs 1 June 44 at the Ration Issue		1 days pay	3 June 44	2 Lt C.A. J.G. Vinning	forf 1 day pay F.R. & I. 146 (2)

Certified true copy

W. Hancock Lt
a/adjt R.D.R.
4 March 45

C H A R G E S H E E T

In the case of D-123016 Pte TOUSIGNANT, Albert a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service is charged with :-

FIRST CHARGE
Sec 40 A A

WHEN ON ACTIVE SERVICE
CONDUCT TO THE PERJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the Field, in Italy, at approximately 2000 hrs 1st Mar 45 assaulted E 4167 Pte Simard, A. a soldier of the Canadian Army.

(J.V. Allard) Lt.-Col.
Comd., Royal 22e Regiment.

In the Field
5 Mar 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J P E Bernatchez), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
6 Mar 45

G

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FA3/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D183[illegible]16	Pte		Albert	TOUSIGNANT	R22R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W E Garbe[illegible]	WNSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W T McGrath	CIR
Lt	F J Lane	R22R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D R Dews	WNSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 6 Mar 45

Commanding 3 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

47-27

Pte. Lousignant J.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D109967 Pte. Tousignant, J. H. 18 Cdn Fd Amb RCAMC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Withdrawn	—	—
3rd	Guilty	Guilty	
4th	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

21 days present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to be imprisoned with hard labours for two (2) years.

(Sgd) E. McD. Mc Donald, Capt — Judge-Advocate, if any.
25 Jan 45 — Date awarded.
(Sgd) F. H. Clarke, Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) J. Bilodeau, Lt-Col

Date 29 Jan 45

Commanding 5 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D109967 Pte Tousignant J. H.	30 Jan 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED IN PARTY IN AB 100

CFAB6 (In lieu of AF B29) 40/P.E.N. 1658 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt. Col. J. Bilodeau A/Comd 5 C.I.B. dated 24 Jan 45

RECEIVED — CANADIAN ARMY — JUDGE ADVOCATE GENERAL'S BRANCH

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 109967	Pte.	Joseph Henry	Tousignant	18 Cdn Fd Amb. RCAMC

Kil Landry Capt

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER'S — Held in the Fd in (country) Holland on (date(s)) 25 Jan 45

3 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

19/137.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to D 36570 S/Sgt. Parks R.V. as interpreter?~~ Ans ~~No~~

~~The Interpreter is sworn.~~(1) Do you object to D36570 S/Sgt. Parks R.V. as shorthand writer? Ans No

~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F. H. Clarke	Calg. Hrs
Member	Capt	A. R. Howarth	R1RC
Member	Capt	J. N. Mathieu	Rde Maur
Judge-Advocate	Capt	E. K. McDonald	148 2 Cdn Inf Bde
Prosecutor	Maj.	M. Shore	18 Cdn Fd Amb
Defending Offr	Lt	L. Dallaire	18 Cdn Fd Amb

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dft p 3.)

A8. The accused D109967 Pte Tousignant, J. H. before arraignment make(s) (no) (a) plea(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB caption and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B&E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 66(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 81(C), 92(B); and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded Guilty are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 147(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By My Defending Officer .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisn, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 68. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 69(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAC

C H A R G E S H E E T

The accused, No. D109967 Private Joseph Henry TOUSIGNANT, 18 Cdn Fd Amb RCAMC., a soldier of the CANADIAN ARMY, is charged with:-

1st. Charge
Sec.18(4)
Army Act

WHILE ON ACTIVE SERVICE

STEALING PUBLIC PROPERTY

In that he

in the Field on 31 Dec 44 stole a box of army rations containing:-

Flour	80 lbs (in 2 bags)
Coffee	23 lbs
Cocoa	7 lbs
Sugar	17 lbs
Con. Milk	8 ozs
Bacon	3 lbs
Fresh Peas	12 ozs
Turkey (tinned)	6 lbs
Mustard	16 ozs
Baking powder	3 lbs
White onions	4 ozs
Tomato Juice	1 qt
Tea	5 lbs

same being public property

2nd. Charge
Sec. 40
Army Act
(Alternative Charge)

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field on 31 Dec 44 was in improper possession of Army rations belonging to A 2 Section 18 Cdn Fd Amb RCAMC, listed as in particulars of 1st. charge.

3rd.Charge
Sec. 40
Army Act

WHILE ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 31 Dec 44 improperly used Cdn Mil Veh WD No. CM 1165622 without authority.

JAC

th Charge
Sec. 11
Army Act

WHILE ON ACTIVE SERVICE

NEGLECTING TO OBEY A UNIT PART I ORDER

in that he

in the field on 31 Dec 44, when a guard, and when not on his post, left the guard room contrary to Part I Order No. 306 dated 14 Nov 44, which states " The guards and piquets not on the posts will stay in the guard room".

In the Field
15 Jan 45

(C.H. Isbourne) Lieut Col
O.C. 18 Cdn Fd Amb
RCAMC CAO/S

To be tried by FGCM

24 Jan 45

A/Cmd & Cdr 1st Bde

Charge approved under KR (Can) 540.

20 Jan 45

A/Cdr 1st Div

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D109967	Pte		Joseph Henry	TOUSIGNANT	18 Cdn Fd Amb RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~now~~) committed the offence(s) set forth in the Charge Sheet ~~(s)~~ attached and on (*date*) 24 Jan 45 endorsed by me, ~~or by my predecessor in command~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified authority)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person ~~(s)~~ and to consist of the Offrs appointed or detailed hereunder.

~~4. And I also appoint as Prosecutor the Offr mentioned hereunder.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	F.H.Clarke	(Must be named. RP 106.)	Calg Highrs (Unit.)

MEMBERS.

Capt.	A.R.Hannah		R H C
Capt (Rank.)	J.N.Mathieu	(Named or detailed. RP 106.)	R de Mais (Unit.)

WAITING MEMBER.

Capt (Rank.)	L.W.Bedell	(Named or detailed, if any. RP 106.)	HQ 5 Cdn Inf Bde (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E.K.McDougall	(Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.) J.Bibeau LT-COL. (Rank.)

Date 24 Jan 45

A/Commanding (J.Bibeau) Lt-Col 5 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAS (In lieu of AFAS) 40-P & S-1097 (4031)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
KR (can) Para 552

JAC

I certify that I have this morning examined No D109967
Pte TOUSIGNANT, J.H. of 18 Cdn Fd Amb and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

Station Field

Date 25 Jan 45

Medical Officer

The Defending Officer makes the following plea in mitigation.

Pte Toussignant has been in the Army since Jul 41, a preiod of over 3 years. He volunteered in the army and came Overseas to the UK early in 42. During all this time in the army his conduct sheet was marred by only two charges and that in the latter part of 44. None of these charges was very important. We ask that this be taken into consideration when the Court will decide the sentence, because up until now we have proof that this soldier has given good service to the army and the army still needs good soldiers. Pte Toussignant was certainly in the wrong on 31 Dec 44. He was the first to admit it and signed a statement to that effect. No one is perfect in this world and everyone has moments in which he acts rather on impulses. Pte Toussignant on that day certainly had one bad moment when his actions were certainly against his conscience and against his usual way of acting since he joined the army. I believe that here again we may ask for this to be taken into consideration so as to make his punishment as lenient as possible. He is more than willing to accept whatever punishment you will give him as he understood clearly that he was guilty but I can assure you that this will never happen to him again and after he has done his time for his crime he will be a very goodsoldier. But in conclusion I again beg the Court to be as lenient as possible in this case and I am sure that the army as a whole will benefit by it. And I would also like to point out to the court that Pte Toussignant has already lost 24 days pay being in close arrest since 31 Dec 44

Summary of Evidence in the Case of D109967.
Pte Soussignan. J. H. R.CASC. att. 18 Can Fld Amb. RCAMC.

The accused was informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for the Prosecution D105624 C.S.M. Chatel J. H. A. R.CASC att. 18 Can Fld Amb R.CAMC. having been duly sworn states:—

On 31 Aug 44 at approx 2130 hrs I was in the O.R. Stores when the guard who was on duty at the front gate came to me and told me that a Jeep belonging to this unit had forced its way out of the front gate and would not stop when asked to do so. I ran outside to know which direction the Jeep had gone and also to find out who had driven the Jeep. He told me that the Jeep had headed towards the recreation room. So I ran in that direction. Birmingham Hall was between the recreation room and orderly room. I saw a Jeep parked along side the road behind a 60 cwt truck. I came up to the vehicle and there I saw Pte Soussignan and Pte Johns loading a box onto the Jeep. I asked Pte Soussignan if he had authority to take the Jeep out. He answered "no". I also asked him what he was carrying in the box and he answered "If you want to know look yourself". He also said to Pte Johns "It might be a good sale but I am afraid we are caught". I called a guard to stand watch over the Jeep and the box while I took Pte Johns and Pte Soussignan to the guard room. I returned to the Jeep and found the box on the Jeep but as it was too heavy I went to the recreation room to get Pte Rowbotham to help me to load the box. I brought the Jeep and the box back to in front of the orderly room. Pte Wheeler and MacMillan helped me carry the box into the orderly room. Then I went back to the guard room and put Pte Soussignan and Pte Johns under close arrest. Before I loaded the box onto the Jeep I looked inside and saw

JPC

that it contained rations. I noticed on particular two bags of flour and some tins.

The accused declines to cross-examine.

J. H. G. Mantell

Second Witness for the Prosecution: F. 17020 Pte Leonard E. 18 Can Fld Amb. R.C.A.M.C. having been duly sworn states:-

A. Section.

On board the 15th Dec 44, returned to HQ. We loaded all the equipment of A. section into a 60 cwt truck including two large boxes containing rations. One box contained only tinned rations the other contained: Coffee, tea, sugar, two half bags of flour, tinned turkey, baking powder, bottles of tomato sauce. When we arrived we took the box to the HQ kitchen where Sgt Harrison told the cook Pte. Saunders to report to the Officers mess to work there. We then took the box to the Officers mess for Pte. Saunders and myself worked at the Officers mess for approx the 26 Dec 44. When Pte Pte. Saunders was transferred to the main kitchen and I was to return to my own section. We therefore loaded the box into the 60 cwt truck. The box I am referring to is the one containing the flour and sugar etc. Before returning I did not go into the truck again therefore I did not see the box between that time and the 31 Dec 44.

The accused declines to cross-examine.

Pte Leonard E.

Third Witness for the Prosecution C 549 Pte Godfrey H.W. R.C.A.S.C. attd 18 Can Fld Amb. R.C.A.M.C. having been duly sworn states:-

On the 31 Dec 44 I was on guard at the front gate of the orderly room between the hours of 2030 and 2230. During this time Pte Bonaignaud came to the

7th C

gate and asked if he could take a Jeep and Despatch
that he could not. He then got into the Jeep and
started to drive out through the gate. Pte Mc Minken
who was on guard with me went to the O.C. Store and
notified C.S.M. Natal. C.S.M. Natal came outside.
C.S.M. Natal asked Pte Minken who was driving the Jeep.
I told C.S.M. Natal that Pte Tourangeau was driving the
Jeep and that it had gone in the direction of the
recreation room. C.S.M. Natal went off in that direction.
Later he came back and put me on guard over a
Jeep and a box which were in front of the Canteen.
C.S.M. Natal then took Pte Tourangeau and Pte Johns to the
Guard room. He returned to the Jeep with some
men to help him load the box on to the Jeep
and then he brought the Jeep and box back to the
Ordnly room.

The accused declines to Cross examine.

Pte. W.H. Godfrey.

Fourth Witness for the Prosecution: E49520 Pte Cliche J.
R.C.A.S.C. attd. 19 Adm & Ord Amb. R.C.A.M.C. having been
duly sworn states:-

About or five days before New Years Eve
Pte Savard, myself and a few others loaded a box onto
my lorry. I then parked the lorry in front of
the Canteen which is the Co's parks. I put the tail
board up and fastened the tarpaulin and went into
the lorry again until after I had heard that the box
was stolen.

The accused declines to Cross examine.

Joseph Cliche

JPC

Fifth Witness for the prosecution B44797 Pte Mac Mackin H.T. R.C.A.S.C. att 18 Can Fld Amb. having been duly sworn states:-

On the night of the 31 Dec 44 Pte Southey and myself were on guard at the main gate. The accused came up to us at approx. 2115 hrs and asked if he could have a Jeep. The answer was no. He went to the Jeep in the car park and started up the engine. I went to get the C.S.M. while the other guard watched where he was going. I returned to my post after this. C.S.M. Chatel came outside and went after the Jeep. A short time later he returned with the Jeep and a large box. I helped him carry the box into the orderly room.

The accused declines to cross-examine.

Pte H.T. Mac Mackin

Sixth Witness for the prosecution D94512 S/Sgt Auclair R. 18 Can Fld Amb. R.C.A.M.C. having been duly sworn states:-

On the night of 31 Dec 44 I was guard commander Pte Souvignard and Pte Robin had been detailed as guards for that evening. They appeared on parade at 1830 hrs for the changing of the guards. And they did their tour of duty from 1830 to 2030 hrs. They were stated to go on duty again from 0030 hrs to 0230 hrs. 1 Jan 45. I did not give Pte Souvignard or Pte Robin permission to leave the guard room while off duty.

The accused declines to cross-examine.

S/Sgt. R. Auclair

No. 355

ORDRES DU JOUR (PARTIE I)
par
Le Lieut-Col C.U. Letourneau,
O.C. 18 Cdn Field Ambulance,
R.C.A.M.C. C.A.O/S.

Holland
En Campagne
In the Field
31 Dec 44

No. 1

DEVOIRS — 1630hrs 31 Dec 44 to 1630hrs 1 Jan 45

Officier du jour — RQMS Gagnon, JDW
Sergent du jour — Sjt. Bedard, R.
Caporal de garde — L/Cpl. Auclair, R.

GUARDS
GARDES — 1630hrs 31 Dec 44 to 0800hrs 1 Jan 45

Pte. Fortin, J.R.A. Pte. Jobin, P. Pte. Field, F.W.
Pte. Jenkins, L. Pte. Stephenson, DA Pte. Godfrey, N.W.
Pte. Kirchen, E. Pte. Cliche, L. Pte. Robson, J.W.
Pte. Harmon, A.D. Pte. Stevenson, WM Pte. Tousignant, JH
Pte. Baxter, G.W. Pte. Baxter, M.D. Pte. Hayward, M.N.
Pte. McDole, LJR Pte. Bellchamber, KJ Pte. McKeekin, H.F.

PIQUETS — 0800hrs 1 Jan 45 to 1630hrs 1 Jan 45
Pte. Varreault, F.P. Pte. Godard, P.E. Pte. Bitschy, E.

RUNNER — 0830hrs to 1900hrs 1 Jan 45: Pte. Dion, L.

DUTY D.R. — 0800hrs 1 Jan 45 to 0300hrs 2 Jan 45: Pte. Kent, C.T.

NURSING ORDERLIES — 2100hrs 31 Dec 44 to 0900hrs 1 Jan 45
L/Cpl. St-Pierre, R.P.

0900hrs 1 Jan 45 to 2100hrs 1 Jan 45
Cpl. Comeau, L. Pte. Gegne, E. Pte. Gagnon, C.E.

PASSES TO ENGLAND
PASSES EN ANGLETERRE — Le ballot pour les passes en Angleterre sera tire a 1330hrs cet apres-midi, a la salle de recreation. Tous ceux qui ont droit de tirer se trouveront la.

The ballot for passes in England will be drawn at 1330hrs this afternoon at the recreation Hall. All those eligible will be there.

BEER RATION
RATION DE BIERE — Those who have not yet bought their beer, may do so, this afternoon between 1500 & 1600hrs.
Ceux qui n'ont pas encore achete leur biere, peuvent le faire cet apres-midi entre 1500 & 1600hrs.

PAY BOOKS PT II — All ranks who have not yet turned in their Part II Pay books to the Orderly Room will do so without fail today the 31 Dec 44.
Tous ceux qui N'ont pas encore remis leurs livres de solde partie II le feront aujourd'hui le 31 Dec 44 sans faute.

(Sgd) M. Share, Major
for (C.U. Letourneau) Lieut-Col.,
O.C. 18 Cdn Field Ambulance,
R.C.A.M.C., C.A.O)S.

Certified true Copy.
M. Share Major

No. 306

ORDRES DU JOUR (PARTIE I)
par
Le Lieut-Col C.U. Letourneau,
O.C. 18 Cdn Fd Amb, RCAMC

Holland
En Campagne
In the Field
14 Nov 44

No.1

DEVOIRS	1700hrs 14 Nov 44 to 1700hrs 15 Nov 44
Sergent du jour	S.Jt. Latulippe, L.P.
Caporal de garde	L/Cpl. Martel, P.

GUARDS	1900 hrs 14 Nov 44 to 0700hrs 15 Nov 44		
GARDES	Pte. Poirier, E.	Pte. Dube, E.	Pte. Dresler, H.
	Pte. Brydges, A.B.	Pte. Hayward, R.H.	Pte. Tschauer, S.L.
	Pte. Harrison, J.R.	Pte. Field, F.H.	Pte. Robson, J.W.
	Pte. Desbiens, R.	Pte. Clifton, W.B.	Pte. Barnum, C.C.

PIQUETS	0700 hrs 15 Nov 44 to 1900hrs 15 Nov 44		
	Pte. Sabin, E.J.	Pte. Landry, A.	Pte. Fournier, F.
	Pte. Gagnon, L.	Pte. Dube, E.	Pte. Morin, P.E.
	Pte. Savard, H.	Pte. Simpson, A.J.	Pte. Montbriand, A.

RUNNER — 0830hrs to 1900hrs 15 Nov 44: Pte. St-Pierre, A.

DUTY D.R. — 0800hrs 15 Nov 44 to 0800hrs 16 Nov 44: Pte. Barabash, C.

NURSING ORDERLIES — 2100hrs 14 Nov 44 to 0900hrs 15 Nov 44
L/Cpl. Tremblay, J.C. Pte. Gagne, E. Pte. Gagnon, C.E.

0900hrs 15 Nov 44 to 2100hrs 15 Nov 44
Cpl. Comeau, L. Pte. Verreault, E.P. Pte. Couture, F.X.H.

AVIS / GARDES — Les gardes et piquets non sur les postes doivent demeurer dans la chambre de gardes.

NOTICE) GUARDS — The guards and piquets not on the posts will stay in the guard room.

REVEILLE
REVEIL — It is the duty of the Orderly Serjeant to make the reveille.
le
C'est/devoir de l'Orderly Serjeant de faire le reveil.

(Sgd) J.H. Mause, Capt
for (C.U. Letourneau) Lieut-Col.,
O.C. 18 Cdn Field Ambulance,
R.C.A.M.C. C.A.O.S.

Seventh witness for the Prosecution:- 340771 Cpl Mac Dougall F. H. C. R.C.A.S.C. attd 18 Cdn Fd Amb. R.C.A.M.C. having been duly sworn states:-

On the evening of 31 Dec 44 I was on duty in the M.T. Office. Permission for use of a vehicle both within unit area and outside of unit area should have come through the M.T. office. I did not give Pte Youngman permission to use a vehicle that night and I did not detail him for any duty as a driver because he was on guard that night.

The accused declines to cross examine.

Cpl. F.H.C. MacDougall

Eighth witness for the Prosecution:- E115271 R.S.M. Brandt L. R. 18 Cdn Fd Amb. R.C.A.M.C. having been duly sworn states:-

I present Part 2 order No 305 dated 31 Dec 44 in which the accused was detailed for guard duty. I recognize the accused and he was on duty with this unit at this time.

I present also Part 2 order No 306 dated 1st Nov 44. Stating that "Guards and sprouts not on the posts will stay in the guard room." Pte Youngman was on duty with this unit at the time this order was posted.

Both these orders were posted at the location where Pte Youngman had ample opportunity to see them.

The accused declines to cross examine.

L. R. Brandt

The accused was cautioned in accordance with R.P. 4 (1) (a) (i) "I do not wish to make a statement".

The accused does not call any witnesses for the defence at this point.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (3) (E) and (F) have been complied with.

In the field
14 Jan 44.

[illegible]
18 Cdn Fd Amb. RCAMC.

Addition as Summary of Evidence in the Case of J.S.C.
D.R.S.A.C. D105967 Pte Tonnignant J. H. R.C.A.S.C.
att. 18 Can Fld Amb. R.C.A.M.C.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

Minute Witness for the Prosecution: D105624 C.S.M. Chatel I.N.S. R.C.A.S.C. att. 18 Can Fld Amb. R.C.A.M.C. having been duly sworn states:-

I present a box of rations which I found on the 31 Aug 40 in the possession of Pte Tonnignant and Pte Johns. The contents of which are as follows:-

2 tins - 80 lbs. in two bags.
Coffee - 2½ lbs.
Cocoa - 1 lbs.
Sugar - 17 lbs.
Milk - can 8 oz.
Bacon - 2 lbs.
Jam Mac - 12 oz.
Corned Beef - 6 lbs.
Mustard - 16 oz.
Baking Powder - 2 lbs.
White Onion - 4 oz.
Tomato Juice 1 Qt.
Tea - 2 lb.

I recognize the contents as being army rations (all as exhibit).

The accused declines to cross-examine.

J H J Tonnignant

JHC

Sworn Witness for the Prosecution: 15131 Sgt Pickard R
18 Cdn Fld Amb RCAMC having been duly sworn
states:-

I present custody a copy of a statement
made by accused to Sgt Hunt No 1 Special
Investigation Section.

The accused declines to Cross-examine.

Pickard Sgt

The accused was cautioned in accordance with R.P. 4
He states "I do not wish to make a statement"

The accused does not wish to call witnesses in
his defence at this time.

I certify that the foregoing Summary of Evidence
was taken down by me in the presence of the
accused and the R.P. 4 (C) (a) (E) and (F) have
been complied with.

Jas Judd
15 Jan 44.

J McAdam Capt
18 Cdn Fld Amb RCAMC

Additional Summary of Evidence in the case of J-1C
D 109967 Pte Quinsignant J.H. RCASC attd 18 Cdn
Coy 4th Amb. RCAMC.

The accused is informed of his rights
The C.O. directs that the evidence be taken on oath.
Witnesses for the Prosecution: - E15131 Sgt Bedard R.
18 Cdn Coy 4th Amb. RCAMC having been duly sworn states in

I present herewith the original copy of a signed
statement made by the accused to B21172 Sgt.
Ouvrard J.R. Unit Special Investigation Section
Quebec. I recognize the accused and recognize his
to be his signature (all as exhibit).
The accused declines to Cross Examine.

P Bedard Sgt

The accused was cautioned in accordance with
R.P.4.
He does not wish to make a statement.
The accused does not wish to call witnesses
I certify that the foregoing Summary of evidence
was taken down by me in the presence of
the accused and that R.P. 4/c/(d)/(i) and (ii)
have been complied with.

In the Field
30 Jan 45

J.W. Adam Major
18 Cdn Coy 4th Amb. RCAMC.

SUMMARY OF EVIDENCE IN THE CASE OF D 109967 Pte

TOUSIGNANT, J H , RCASC att. 18 Cdn Fd Amb R C A M C.

The accused was informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for Prosecution

D 105624 C.S.M. Nantel, J H S, RCASC att. 18 Cdn Fd Amb RCAMC, having been duly sworn states:-

On 31 Dec 44 at approx. 2130hrs I was in the QM Stores when the guard who was on duty at the front gate came to me and told me that a Jeep belonging to this unit had forced its way out of the front gate, and would not stop when asked to do so. I ran outside to know which direction the Jeep had gone and also to find out who had driven the Jeep. He told me that the Jeep had headed towards the recreation room so I ran in that direction. Half way between the recreation room and orderly room I saw a Jeep parked along side the road behind a 60 cwt truck. I came up to the vehicle and then I saw Pte. Tousignant and Pte. Jobin loading a box onto the Jeep. I asked Pte. Tousignant if he had authority to take the Jeep out. He answered "NO". I also asked him what he was carrying in the box and he answered "If you want to know, look yourself". He also said to Pte Jobin "It nearly been a good sale but I am afraid we are caught". I called a guard to stand watch over the Jeep and the box while I took Pte. Jobin and Pte. Tousignant to the guard room. I returned to the Jeep and tried to load the box on to the Jeep but as it was too heavy I went to the recreation room to get Pte. Huest to help me to load the box. I brought the Jeep and the box back to in front of the Orderly Room. Pte. McKeekin helped me to carry the box into the Orderly Room. Then I went back to the Guard Room and put Pte. Tousignant and Pte. Jobin under close arrest. Before I loaded the box onto the Jeep I looked inside and saw that it contained rations. I noticed in particular two bags of flour and some tins.

The accused declines to cross-examine.

JHS Nantel CSM

Second Witness for the Prosecution

E 17020 Pte. Lessard, E., 18 Cdn Fd Amb RCAMC having been duly sworn states:

On about the 18 Dec 44, A2 Section returned to H.Q. We loaded all the equipment of A2 Section into a 60 cwt truck including two large boxes containing rations. One box contained only tin rations the other contained coffee, tea, sugar two half bags of flour, tinned turkey, baking powder, bottles of tomato sauce. When we arrived we took the box to HQ kitchen where Sgt Charron told the cook, St. Sauveur to report to the Officers' Mess to work there. We then took the box to the Officers' Mess. Pte. St. Sauveur and myself worked at the Officers' Mess until approx. the 28 Dec 44, then Pte. St. Sauveur was transferred to the main kitchen and I was to return to my own section. We therefore loaded the box into the 60cwt truck.

The box I am referring to is the one containing the flour and sugar etc. I did not go into the truck again therefore I did not see the box between that time and the 31 Dec 44.

The accused declines to cross-examine.

Pte. Lessare, E.

Third Witness for the Prosecution

C 549 Pte. Godfrey, H.W. RCASC att 18 Cdn Fd Amb RCAMC having been duly sworn states:-

On the 31 Dec 44 I was on guard at the front gate of the Orderly Room between the hours of 2030 and 2230. During this time Pte. Tousignant came to the gate and asked if he could take a Jeep out. I replied that he could not. He then got into the Jeep and started to drive out through the gate. Pte. McMeekin who was on guard with me went to the QM Stores and notified CSM Nantel. CSM Nantel came outside. CSM Nantel asked Pte. McMeekin who was driving the Jeep. I told CSM Nantel that Pte. Tousignant was driving the Jeep and that it had gone in the the direction of the recreation room. CSM Nantel went off in that direction. Later he came back and put me on guard over a Jeep and a box which was in front of the cemetary. CSM Nantel then took Pte. Tousignant and Pte. Jobin to the guard room. He returned to the Jeep with some men to help him load the box onto the Jeep and then he brought the Jeep and box back to the Orderly Room.

The accused declines to cross-examine.

Pte. H.W. Godfrey

Fourth Witness for the Prosecution

E 49526 Pte. Cliche, L., RCASC att 18 Cdn Fd Amb RCAMC having been duly sworn states:-

Four or five days before New Year's Eve Pte. Lessard, myself and a few others loaded a box onto my lorry. I then parked the lorry in front of the cemetary which is the car park. I put the tail board up and fastened the tarp. I did not go into the lorry again until after I had heard that the box was stolen.

The accused declines to cross-examine.

Level Cliche

Fifth Witness for the Prosecution

B 44797 Pte. McMeekin, H.T. RCASC att. 18 Cdn Fd Amb having been duly sworn states:-

On the night of the 31 Dec 44 Pte. Godfrey and myself were on guard at the main gate. The accused came up to us at approx. 2115hrs and asked if he could have a Jeep. The answer was no. He went to the Jeep in the car park and started up the engine. I went to get the CSM while the other guard watched where he was going. I returned to my post after this. CSM Nantel came outside and went after the Jeep. A short time later he returned with the Jeep and a large box. I helped him carry the box into the Orderly Room.

The accused declines to cross-examine.

Pte. H.T. McMeekin

Sixth Witness for the Prosecution

D 94512 L)Cpl. Auclair, R. 18 Cdn Fd Amb RCAMC having been duly sworn states:-

On the night of 31 Dec 44 I was guard commander. Pte. Tousignant and Pte. Jobin had been detailed as guards for that evening. They appeared on parade at 1630hrs for the Changing of the Guard and they did their tour of duty from 1830 to 2030 hrs. They were slated to go on duty again from 0030hrs to 0230hrs 1 Jan 45. I did not give Pte. Tousignant or Pte. Jobin permission to leave the guard room while off duty.

The accused declines to cross-examine.

L/Cpl. R. Auclair

Seventh Witness for the Prosecution

B 90771 Cpl. McIntyre, E.H.C., RCASC att 18 Cdn Fd Amb RCAMC having been duly sworn states:-

On the evening of 31 Dec 44 I was on duty in the M.T. Office. Permission for use of a vehicle both within unit area and outside of unit area should have come through the MT Office. I did not give Pte. Tousignant permission to use a vehicle that night and I did not detail him for any duty as a driver because he was on guard that night.

The accused declines to cross-examine.

Cpl. E.H.C. McIntyre

Eighth Witness for the Prosecution.

E 115377 RSM Proulx, L.R. 18 Cdn Fd Amb RCAMC having been duly sworn states:-

I present Part I Order No. 355 dated 31 Dec 44 in which the accused was detailed for guard duty. I recognize the accused and he was on strength this unit at this time.

I present also Part I Order No. 306 dated 14 Nov 44, stating that "guards and piquets not on the posts will stay in the guard room". Pte. Tousignant was on strength this unit at the time this order was posted.

Both these orders were posted at the kitchen where Pte. Tousignant had ample opportunity to see them.

The accused declines to cross-examine.

L.R. Proulx RSM

The accused was cautioned in accordance with R.P. 4.

He says "I do not wish to mack a statement."

The accused does not call any witnesses for the defence at this point.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

In the Field
14 Jan 44

M. Shore, Major
18 Cdn Fd Amb RCAMC.

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF D 109967 Pte

TOUSIGNANT J H., RCASC att. 18 CDN FD AMB., RCAMC.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

Ninth Witness for the Prosecution. D 105624 CSM Nantel, JHG RCASC att. 18 Cdn Fd Amb RCAMC having been duly sworn states:-

I present a box of rations which I found on the 31 Dec 44 in the possession of Pte. Tousignant and Pte. Jobin. The contents of which are as follows:

Flour	80 lbs in two bags.
Coffee	23 lbs
Cocoa	7 lbs
Sugar	17 lbs
Milk	Can of 8 ozs.
Bacon	3 lbs.
Fresh Peas	12 ozs.
Tinned Turkey	6 lbs.
Mustard	16 ozs.
Baking Powder	3 lbs
White Onions	4 ozs.
Tomato Juice	1 qt.
Tea	5 lbs.

I recognize the contents as being army rations.
(att. as exhibit)

The accused declines to cross-examine.

J.H.G. Nantel CSM

Tenth Witness for the Prosecution. E 15131 Sgt. Bedard, R., 18 Cdn Fd Amb RCAMC having been duly sworn states:-

I present herewith a copy of a statement made by accused to Sgt. Frost No.1 Special Investigation Section.

The accused declines to cross-examine.

R. Bedard Sgt.

The accused was cautioned in accordance with R.P. 4.

He states "I do not wish to make a statement."

The accused does not wish to call witnesses in his defence at this time.

I certify that the foregoing summary of Evidence was taken down by me in the presence of the accused and that R.P. 4 (C)(D)(E) and (F) have been complied with.

In the Field
15 Jan 44

M. Share, Major
18 Cdn Fd Amb RCAMC

Certified true copy.

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF

D 109967 Pte TOUSIGNANT JH RCASC att 18 Cdn

FIELD AMBULANCE R.C.A.M.C.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

Eleventh Witness for the Prosecution. E 15131 Sgt. Bedard, R., 18 Cdn Fd Amb RCAMC having been duly sworn states:-

I present herewith the original copy of a signed statement made by the accused to B 21172 Sgt. Frost, J.R., No 1 Special Investigation Section. I recognize the accused and recognize this to be his signature (att as exhibit).

The accused declines to cross-examine.

R. Bedard, Sgt.

The accused was cautioned in accordance with RP 4.

He does not wish to make a statement.

The accused does not wish to call witnesses.

Certified that this foregoing Summary of Evidence was taken down by me in the presence of the accused and that R.P. 4 (C)(D)(E) and (F) have been complied with.

In the Field
20 Jan 45

M. Share, Major
18 Cdn Field Ambulance
RCAMC CAO/S.

Certified True Copy.
M. Share Maj

D 109967 Pte. TOUSIGNANT, JH
18 Cdn Field Ambulance RCAMC

Reference your pending trial by F.G.C.M.

You are hereby notified that B 21172 Sgt. Frost, JR, No 1 Special Investigation Section, will be called as witness for the purpose of presenting statement made by yourself to him on 8 Jan 45.

You are also notified that Capt. JAR Gagnon 18 Cdn Fd Amb RCAMC will be called as a witness for the purpose of identifying the box of rations in question.

Reference R P 76.

(M. Share) Major
18 Cdn Fd Amb
RCAMC CAO/S

STATEMENT

of

Date. 3 Jan 1945
Time. 1525 hrs.

No. D107767 Name. Pte Tousignant, J.H. Unit. 18 Fld Ambulance. R.C.A.M.C.

I have been cautioned by Sgt. Frost, No. 1 Special Investigation Section, that I need not say anything unless I wish to do so, but, that anything I do say will be taken down in writing and may be given in evidence. I understand this caution and wish to make the following statement. [redacted] Tousignant JH

About 2150 hrs on 31 Dec 1944 while at a dance in the village Ste Josbin spoke to me and said "I know where we can get some stuff to trade for something to drink". I asked him where it was. He told me to a 60 cwt truck in front of the cemetery. He showed me a box. We lifted the lid and both looked inside. The only thing I remember seeing in the box was flour and tea. We took the box off the truck and put it on the road behind the truck. I went to get a jeep. I got one and came back. Josbin was still there. Josbin helped me load the box in the jeep. The Lt Col Major [redacted] came and placed us under arrest. Josbin and I were going to trade it together. I did not pack the box nor did I see it before it was in the truck. I have never been to Myncyzen with Josbin. I have never been to a civilian house there either.

Tousignant JH.

JHT

Nominal Roll of Exhibits.

1. One box of army rations containing :-

Flour	80 lbs (in 2 bags)
Coffee	23 lbs
Cocoa	7 lbs
Sugar	17 lbs
Con. Milk	8 ozs
Bacon	3 lbs
Fresh Peas	12 ozs
Turkey(tinned)	6 lbs
Mustard	16 ozs
Baking Powder	3 lbs
White Onions	4 ozs
Tomato Juice	1 qt
Tea	5 lbs

2. Certified true copies of Part I Order no 306 d/14 Nov 44.

3. Certified true copies of Part I Order No 355, d/31 Dec 44.

4. Report of investigation by Sgt. J R Frost and Sgt. Cochrane of No 1 Special Investigation Section.

To:- C.O. 6 Cdn Fd Amb. R.C.A.M.C.

With reference my pending trial.
I propose to employ counsel for the
purpose of conducting my defence.

If Capt D.S Dunnet. 4 Cdn Inf Bde Coy.
R.C.A.S.C. is available, I wish that he
may be assigned for this purpose.

Pte Tannigan F.P.

CONTENTS OF BOX. 14 Jan 45

ITEMS	QUANTITY.
Flour	80 lbs (In two bags)
Coffee	23 lbs
Cocoa	7 lbs
Sugar	17 lbs
Con. Milk	8 ozs
Bacon	3 lbs
Fresh peas	12 ozs
Turkey (tinned)	6 lbs
Mustard	16 ozs
Baking Powder	3 lbs
White Onions	4 ozs
Tomato Juice	1 Qt
Tea	5 lbs

Witnesses:- J.W. Gagnon RCMS
J.T. Gagnon, RCMS

M. Paquet
M. Paquet, S/Sgt.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
10997	Pte.	Quinnard J. H.	180 Fd Amb. RCAMC.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Extras in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) A.W.L. ... one times.
For A.A. Sec 19. Drunkenness ... two times.
For A.A. Sec 40. Neglect to the prejudice ... one times.
For ... times.

Date of first entry in Field Conduct Sheet 8 Dec 41

Date of last entry in Field Conduct Sheet 9 Dec 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for n/a beginning on the n/a day of n/a.

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for ... 24 ... days in military custody, *i.e.*, ... days in civil custody; and for ... 24 ... days in close arrest; of which ... days were spent in hospital.

5. The present age of the accused is 22 yrs.

6. The date of his attestation calling up for military service is 25 July 41

7. The service which the accused is allowed to reckon is 3 yrs. 135 days.

8. The accused is in possession of‡ C.V.S.M. and Clasp.

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of n/a	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.5670/668 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22459) W.12250/1572 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of Jan 1945

[illegible] Maj

MFM 6 (AFB 122) 40/PAM/126 (3448)

No D 109967 Name Tousignant, JH | Sqn, Battery, or Company N.A. | Corps RCAMC | Date of enlistment 25-7-41 | GC Badges | 25 Jul 43 | Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A. | No and date of last drunk N.A. | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 25-1-42 Last entry 8-12-41, Case of drunkenness1, on 20-10-41					
Field	7 Nov44	Pte		(1) WOAS, AWL AA Sec 15(1) from 1830hrs 7 Nov until 1900hrs 7 Nov 44. Total absence 30 mins.	Cpl. McIntyre McIntyre	14 days C.B. 7 days pay	8 Nov 44	Lt-Col Letourneau C.U.	
			2	(2) WOAS Drunkenness	Sjt. Juneau, Cpl. CSM				
Field	11 Dec 44	Pte		WOAS, neglect to the prejudice etc., neglected to obey a verbal order given by a superior offr. AA Sec 40	Nantel, JHG Cpl. Williams, F	7 days CB 7 days pay	12 Dec 44	Lt-Col Letourneau CU	

CERTIFIED TRUE COPY

(M. Share) Major
16 Cdn Fd Amb RCAMC

(FTO)

VV-57

PTE TOUSIGNANT R

VV-57

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-SIXTH day of OCTOBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the matter for the purpose of superior jurisdiction~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~[illegible]~~

*~~[illegible]~~

*~~A Field Officer not present~~

~~for the following reasons, namely~~

Capt W.M.W. Shaw RCA Hq 2 Cdn Div is appointed Judge Advocate

Proceedings Reviewed [illegible] Reviewing Officer (A.A.G.)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.R. Mather	S Sask R

Members.

Rank.	Name.	Regiment.
Capt	J.J.D. Gagnon	Camerons of C
Capt	G.A. White	Fus M R
Waiting Member Lieut	P.R.E. Charleton	Fus M R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G.S.N. Gostling) Brigadier,
Commanding 6 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-61947 Pte ROLLAND TOUSIGNANT Fus M R	First Charge A.A. Sec 24(1) See charge sheet attached.	Not guilty	guilty	
	Second Charge A.A. Sec 24(2) See charge sheet attached.	Not guilty	guilty except that he was not deficient 1 Brush shoe blacking 1 groundsheet 1 Brush clothing 1 Brush shaving To undergo Imprisonment with Hard Labour for one year and to be placed under stoppages of pay in the sum of $1-4-0 to make good the deficiencies not recovered 29 Oct 43 J K Martin Maj D.	Confirm the finding etc unless G S N Gostling Brig Comd 6 Cdn Inf Bde 12 NOV 1943

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) G S N Gostling (G.S.N. Gostling) Brigadier,
Commanding 6 Cdn Inf Bde
Convening Officer (*e*)

(Signed) J K Martin Maj D.
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29 day of Oct 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 29th day of Oct 1943.

A M W Shaw Capt

J K Martin Maj D.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 7935 M M L. 1917

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 2nd day of November 1943.

G S N Gostling
Confirming Officer.

G S N Gostling Brig
Comd 6 Cdn Inf Bde

Promulgated and extracts taken in the case of

(a) (Dated) 3 Nov 43 in the field (Signed) A Duplessis Capt adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[84] Wt. 38092/1316 70m 2/41 W. & Co., Ltd. Gp. 765/2

CHARGE SHEET

The accused, No. D-61947 Private R. Tousignant, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas is charged with:-

1st Charge
Sec.24 (1)
Army Act.

MAKING AWAY WITH BY SELLING HIS CLOTHING

in that he

At Worthing on the 21st of October, 1943 sold to a civilian two sets of woollen underwear .

2nd Charge
Sec.24 (2)
Army Act.

LOOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES.

in that he.

At Worthing on the 23rd of October, 1943 was deficient of:-

1 Helmet steel.
2 Drawers woollen
1 Brass cleaning
1 Brush shoe blacking
1 Disc. Identity
1 Ground sheet
2 Shirts woollen.
1 Brush clothing
1 Brush shaving.
1 Bag ration.

Total Value:- £ 2-6-0½

Worthing,
27th October, 1943.

J.G. GAUVREAU,
Lt.-Col.
Commanding Les Fusiliers Mont-Royal.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
27 Oct 43

(G.B.N. Gostling) Brigadier,
Commander 6 Cdn Inf Bde.

B1

Maj.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a 3d Gen Court-Martial held at In the fd
on the 29 day of Oct 19 43 by order of Brig
GSN Goatling Commanding 6 Cdn Inf Bde
dated the 26 day of Oct 19 43

President.

Major J R Mather, S. Sask R.

Members.

Capt J J D Gagnon, Camo of C
Capt G A White, Hwo MR

Capt W M W Shaw, HQ 2 Cdn Dio, Judge Advocate.

Trial of* D 61947 Pte Rolland Desaignant, Hwo M R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~
~~to serve owing to~~
~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt J J J A Langlois, Hwo MR.

~~Counsel~~ or defending officer‡ Lt E H Lambert, Hwo MR.

At 1600 o'clock the Trial commences.

The order convening the Court is read, and is marked X
signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.
Lt R Beauvais, 3rd M.R.

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.

medical certificate filed + attached to proceedings in which the accused tried jointly with E4433 Pte Dominique Payette, 3rd M.R.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not guilty

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

*Instruction. (See R. P. 39 (A)) Question.

Proceedings on Plea of Not Guilty

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No, Sir

The prosecutor makes ~~an~~ no opening address [~~hands in a written address, which is read, marked ——, signed by the President, and attached to the proceedings~~].

The prosecutor proceeds to call witnesses.

First witness for prosecution. D62195 Sgt R Pauze, Fus MR.

being duly sworn, is examined by the prosecutor.

On 22 Oct 43 - made a kit inspection of Consignant, the accd Heard him deponent:- replied:-

Helmet, steel	1	10 8½	Bag ration	1	2d
Sheet, ground	1		Ground cloth	1	1-1
Drawers, woollen	2	5-3	" shaving	1	-8
Shirt woollen	2	5-1	" shaving	1	1-4
Brushes, cleaning	1	-2			
Disc identity	1	½d			

The 3 last articles were in the 'valise' at the time

Cross-exam Made inspection in office of QM — accd left in billet & he went & brought it back. Other Consignant or Salvaged had MBM Pt III made inspection of one from his Part III & the other from MFM 500 accd told me ground sheet at pub & 3 last articles in valise. He said there was a Crt of Enq pending re his steel helmet.

Re-exam. nil.

Court - nil

2nd Wit [illegible] D61542 C/Sjt MacLaren, P, Fus MR, duly sworn, states:- I produce MBM Pt III of the accd. accd brought back some things - don't remember anything about his steel helmet. Drawers woollen & shirts woollen were issued to him about 2 wks ago, they were new. (Exh 'A') MBM 3 Pt III Things he returned shown on this list (marked Exh B) Cross-exam: has not been in my coy long - was transferred from R coy about 2 mths in my coy. Kit is inspected on every transfer. QM checks kit on transfer. Can't swear accd had identity disc when transferred. Don't remember him depositing steel helmet. Do find similar things sometimes when making kit inspection

Re-exam - nil

Court - nil

Following Witness not shown in summary + defence state no objection

3rd Wit / Pros — E 4433 Pte Boyette, D, Fus MR, duly sworn, states:
On 21 Oct around noon I was at counter in Quick Maltars when Pte Sauvignart, the accd, + Galaneau came in. One asked Maltars for a drink. Maltars said last only for 2 between us + could not spare any. One of them said "Don't worry we will pay you back in a few minutes because we have something to sell." I left to play piano - They were talking between themselves. They went out - Galaneau came back 20 mins later with underwear under his tunic. Accd + G went into Lavatory. Other called me. They asked me to put underwear under my tunic but I refused. They left. Came back after while 15 to 25 mins + started to pay drinks to friends. Maltars said "don't go so fast" + one said "Never mind we will have more tonight we have more to sell. They showed me underwear. It was army stuff, identical to military
Cross-exam saw accd with underwear. Galaneau gave him the underwear. Accd had few drinks but not drunk enough to not know what he was doing.
Re-exam - nil
Court - nil.

4th Wit / Pros — D61297 Pte Galaneau, B, Fus MR, duly sworn, states:
On 21 Oct was with accd who had something in his tunic - I don't know what it was but think it was underwear - went to bus station - I don't know how much got for it I didn't get money. Am not sure but in my opinion it was underwear - no tunic bulged out
Accd came in pub between 1100 hrs + 1130 hrs. He had bulky blouse when he came in + pub. He asked me to go with him to sell that, but didn't say what it was I refused on account of duty.
Cross-exam The day before I gave him my civilian underwear. Did not see what in accd's blouse. Can't swear it was underwear
Re-exam - nil
Court - nil

5th Wit / Pros — Pte prosecutor duly sworn, states
Took summary, warned accused under K.R. & O. (E) 2116 - was third time he was cautioned. As result of caution he made statement "I repeat the same statement as I have given previously." I read to him a statement + said "This one?" and he answered "yes".
(Summary marked 'C' + statement 'D')
Cross-exam - nil
Court - nil

Prosecution closed

D

The prosecution is closed.

RP 40 complied with

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No, Sir

Question. Do you intend to call any other witness in your defence?

Answer. Yes, Sir

Question. Is he a witness as to character only? *Answer.* No

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence? No, Sir

Answer. ~~The accused in his defence says~~ [Hands in a written address which is read, marked ~~signed by the President and attached to the proceedings.~~]

Annex

---

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

Instruction.
The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

1st Wit Def | E [illegible], Pte Morin, L., 4th Bn R.R. duly sworn, states:-

I borrowed steel helmet from accsd. I put it on bench in ord rm & took my friend on pt with me & when I came to leave I could not find it. Thought accsd had taken it. I went away & asked him if had taken it & he said "no". I said I'll go for it Mon morning. On Mon I went to ord rm but did not find it. This was 4 or 5 days after we arrived in Worthing.

Cross-exam - nil

Court - nil

Defence closed

Pros in closing:- 2 witnesses who went with him to sell something, did sell, was underwear. Did not report loss of steel helmet. :. proven

Def Offr in closing:- No witnesses shew accsd guilty - Witnesses didn't see anything, must be proven was underwear. Submits, bt inspection was not good - articles were returned. In justice not proven.

Judge advocate:- Points out credibility of witnesses, reasonable doubt, burden of proof, definition of charges. AP 444(1), 1956.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused guilty of the first charge, & guilty of the second charge (special finding, see schedule page 2 of AFA 3)

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Prosecutor on his former oath ~~is duly sworn~~.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness* MFB 355 & MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked ~~A~~, signed by the President, and annexed to the proceedings of joint trial of the accused and E 4433 Pte D Payette, Fus MR.

10 MHS

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* Yes

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Not Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer* Yes (then my defence (see one.)

The Court is closed for the consideration of the sentence.

F

Wmw

Sentence

~~The Court sentence the accused~~

Sentence.

Def offr:

Acsd has been prettly good soldier - Man
failing as drunk.

Having drink at pub & - more clever friends
used him for their purposes.

Begs - mercy.

WMW Shaw
capt
Judge Advocate

JR Martin maj D.
President.

MILITIA BOOK M. 1

PART III

40/P&S/279 (11/42)

CANADIAN ARMY

Clothing and Equipment Statement

Regt. No D61947

Rank PDS

Name TOUSIGNANT R

INSTRUCTIONS TO SOLDIER

1. You will always ***carry this book*** on your person and are responsible for its safe custody.

2. You will initial the end of the list of your kit to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

GENERAL INSTRUCTIONS

1. This statement will be used to record the quantities of clothing and equipment to which the soldier is entitled and has been issued. Entries will be made in ink.

2. A new column will be used when the list of kit changes with the soldier's status. Old column will be ruled out.

3. On transfer of the individual, the certificate at end of statement will be completed and signed.

4. This statement replaces Form M.F.C. 800 and adoptions thereof.

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AND SOLDIER ON TRANSFER OR ATTACHMENT OF SOLDIER.

Certified that the record detailed in the above statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE A. Grayson

Inspecting Officer	Soldier	Date
[illegible]	A. Grayson	23 May 43
[illegible]	A. Grayson	7.7.43
[illegible]		26/7/43

CLOTHING SIZES RECORD

ARTICLE	SIZES
Battle Dress, blouse	6
Battle dress, trousers	5
Cap or bonnet	7
Boots, ankle	8 1/2
socks	10
Gloves	1
Facepiece, respirator	22
Greatcoat	6
Coverall, combination	34
Jersey, pullover	34
shirts, Aertex, drab	15
Vest, woollen	42
Drawers, cellular	32
Drawers, woollen	32

ARTICLE	QUANTITY		
STEN Rifle (No. B.1088)	1		
~~Stabbard, bayonet~~	~~1~~		
Steel, ground	1	1	
Mug, drinking		1	
Blanket	1	1	
Mag. Sten	MK	2	
Jerkins Leather	1		

Initials of Soldier: R Dennis Signed for

Initials of Inspecting Officer:

Date: 23 May 43

CLOTHING SIZES RECORD

ARTICLE	SIZES
Battle Dress, blouse	6
Battle dress, trousers	5
Cap or bonnet	7
Boots, ankle	8½
Socks	10
Gloves	1
Facepiece, respirator	M
Greatcoat	6
Coverall, combination	34
Jersey, pullover	34
Shirts, Aquila, drab	15
Vest, woollen	32
Drawers, woollen	32
Drawers, woollen	32

B

ARTICLE	QUANTITY		
STEN Rifle (No. B.1068)	1		
~~(cutlass); bayonet~~	1		
Sheet, ground	1	1	
Mug, drinking	1	1	
Blanket	1	1	
Mag. Sten	MK	2	
Jerkin, khaukt	1		

ARTICLE	QUANTITY		
Anklets, web, prs.	1		
Blouses, Battle-dress	2		
Bonnet, tam-o'shanter			
Boots, ankle, prs.	2		
Boots, lumbermans, rubber, prs.			
Boots, rubber, high, prs.		1	
Bonnet, drab, Irish			
Cap, field service	1		
Cap, mechanic			
Cap, tank battalion			
Drawers, Cellular short, prs.	2		
Drawers, Woollen, prs.	M2	2	
Gloves, knitted, drab, prs.	M R	1	
Greatcoat, drab	1		
Jerkin, leather			
Jersey, pullover	1		

ARTICLE	QUANTITY
Haversack, respirator	1
Respirator, Anti-gas complete	1
Outfit, anti-dimming	1
Ointment, Anti-gas, tins	2
Eyeshields, Anti-gas (Pk. of 6)	1
Detectors, individual prs.	1
Capes, anti-gas	1
GAS WALLET	1.
SOCKS PR.	3.
Bayonet	1.
Bottle, oil	1
Pistol, revolver (No.)	
Pull-through, single	1
COTTON WASTE	1
DESINF CLOTH	2

ARTICLE	QUANTITY		
Cover, Mess tin, rect.			
Frog, bayonet	2.		
Haversack	1		
Helmet, steel	1		
Net, helmet camouflage	1		
Pack	1		
Pouches, Ammunition, plated			
Pouches, Basic	2		
Pouches, utility			
Sling, rifle			
Straps, shoulder, haversack	2		
Straps, supporting, web	2		
Tins, mess rect.	1		
Yoke			

ARTICLE	QUANTITY		
Overalls, combination	D/R		
Shirts, angola, drab	2		
Shoes, canvas, prs.	1		
Trousers, battledress, prs.	2		
Vests, woollen	2.		
Socks prs.	2		
Badge, cap	1		
Badge, shoulder, "CANADA" prs	2		
Badge, arm Tank Bn.			
Bag, kit, universal	1		
Braces,	1		
Brass, cleaning	1		
Brush, button, brass	1		
Brush, clothes	1		
Brush, hair	1		
Brush, shaving	1		

ARTICLE	QUANTITY		
Brush, shoe, blacking	1		
Brush, shoe, polishing	1		
Brush, tooth	1		
Cap, comforter	1		
Comb, hair	1		
Discs, identity, sets with cord	1		
Dressing, field	1		
Fork, N.S. Table	1		
Holdall	1		
Housewife, complete	1		
Knife, clasp	1	1	
Knife, table	1		
Lanyard			
Razor, safety, with blade	1		
Patches, distinguishing, prs	3		

ARTICLE	QUANTITY		
Shorts, gymnasium	3		
Sponge, [illegible]			
Spoon, N.S. Dessert	1		
Vests, cotton, gym.	2		
Towels, hand	2		
Unit fitts, prs	3		
[illegible]			
Attachments, brace	2		
Bag, ration	1		
Belt, waist	1		
Bottle, water	1		
Braces, W.E.	2		
Carriers, cartridge			
Carrier, waterbottle			
Case, pistol			
Cover, breech, rifle			

ARTICLE	QUANTITY		
Brush, shoe, blacking	1		
Brush, shoe, polishing	1		
Brush, tooth	1		
Cap, comforter	1		
Comb, hair	1		
Discs, identity, sets with cord	1		
Dressing, field	1		
Fork, N.S. Table	1		
Holdall	1		
Housewife, complete	1		
Knife, clasp	~~2~~ 1		
Knife, table	1		
Lanyard			
Razor, safety, with blade	1		
Patches, distinguishing, prs	3		

ARTICLE	QUANTITY		
Shorts, gymnastic	3		
Sponge,			
Spoon, N.S. Dessert	1		
Vests, cotton, gym.	2		
Towels, hand	2		
Unit titles, prs	3		
Attachments, brace,	~~1~~		
Bag, ration	1		
Belt, waist	1		
Bottle, water	1		
Braces, W.E.	2		
Carriers, cartridges			
Carrier, waterbottle	1		
Case, pistol			
Cover, breech, rifle			

Catalogue No.	DESIGNATION	No.	CONDITION: Beyond Local Repair	Obs.
	This is to certify that		29.10.43	
	Received from Pte Tonnisgmont R			
	Groups Shat.	1		
	Shaving Brushes.	1		
	Brushes Clothes	1		
	Brushes Polishing.	1		
	Medicine. R			
	4 pkts			
	A' cuff			

LIST OF WITNESSES.

FOR PROSECUTION.

D-62195 Sgt R. Pauze,
D-61542 CQMS P. Mac Sween,

FOR DEFENCE.

Nil

LIST OF EXHIBIT.

Nil

LIST OF CORRESPONDENCE.

Nil

I D-61947 Private R. Tousignant, wishes to have as defending,
Officer: Capt. Berthiaume.

Officer taking the Summary of Evidence.

J. Langlois Capt

Capt. J. Langlois,
Les Fusiliers Mont-Royal,

D Jordan Maj.

Summary of Evidence in the case of
No. D-61947 Pte R. Tousignant, Les Fusiliers Mont-Royal.
The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution.

D-62195 Sgt. R. Pauze, Les Fusiliers Mont-Royal, having been duly sworn, states:-

At Worthing on the 23rd Oct. 1943 acting under the instruction of Capt. J. Langlois I made the kit inspection of Pte R. Tousignant & found him deficient of the following articles.

List of Deficiencies:-

Helmet steel	1	Ground sheet	1
Drawers woollen	2	Shirts Woollen	2
Brass cleaning	1	Brush clothing	1
Brush shoe blacking	1	Brush shaving	1
Disc. Identity	1	Bag Ration.	1

R. Pauze Sgt

Second Witness for Prosecution.

D-61542 C.Q.M.S. Mac Sween. Les Fusiliers Mont-Royal, having been duly sworn states:-

I'm the C.Q.M.S. of A Coy. Tousignant whom I recognise here is a man of A Coy. I produce his M.B.M. 1 part III. I certify that he has been issued with all the articles of wich he is short now as per list that is shewn to me. Mc Sween C.Q.M.S.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, nut whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

I repeat the same statement as I have given previously. R. Tousignant.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Prosedure 4 (C), (D), (E) and (F) have been complied with.

J. Langlois Capt.

Capt. J. Langlois,
Les Fusiliers Mont-Royal,

In the Field.
25th October, 1943.

ADDITINAL SUMMARY OF EVIDENCE.

D-61947 Pte R. Tousignant, Les Fusiliers Mont-Royal,
having been duly cautioned states:-

I left Thursday between 1100 hrs & 1400 hrs with Galarneau & we went together to sell underwear my own to the Bus Station. We went to the pub in the evening where we met Pte Payette & Maltais & girls. Both men were A.W.L. we then proceeded the 3 of us we went to the Pub where we had a quart of beer. It was then closing time & we came back. I went to sleep with them in their room at 23 Thorn Road, I left there the first the next morning the others remainded there I returned there in the morning when Pte Payette asked me if I could get him some passes (Blank) but I forgot I did'nt bring him any.
In the afternoon at about 1200 hrs we went in the Victoria Pub & then met Payette, Maltais, Galarneau, Kay, Doris, Holly. Galarneau & Cpl. Fortin went to sell his watch but he did'nt sell it & they came back. Maltais asked Galarneau to go & get his underwear to sell them He went away, I went with him & we sold them at the Bus Station. We came back to the Pub at closing time we left 5 of us Maltais, Galarneau, Payette, & Kay, I gave 2 shellings to Maltais to go to the show with Kay, then Payette asked me in the Woolworth if I wanted to go with him to get some stuff & there we went to 30 Grafton Road, we went together, He examined the kit bags he told me there was a parcel in this kit bag.
We took it & opened it on the side seam, I took the box of candies, gum, lotion, & comb. he had the shirt & the remaining articles of the parcel. I sold the box of candies & he came with me to sell the shirt, I was asking 5 shellings but he told me to ask 10 shellings he was waiting for me at the corner of the street. We went back to the Woolworth for a cup of tea where I was arrested by the Provost.
In the evening I went with the R.P. looking for Payette in the Pub & then to his room but he was not there. His Military clothing was there.

J.R. Tousignant

Maj D.

ADDITINAL SUMMARY OF EVIDENCE.

D-61947 Pte R. Rousignant, Les Fusiliers Mont-Royal,
having been duly cautioned states:-

I left Thursday between 1100 hrs & 1400 hrs with Galarneau & we went together to sell underwear my own to the Bus Station. We went to the pub in the evening where we met Pte Payette & Maltais & girls. Both men were A.W.L. we then proceeded the 3 of us we went to the Pub where we had a quart of beer. It was then closing time & we came back. I went to sleep with them in their room at 25 Thorn Road, I left there the first the next morning the others remainded there I returned there in the morning when Pte Payette asked me if I could get him some passes (Blank) but I forgot I did'nt bring him any.
In the afternoon at about 1200 hrs we went in the Victoria Pub & then met Payette, Maltais, Galarneau, Kay, Doris, Holly, Galarneau & Cpl. Fortin went to sell his [illegible] but sell it & they came back. Maltais asked Galarneau to go [illegible] to sell them He went Kay, I went with him & we sold them at the Bus Station. We came back to the Pub [illegible] left 5 of us Maltais, Galarneau, Payette, & Kay, I gave 2 shellings to Maltais to go to the show with Kay, then Payette asked me in the Woolworth if I wanted to go with him to get some stuff & there we went to 30 Grafton Road, we went together, He examined the kit bags he told me there was a parcel in this kit bag.
We took it & opened it on the side seam, I took the box of candies, gum, lotion, & comb. he had the shirt & the remaining articles of the parcel. I sold the box of candies & he came with me to sell the shirt, I was asking 5 shellings but he told me to ask 10 shellings he was waiting for me at the corner of the street. We went back to the Woolworth for a cup of tea where I was arrested by the Provost.
In the evening I went with the R.P. looking for Payette in the Pub & then to his room but he was not there. His Military clothing was there.

J.R. Rousignant

Taken down by me in the presence of the accused. R.P. 4 C.D.I. have been complied with.

"D" Det. Mgr.

J. Langlois capt

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. D 61947 Name TOUSIGNANT R. Sqn., Battery, or Company "A" Corps Fus. Bn. R. C. A. (M) Date of enlistment 6 APR 40 G.C. Badges Service or Proficiency Pay No.

Date of last entry in Company Conduct Sheet 10 JAN 40 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. H.O. Lefebvre Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									F.F.D. Lefebvre Lt
6 OCT 40 SHEET DESTROYED ON HAVING COMPLETED SIX MONTHS SERVICE ACC TO R.O. 319 DATD 9TH OF LAST ENTRY 10 JAN 40 LAST DRUNKARD N/A									
England	26 Nov 40	Pte	N.D.	A.A. Sec 15 (1) W.O.A.S. A.W.L. from 2359 hrs the 25 Nov 40 until 0730 hrs the 1st Dec 40	Cpl Dermith	7 Days C.B.	11 Dec 40	P. Gregoire Lt. Col	Forfeited 2 days pay
England	22 Aug 41	Pte	N.D.	A.A. Sec 15 (1) W.O.A.S. A.W.L. from 2300 hrs the 18 Aug 41 until 1640 hrs the 20 Aug 41 Absence 2 days 17 hrs 40 Mins.		14 Days F.P.	22 Aug 41	P. Gregoire Lt. Col	Forfeited 4 days Pay
Newhaven	11 Mar 42	Pte	N.D.	A.A. Sec 15. (1) W.O.A.S. A.W.L. from 2300 hrs the 11 Apr 42 until 0230 hrs 12 Apr 42	Lcpl Kennedy	5 Days Pay 7 Days C.B.	12 Apr 42	Lt A. Morris A.P.C.	

(P.T.O.)

F. [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
On the Field	11 Oct 42	Pte	N.D	A.A. Sec 15 (j) W.O.A.F. A.W.L. from camp limit was found behind camp	D.A.P.M.	7 days C.B.	21 Oct 42	A.F. & Gunner 26 Coy	Forfeits 8 days Pay
On the Field	1 Feb 43	Capt	N.D	A.A. Sec 15 (j) W.O.A.F. A.W.L. from 18 Oct 42 to 1 Feb 43 until 1200 hrs 1 Feb 43 20746 4 Days 4 hrs.	Capt Lennie	Reverted to Pte	4 Feb 43	A.F. & Gunner 22 Coy	Stoppage of Pay 4-10-0 Forfeits 4 Days Pay
On the Field	27 Mar 43	Pte	N.D	A.A. Sec 15 (j) W.O.A.F. A.W.L. from 23 Oct 42 to 27 Mar 43 until 1200 hrs 27 Mar 43 Absence 1402 hrs	Capt Bendyshe Documentary	3 Days Pay & Days C.B.	30 March 43	A.F. & Gunner 22 Coy	Forfeits 1 Day Pay
On the Field	2 May 43	Pte	Nil	A.A. Sec 15 (j) W.O.A.F. A.W.L. from 28 Feb to 3 May 43 until 1200 hrs 29 May 43 Absence 11 days 12 hrs 31 mins.	Documentary	14 Days Det.	21 May 43	O.C. C.H.	Forfeits 14 Days Pay 12 Days Pay

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. D 61747 Name TOMLINSON A. Sqn., Battery, or Company "A" Corps F.S. M.R. C.A.D. Date of enlistment 5 APR 40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 10 JAN 43 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. J.S.O. Lefebvre Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	20 Jul 43	PTE	NIL	A.A. Sec 40 W.O.A's Conduct to the Prejudice etc. In that he on 20 Jul 43 this Unit was found unduly and very dirty	C.D.M.S. Campeau R.	7 days C.B	20 Jul 43	F. Monsseau Capt	
In the Field	15 Aug 43	PTE	NIL	A.A. Sec 15 (1) W.O.A's A.W.L. from 2359 hrs the 15 Aug 43 until he reported at 2200 hrs 19 Aug 43. Absence 4 days	C. Sgt Lessard	14 days Forf 14 Days C.B.	20 Aug 43	L. Shaw Major	4 Days Pay Forfeited.

Certified true copy of the original
J. Langlois Capt.

(P.T.O.)

M.F.B. 355
(2M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-61947	Private	R. Tousignant,	Les Fusiliers Mont-Royal

1. The following is a fair and true summary of the entries in the FIELD Service and ~~General~~ ~~Regimental and Squadron, Battery~~ N/A Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 15(1)	4 times	8 times
For A.A. 40	1 times	1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ N/A

or,

~~There are no entries in the conduct sheets of the accused.~~ N/A

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~ N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~ N/A

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 6 days in Air Force military custody, making a total of 6 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is ~~recruitment paper~~ 24

6. The date of ~~his enrolment~~ attestation specified in his record of service is ~~attestation paper~~ 6-10-40

7. ~~The service which the accused is allowed to reckon towards discharge is~~ N/A

8. ~~The accused is entitled to reckon service for the purpose of determining his pension, etc.~~ N/A

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward.~~ military military military N/A

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force N/A

D. Goulet Maj A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. J. Langlois Capt.

Signed this 29 day of April 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

FF-125

FUS. TOUSIGNANT R.

FF/125

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-FIRST day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[illegible]

15 Jun 43

16

President.

Rank.	Name.	Regiment.
Major	L.J. Poulin	Fus M R

Members.

Rank.	Name.	Regiment.
Capt	D.F. Storey	Camerons of C
Lieut	H.P. Williams	S Sask "
Waiting Member Lieut	Y. Forget	Fus M R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G.A. McCarter), Brigadier,
Commanding 6 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-61947 FUS ROLLAND TOUSIGNANT Fus M R	First Charge A.A. Sec 15(1) See charge sheet attached.	Guilty	Guilty To undergo 60 days det. ~~To forfeit 12 days Pay under Part 146 KRAI~~ 21 May 43	Confirmed 6 Cdn. Inf. Bde.

2 Witnesses.

~~President.~~

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (G.A. McCarter) Brigadier, Commanding 6 Cdn Inf Bde.
Convening Officer (e)

(Signed) J.L. Paulin Capt Fus M.R.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of May 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

* Omit if not applicable.

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~)
4. ~~The officers under instruction~~)

were duly sworn.

Signed this 21 day of May 1943.

J.L. Paulin Capt
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of May 19

President of the Court Martial.

D. Confirmation

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

Signed this ~~twenty-first~~ day of May, 1943

Confirming Officer (d)
6 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of D 61947 Pte R. Tousignant Fus M.R.

(a) (Dated) ~~22~~ 25 May 43 (Signed) J Paquette Capt Adjt Fus M.R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41758) Wt. 40115—893 500 m 3/40 P. St. G. 941

CHARGE SHEET

The accused, D-61947 Fusilier Rolland Tousignant Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas is charged with:-

First Charge
Section 15 (1)
Army Act.

Absenting himself without leave.

In that he
In the Field at 2359 hrs. on the 8th of May, 1943 absented himself without leave untill 1230 hrs. on the 20th of May, 1943.

H.W. Langlois, Major
A/Commanding
Les Fusiliers Mont-Royal.

In the Field
20th May, 1943.

To be tried by FGCM.

(G.A. McCarter) Brigadier,
Commander 6 Cdn Inf Bde.

In the Field
21 May 43

B2
President.
21 May 43.

MEDICAL INSPECTION

FUSILIERS MONT ROYAL, C.A.(O)

I hereby certify that I have examined Regt'l No. 61947 Rank. Fus.

Name. Tousignant R. this morning and That I found him MENTALLY

PHYSICALLY FIT to undergo trial by F.G.C.M.

Place. In the field

Date. 21 MAY/43

HT.

R. Tousignant Capt. RCAM

Medical Officer

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ on the Field, on the 21st day of May 1943 by order of Brigadier F. G. Mac Carter

Commanding 6 Cdn. Inf. Bde.

dated the 21st day of May 1943

President. Major J. F. Parkin Fus. M. R.

Members. Capt. D. F. Storry Cameron of C. Lieut. H. P. Williams S. Sask. R.

~~Waiting member Lieut. Y. Foyt. Fus. M. R.~~

Trial of* D-61947 Fus. Rolland Tanguay, 6 Les Fusiliers Mont-Royal, a soldier of the 6th Army Overseas.

~~Judge Advocate.~~

The order convening the Court, the charge-sheet and the summary ~~or abstract~~ of evidence are laid before the Court.

~~The Court satisfy themselves that [illegible] is not available to serve owing to—~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. Lt. D. S. Levesque Fus. M. R.

Counsel‡ or defending officer† Lieut. C. Gay Fus. M. R.

At 1425 o'clock the Trial commences.

The order convening the Court is read, and is marked [illegible] signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

2/296. 91/3/2661/11. 83,000 pds. (1/43). E. & H., Ltd. 665/11. Forms A 9-9.

B

The President, members ~~and judge-advocate~~ are duly sworn

~~The following officers (under instruction) are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Medical certificate is put before Court and attd.
To Proceedings.
Two witnesses are included.

The accused is arraigned upon ~~the~~ charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ charge against you which you have heard read ?

Question to the accused.

Guilty.

Answer.

~~Are you guilty or not~~ guilty ~~of the second charge against you~~, which you have heard read ?

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you~~, which you ~~have heard~~ read ?

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you~~, which you ~~have heard~~ read ?

Question.

Answer.

The accused having pleaded Guilty to ~~the~~ charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~The Court having been re-opened, the accused is again brought before it, and the charge, to which he has pleaded "Guilty" read to him again.~~

The accused D-61947 Pte Rolland Tourigny Fus Regt is found guilty of the charge

*The summary (~~or abstract~~) of evidence is read, marked [illegible] by the President, and attached to the proceedings.

H Stalker Maj Coy Cdr

Question to the accused. Do you wish to make any statement in mitigation of punishment? Yes

Answer. The ~~accused~~ DEFENDING OFFR. in mitigation of punishment ~~says~~ :— ~~Nil~~

[*or* hands in a written statement, which is read, marked L, signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

Evidence as to character.

IN the case of. 21 May 43.
D. C. M. No. Tournament R.

L. Gale Adj't.
President.

Sir

I wish to make the following statement in mitigation of punishment.

The accused is 23 years of age. He enlisted on the 6 Sept 40. Unfortunately, he was unable to proceed at Dieppe that he was a good soldier, as he did not take part in the operations.

The accused has a brother a corporal in the Canadian Army Overseas. About six months ago, the accused decided to get married. On hearing of this, his brother decided to ignore him and on numerous occasions disregarded all letters or phone calls from the accused.

Wanting help and advice, the accused wrote home to his father and step-mother but from them also received no answer. You can easily imagine in what state of mind that placed the accused. He was being

abandoned by all his folks. His only help, and only person to whom he could turn was his fiancée, to whom asked permission to get married, and did so though it has not yet been recorded, as the accused came back yesterday only.

Gentlemen, you can imagine that under such circumstances the accused has a very strong temptation to murder a fiend. He realized now that he was wrong and so, gentlemen, he regretted bitterly back to army.

I have known the accused for the last seven months. I have worked with him. As far as being a soldier, he is a very good one, willing for anything and I have all the men we need to fight. And I hope are moving [illegible] part at this time. So we must keep all our good men ready.

Gentlemen I submit these facts for the consideration of this honorable court.

[illegible] Trial

Mr. [illegible] President

Les Fusiliers Mont Royal
Part II Orders Issued by
Canadian Section 2nd Echelon G.H.Q.

No 60
12 Nov 42.

PARA 11 -
SUB PARA e:
Appointed Acting Lance Corporal
with effect 16 Oct 42.

D 61941 Pte Sourignant R.

Certified true extract of
Part II Orders.

C. Gay Lieut
20 May 43.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused—~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*~~The Court being re-opened, the accused is again brought before the~~

THE PROSECUTOR Lt. M.O.J. Kingan is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes AFB 296 MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked J K signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused. see attd. certified copy of Part II orders re. Promotion of accused to Flgt. marked AM (This Promotion Warrant omitted on the G.F.B. 296

[Instruction.—If by reason of the nature of the service of the accused in a reformatory corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor should call the attention of the Court to the fact, and the Court must enquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

The sentence to be awarded by the court, being (5) subject to confirmation, would not be announced, but will be promulgated later, and the prisoner in open court are accordingly informed.

F

Sentence.

Sentence. C-61947 Pte. Rolland Tourigny
The Court sentence the accused of Les. Fusiliers Mont. Royal.

To undergo det. for 60 days

To undergo
Sentence 60 days det.
Suspended 12 days pay
under F.R.O. section

IN THE Field.

Awarded This 21st Day of May 1943

Charles Major.
President
F. G. C. M.

If a call-out of the whole Army Reserve is ordered, any soldier on pass must return immediately to his unit without waiting for instructions.

No. 187 Regiment LES FUS. M.-R. C.A.

Army Form B.1 (To pads of 100)

PASS

No. D61247 (Rank) Pte (Name) Montgomery R

has permission to be absent from his †quarters/duty, from 1700 hrs

29 April 43 to 2359 hrs 8 May 43

for the purpose of proceeding to* Falkirk

(Station) Sea Thee Hotel Paquette Lt

(Date) 29 April 43 Commanding

P.T.O.

† Delete whichever is not applicable.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable, or unless it is necessary to enable purchase of a rail ticket at reduced rate to be made.

CROWN COPYRIGHT RESERVED

A Soldier on leave who requires medical aid must apply for [illegible] personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical Institution, showing this pass. If however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will [illegible] the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
By [illegible]	5s. 0d.	An additional 5s. for each mile or part of a mile, with a limit of £3 a visit.
By motor car	5s. 0d.	

[illegible] the surgery of a civilian doctor, the fee payable in respect of [illegible] per visit.

[illegible] the expenses of the civilian doctor by a writing [illegible] to claim the civilian doctor will submit his claim [illegible]

[illegible], the soldier will as soon after the fact as possible [illegible] to the nearest Military, R. Naval or R. Air Force Hospital, Military Reception Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, [illegible] at Medical Inspection Rooms for Troops, whenever possible, for any necessary treatment he has given [illegible] injury or illness. If a soldier is admitted to a R. Naval or R. Air Force hospital, he should report the fact immediately to his Commanding Officer. If, in the event of [illegible] a soldier is admitted to a Civil hospital he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, [illegible] other Commanding Officer, from returning his Corps by the date on which his pass expires, he is to report himself before that date—

To the [illegible] other officer on the staff of the Army or to the Commanding Officer of the nearest military hospital or Military Hospital Reception Station, if [illegible] to the Commanding Officer of the Regular Troops, or if [illegible] to the Commanding Officer of the Territorial Army Unit to which he belongs.

[illegible] a medical certificate to his C.O.

A soldier [illegible] requires emergency dental treatment must apply [illegible] Naval Air Force Hospital or Dental Centre. If he [illegible] a hospital or dental centre, he may apply [illegible] to whom he will show this pass. The dental practitioner [illegible] cost at the rates admissible under the National Health Insurance Regulations.

The soldier [illegible] of the civilian dental practitioner to the Commanding Officer, who will submit his claim for payment to the Assistant Director of Medical Services at the Army Unit to which he belongs or is temporarily residing.

[illegible] Soldiers [illegible] are not to be held to refer to an auxiliary [illegible] service or to a member of a Voluntary Aid Detachment of the Auxiliary [illegible] sailor on [illegible] to leave his address with the Captain of his [illegible].

If his pass expires [illegible] be prepared to rejoin on the shortest notice, if [illegible], and he must [illegible] to do so.

NOTE.—The above instructions are not applicable to a soldier on Field Service overseas.

R. T. O. 2 MAY 1943 GLASGOW CENTRAL

SUMMARY OF EVIDENCE IN THE CASE OF
D-61947 Fus. Rolland Tousignant. Fus. M.R.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution.

E-68009 L/Cpl. Marcel Marois, Fus.M.R. having been duly sworn, States:-

At Browning Camp on the 9th of May, 1943 at reveille, being orderly Corporal, I noticed the absence of D-61947 Fus. Rolland Tousignant. He had a privilege leave endind the 8th May, 1943 at 2359 hrs. I reported him as absent from 2359 hrs on the 8th May, 1943.

L/Cpl Marcel Marois

The accused declines to cross-examine the witness.

Second Witness for Prosecution.

E-57787 Fus. Lawrence Blanchet, Fus. M.R. having been duly sworn, States:-

At Browning Camp on the 20th of May, 1943 at 1230 hrs. I was in the coy's office where I am clerk, when Fus. Rolland Tousignant reported to me & handed over his pass which I produce.

Lawrence Blanchet

The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give the following statement:- I am guilty. Rolland Tousignant.
The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D),(E)and (F) have been complied with.

J. Langlois capt.

In the Field
20th May, 1943.

J. Langlois Captain.
Les Fusiliers Mont-Royal.

M.F.M. 6
(A.F.B. 122)
10014—8-39 (1763)
H.Q. 1277-45-18

No. D-6194 Name Rolland Tousignant Sqn., Battery, or Company ugu Corps F.L.R. C.A.S.F. Date of enlistment 6/4/40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No. 2

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIE TRUE COPY.					
Montreal.	17/5/40	Pte	Nil	... 2230 hrs. 16/4/40 until 1200 hrs 20/4/40. Sec. 15 (1)		4 day's pay	21/4/40	A. Grothe Major.	
Montreal.	3/5/40	Pte	Nil	A.... 2230 hrs 1/5/40 until 1200 hrs. 3/5/40. Sec. 15 (1)		3 day's pay	4/5/40	A. Grothe Major.	
Montreal.	10/5/40	"	Nil	A.... 2359 hrs. 23/5/40. Sec. 15 (1)		5 day's pay	24/5/40	A. Grothe Major.	
Valcartier	10/6/40	"	Nil	.... 2230 hrs. 10/6/40 until 0600 hrs. 24/6/40. Sec. 15 (1)		5 day's pay	25/6/40	A. Grothe Major.	
England.	26/11/40	"	Nil	.... 2359 hrs. 26/11/40 until 0720 hrs. 1/12/40. Sec. 15 (1) AA		7 day's F.D.	11/12/40	F. Grenier Lt-Col.	5 day's pay forf.
England.	27/12/40	"	Nil	Sec. 15 (1) A... from his duty 1630-2020 hrs. Award 25 sec. 40		4 day's F.D.	30/12/40	F. Vezina Capt.	4 days forfeited

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remark
~~England~~	~~22/8/41~~	~~Rfte~~	~~N12~~	~~A.W.L. from 2300 hrs.16/8/41 until 1640 hrs. 20/8/41(3 days~~		~~14 days F.~~		~~F. Grenier~~	
~~Newhaven~~	~~20/2/42~~	~~"~~	~~N12~~	~~0700 hrs. 40 min.) AA sec 15 (1)~~		~~4 days pay~~		~~A. Cox~~	
Newhaven	11-4-42	"	"	A.W.L. from 1800 hrs 20 Mar 42 till 2300 hrs 20 Mar 42. A.A.Sec 15(1)	Cpl Mercier,P	7 days C.B.	21-3-42	Capt J.N. Painchaud.	
In the Fld	11 Oct 42	"	"	A.W.L. from 2300 hrs 11 Apr 42 until 0300 hrs 12 Apr 42.A.A.Sec 15(1) A.A. Sec 15 (1) W.O.A.S. Founded beyong the limits fixed without a pass or written leave, when encamped.	Sgt Perrault,E.	5 days C.B.	12-4-42	Lieut. A. Norman A/O.C.	
In the Fld	11 Feb 43	L/Cpl	"	A.A. Sec. 15 (1) W.O.A.S. A.W.L. from 0800 hrs 1 Feb 43 till 1200 hrs 5 Feb 43 .Duration of absence 4 days 4 hrs.	Charge by 2nd Cdn Div.	7 days C.B.	21 Oct. 42	Lt-Col. J.G. Gauvreau	5 days pay FR&I 149 (a)
In the Fld	28 Mar 43	Pte	"	A.A.Sec 15 (1) W.O.A.S. A.W.L. from 2300 hrs 28 Mar 43 till apprehended by Prov. Corps at 1500 hrs 29 Mar 43. Total absence: 1600 hrs	Cpl Lavoie,A. Cpl Boudriss, N.	Reverts Pte Stop of Documentation.pay to make good	6 Feb 43 30 Mar 43	Lt-Col. J.G. Gauvreau Lt-Col. J.G.Gauvreau	Forf 5 days pay FR&I 149 (1) (a) 5 days pay FR&I 149 (1) 10-5-43 3 days pay FR&I 149 (2) 3 days C.B.

M.F.M. 6

No. D61947 Name TOUSIGNANT Roland | Unit, Battery, Company | Corps Fus M.R. C.A.C. | Date of enlistment 6 Apr 40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

CERTIFIY TRUE COPY

Place	Date of offence	Rank	Cases of drunkenness		Nature of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
England	22 Aug 41	Pte	Nil	A.A. Sec 15 (1) A.W.L. 2359 hrs 26 Aug 41 till 1640 hrs 20 Aug 41 (3 days 17 hrs 40 mins)		14 days F.P.	21 Aug 41	Lt-Col. P. Grenier	Forf 4 days pay FR&I 149 (1) (a)
On the 5th Apr 42 the above accd Cantin were transfered from the soldier completed (2) two years service and in accordance with the R.O. (76)									
In the Fld	10 Jun 42	"	"	A.A. Sec. 15 (1) A.W.L. 2230 hrs 10 Jun 42 till 2230 hrs 23 Jun 42 (13 days)	A/Sgt Michaud Sgt Barry, J.O.	28 days Detn.	24 Jun 42	Lt-Col. D. Menard	Forf 13 days pay FR&I 149 (1) (a)

Certified True Copy
A Paquette Lt+ Adjt 21 May 43

P.T.O.

I
Habeas Corpus.

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D61947 Name Pte Tousignant Rolland Unit Les Fus. M. R.

Age 23 Married or Single Single NO. Of Dependants nil

Date of Attestation ~~21 May 43~~ 6 Apr 40

No. Of Days spent in Close Arrest (To date of Trial)

Civil nil Military nil Hospital nil Total nil

Dates of Promotions, Appointments and Confirmation of Rank, If any

A CERTIFIED TRUE COPY OF M.F.M.6 MUST ACCOMPANY THIS FORM

Paquette, Lt & adjt
(Officer i/c Records)
Les Fus M R C A (C) Unit

Dated at

this 21 day of May 1943

(To be dated and signed as for date of trial)

Paquette Lt & adjt
Les Fus M R C

LIST OF WITNESSES

In the case of D-61947 Pte Rolland Tousignant, Fus. M.R.
a soldier of the Canadian Army Overseas.

PROSECUTION

Lieut. Guy Levesque Les Fus. M. R.

E-68009 L/Cpl Marcel Marois Les FUs.M.R.
E-57787 Pte Lawrence Blanchet, Les Fus. M. R.

DEFENCE

NIL

LIST OF EXHIBITS

Exh. A. Pass.

STATEMENT BY ACCUSED

I desire the services of Lieut. Camille Gay, Les Fus.M.R.
as defending Officer

In the Field
This 20th day of May, 1943

R. Tousignant D-61947
D-61947 Pte Tousignant R.

55-65

Ste. Tanzignat, J.K.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D61947 Pte Joseph Roland TOUSIGNANT, X-2 List Fus M R att 1 Cdn. Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(2)	Not Guilty	Not Guilty	
2nd	AA Sec 40 alternative	Not Guilty	Guilty	
3rd	AA Sec 15(1)	Guilty	Guilty	
4th	AA Sec 15(1)	Guilty	Guilty	
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See PP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 98 days, of which 49 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be imprisoned with hard labour for eighteen (18) months and to be discharged with ignominy from His Majesty's Service.

(Sgd) N/A — Judge-Advocate, if any. 26 Mar 45 — Date awarded. (Sgd) "Donald MacKenzie" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(7), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) GSNG

(1. AA 57A. Delete if not used.)

Date 28 Mar 45 — (Sgd) " C S N Gostling " (C S N Gostling) Brigadier — Commanding 2 Cdn Base Rft Gp — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D61947 Pte TOUSIGANT JR	24 Apr 45	" J Medhurst " Lt-Col Comdg, 1 Cdn Disciplinary Centre

CR #27
1 - last
d/1 Apr 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5-G-65.

CFAMS (To take the place of CFAMS 40/F & B/Less (E144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G S N Gostling DSO Comd 2 CBRD dated 26 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61947	Pte	Joseph Roland	TOUSIGNANT	X-2 List Fus M R att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

" J Medhurst " Lt-Col
Comdg, 1 Cdn Disciplinary Centre

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 26 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29/111

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. DM

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A83, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general [illegible] see AA 53; RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~is not~~ amenable to military law, and each charge discloses an offence.(3) DM DM

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences. DM

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ DM DM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to N/A as interpreter ? Ans N/A.

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer ? Ans N/A.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. ~~The Convening Order and names of the President and Members of the Court are read to the accused.(1)~~ President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : DM

President	Major	D MacKenzie	Essex Scots X-9 List 1 Cdn Disc Centre
Member	Capt	F A Baillargeon	1 Cdn Disc Centre
Member	Capt	E B Van Dine	1 Cdn Disc Centre
Judge-Advocate	N/A	N/A	N/A
Prosecutor	Major	D F Wilson	1 Cdn Disc Centre
Defending Offr	Lt	C E Collins	att Cdn Sec 1 Ech HQ 21 A Gp

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D61947 Pte Joseph Roland TOUSIGNANT before arraignment make(s) (no) (~~a~~) plea (1) DM

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. DM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C DM

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG VOL 5 P 106

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2) DM

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ DM

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ■ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) DM

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) DM

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1) DM

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the ..... charge(s), and~~ allowed on the FIRST charge(s), and that, accordingly, the trial will proceed on the ~~former~~ but the accused is (~~are~~) found Not Guilty on the latter charge(s).(4) DM DM DM

FIRST (1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

SECOND CHARGE

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. Give evidence on oath. Do you intend to call witnesses on your behalf ?

Ans. No. Are they witnesses as to character only ? Ans. No.

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened. DM

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces ~~the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the SECOND charge(s), being subject to confirmation, will be promulgated later.(1) DM DM

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ DM

(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Give evidence myself and witness as

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex ..... respectively.(3) DM DM DM

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, I have a long defaulting sheet. (2) DM DM

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2) DM

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICERS REPORT

I certify that I have this day examined D61947 Pte Tousignant J.R. and in my opinion he is fit to undergo trial by Court Martial.

" A A Toms " Capt
Medical Officer
Unit 1 Cdn Disciplinary Centre

Station: Field
Date 26 Mar 45

FIELD GENERAL COURT-MARTIAL

CFA 66 (In lieu of AFA 8)
40/FA8/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 162, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61947	Pte		Joseph Roland	TOUSIGNANT	X-3 List Pus MP att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on *(date)* 26 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. CGSNG

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D MacKenzie	Essex Scots X-9 List 3 Cdn NRMA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F A Baillargeon	Gen List att 1 Cdn Disciplinary Centre
Capt	E B Van Dine	RCASC att 1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.) " C S N Gostling " (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(C S N Gostling)

Date 26 Mar 45 Commanding 2 Cdn Base Bft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, D61947 Pte Joseph Roland TOUSIGNANT, X-3 List Fus MR, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE - WHEN ON ACTIVE SERVICE, WILFULLY WOUNDING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE
Sec 18 (2) Army Act

in that he

In the Field, at 0800 hrs 23 Aug 44, discharged his Sten Machine Carbine wilfully wounding himself in the left foot just above the ankle, with intent hereby to render himself unfit for service.

SECOND CHARGE - WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
Sec 40 Army Act (Alternative)

in that he

In the Field, at 0800 hrs 23 Aug 44, so negligently handled a Sten Machine Carbine as to cause it to be discharged and thereby injured his left foot and rendered himself temporarily unfit for service.

THIRD CHARGE - WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Sec 15 (1) Army Act

in that he

In the Field, absented himself without leave from 1900 hrs 15 Nov 44 until apprehended at 0001 hrs 19 Dec 44.
(Absent 33 days 5 hrs 1 minute)

FOURTH CHARGE - WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
Sec 15 (1) Army Act

in that he

In the Field, absented himself without leave from 2359 hrs 29 Dec 44 until apprehended at GHENT, Belgium at 1600 hrs 16 Jan 45.
(Absent 17 days 16 hrs 1 minute)

" A C Hood "
(A C Hood) Lt col
Commanding
1 Cdn Disciplinary Centre

In the Field
9 Mar 45

To be tried by Field General Court Martial.

" G S N Gostling "
(G S N Gostling) Brig
Comd
2 Cdn Base Hft Gp

In the Field
26 Mar 45

D61947 Pte Tousignant, Roland Joseph D 77
Fus MF, 1 Cdn Disc C

D2
Opening Address by the prosecutor

Pte Belanger M is mentioned in statement of accused and he has requested his presence but Belanger was killed in action on 23 Oct 44.

S/Sgt Chester not available but Lieut Thomson was present and can produce the accused's statement. (The defence does not object and does no require S/Sgt Chester for cross examination.

D3
1st Witness for
the prosecution

Capt AA Toms, RCAMC, 1 Cdn Disc C, being duly sworn is examined by the prosecutor.

I recognize the accused whom I examined this morning. The accused has a wound in his left foot the bullet entered the medial aspect of the left foot about 2" below the medial melileus. The bullet penetrated the foot travelling in a forward and downward direction and emerged from the sole of the foot [redacted] head of 5th metatarsal bone. Wound is complete [redacted] in my opinion there is no disability at present from it. It is possible that this wound could have been caused by weapon held in accused's hands. (Witness demonstrates). The wound I have described I examined at the hospital three days ago.

No cross examination

RP 83 (b) complied with.

2nd Witness for
the prosecution

Lieut J.A. Thomson, SIB, Cdn Pro Corps, being duly sworn is examined by the prosecutor.

I recognize the accused as Pte Tousignant. He was interviewed by me accompanied by S/Sgt Chester, SIB at 2 Cdn Gen Hosp on afternoon of 15 Mar 45. I produce statement taken by S/Sgt Chester in my presence. The accused was cautioned and signed his name after the caution indicating he understood it. The statement was voluntary and no promises or threats or inducements were made to the accused at that time. He was informed at conclusion of his statement that he had the opportunity to add to or delete from his statement if he wished to do so. He did not wish to do so and signed his name at the bottom. I produce the statement marked exhibit "A" and a translation thereof into English by Capt M Rousseau, Officer taking the Summary of Evidence, marked Exhibit "B". (The defending officer has no objection to admission of statement exhibit "A" in evidence nor translation thereof into English exhibit "B")

No cross examination

RP 83 (b) complied with

D4
Submission by defending Officer

I submit that the prosecution has failed to establish a prima facie case on the 1st chge. The defence admits that the Court is entitled to draw an inference of neglect as embodied in the 2nd chge and is willing to proceed in order to produce an explanation which will discharge the onus forced upon it by the circumstances of the case.

D 117

Prosecution in Reply

In this case there is only the statement of the accused in evidence to support the charge. The question of intent in these cases is a difficult one. That can only be drawn from such facts as the necessity of accused of having the weapon in his hands at this time, how it discharged and back ground of accused in a nervous sense. I leave that to the Court to decide from his statement.

D6
1st Witness for
the Defence

The Accused D61947 Pte Tousignant Joseph Roland, Fus MR, 1 Cdn Disc C being duly sworn is examined by the defending officer.

I have heard the statement that I gave to S/Sgt Chester read in Court and I wish to add to that statement that when I took my sten up the magazine was off and the cocking handle not back. I was sitting on the floor at the time, but I couldnt describe just how it all happened, I was talking to Pte Belanger at the time. There were also some British signal men sitting around us talking. They were not cleaning their weapons. There was no magzine on the gun when I picked it up, but there were guards in the room that night. The gun was in the same corner when I picked it up as when I left it before as far as I know, I don't know if I had it in two hands or not. I really don't remember. I was arrested on 16 Jan 45 and went back to my unit on 23 Jan and I was with them until 25 Feb 45. I was with "A" Echelon during all their advances during that time. My foot did not bother me there.

Cross Examination

I have been in Army since 6 Apr 40. I didn't always carry a sten. I had only a few lessons on sten. No instructors on how to clean a sten. I know we are supposed to clear every weapon before cleaning it. I must have pulled trigger. I was told many times how to hold a weapon when clearing it, but when I took this weapon I don't know how it happened because when I left it I took the magazine off and the cocking handle was not back. They could have used my sten gun on guard duty that night. I must have pulled the trigger and a bullet must have been in there but I am not sure of that. I know I was sitting on floor with my left foot crossed over my right and I reached to my rear right to pick up my sten. I stayed all morning watching the drunk man and started looking for my unit. We were around in that area for four days. I did not get back to my unit before this accident happened. I was with my unit in "A" Ech all the time from 23 Jan to 25 Feb.

By the Court

I am not in hospital now as result of enemy action. I am a sick man. In the morning when I started to clean my sten, in my mind, I thought it was the way I had left it the night before. I thought the cocking handle was forward. I know that sten will not fire when cocking handle is forward. I don't know exactly how it happened, but for it to fire I must have pulled the trigger. I am not sure I was a signaller with the unit at the time. I am a signaller. The sten was issued to me.

RP 83 (b) complied with.

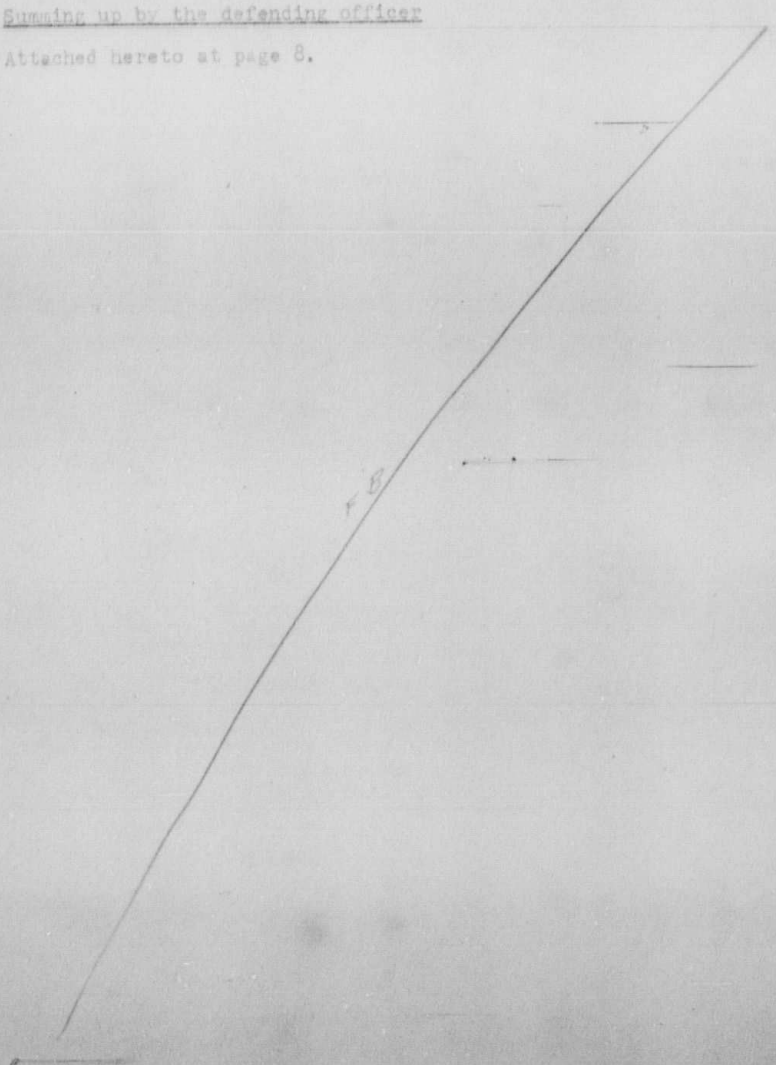
Summing up by prosecutor

True the onus is on the prosecution to establish negligent handling of a sten M.C. I believe evidence produced that the first act of negligence is that in the method of handling. He admits he took weapons in his hands and without checking it did pull the trigger. He must have done this or weapon would not have discharged then. I say 2nd act of negligence is that of holding the weapon.

Knowing safety precautions in both these cases and the weapon discharged when muzzle pointed at his foot. It is an act of negligence to hold the weapon in this manner and pull the trigger. If these acts were done in the front line they may have been excusable or may not have been, but certainly in an area of this kind there can be no satisfactory answer to this.

Summing up by the defending officer

Attached hereto at page 8.



D.C. Sums Up

The feets of a case of this kind are always peculiarly within the knowledge of the accused. The Court is entitled to draw an inference of neglect. I would refer the court to para 66 at 124 MML where it is mentioned that if the accused gave an explanation which the court thinks might reasonably be true and which is consistent with innocence, the accused is entitled to be acquitted because the prosecution has failed to prove the accused's guilt beyond a reasonable doubt.

I submit that this case is one of this kind.

The accused claims that when he took the magazine off his cocking handle was still forward. Guards who were changing during the night could quite easily have used the gun. This explanation is quite consistent with innocence. If the accused can be considered neglectful and careless in reaching for the weapon the way he did, and without taking pais to give the gun a preliminary proving, I nevertheless submit that it is not the culpable neglect outlined in the latest amendment to Sec 40.

The defence submits that this was an accident. The accused has been back in the line - the foot does not bother him - his capabilities as a serving soldier have not been affected.- The defence asks that he be acquitted because he has already paid the penalty for his unfortunate accident which he admits could have been avoided if he even dreamt that the gun was loaded.

" G E Collins " Lt.

DM

E1

The accused D61947 Pte Tousignant, J.R. having already been sworn states:

I am 25 yrs old. I joined the army 6 Apr 40. I have been under close arrest awaiting trial since 16 Jan 45 and have been in the hospital (Military) since 10 Mar 45.

RP 83 (b) complied with.

DM

E3

MITIGATION PLEA BY DEFENDING OFFICER

Accused is 25 yrs old, having served in the army since 6 Apr 40.

He has had troubles - mental difficulties.

He was married, without official sanction to a girl in Scotland 2 yrs ago.

He had had no news of his wife for 4 months - He worries about being sent home without his wife. He blames these marital troubles and the accident involving an accusation of self inflicted wounding - for his having gone away without permission.

He has proved his willingness to serve with his unit - he feels much better about things now - he has alreadby been back with his unit for a month and wishes to return again.

Exhibit 'D'
"M. Rousseau" Capt Ex A
DM

C O R P S P R E V O T E C A N A D I E N N E

Section Investigation Special -- Centre Canadienne Disciplinaire No.1

PLACE:- Field EXPOSE (Declaration) DATE:- 15 Mars 45

SUJET A:- S.I.W.

Numero Reg. D.61947 Grade: Pte Nom: Tousignant, Joseph Roland
Regiment: Les Fusiliers Mont-Royal, HQ compagnie, 2 Div d'Inf Canad

IL DECLARE: "J'ai ete mis en garde que je ne suis pas oblige de rien dire mais que tout ce que je dirai sera pris en ecrit et pourra servir de preuve. Je comprends le sens de cette mise en garde et pour prouver je signe mon nom ci apres

Signature."J.R. Tousignant"

Je suis numero Regimentaire D.61947, Pte Joseph Roland Tousignant des Fusiliers Mont-Royal. Je suis age de 25 ans. Le 6 Avril 1940 Me me suis enrole dans l'armie active avec les Fusiliers Mont-Royal. Le 1er juillet 1940 je suis parti pour Lalande avec mon Regiment ou nous sommes passe 3 mois. Je suis arrive en Angleterre le 5 octobre 1940 et nous avons ete stationé au camp de Aldershot. Le 1er juillet 1944 j'ai ete envoye au Camp Numero 1 CGHU unitses de renfort Canadiens pour prendre un cours de commis qui etait de 3 mois. Vers la mi juillet j'ai appris que mon Regiment etait arrive en France depuis le 9 de juillet et je me suis parade devant le Major pour lui dire que je ne voulais plus continuer le course, mais que je voulais rejoindre mon Regiment en France. Apres mon entrevue avec le "ajor j'ai ete transfere au Camp Numero 6 CIHU et le 30 juillet j'arrivais en France comme renfort pour mon Regiment.

A mon arrive en France j'ai passe deux jours au numero (2) CBHG. Bataill de renfort et apres je suis alle rejoindre mon Regiment qui se trouvait a St Andre. J'ai eu a peu pres vingt jours d'action avec mon Regiment et pendant tout ce temp la nous avons fait environ cinq attaques. Apres l'attaque de Falaise le 19 aout, j'ai recu ordre de mon RSM de rester a l'arriere et de prendre soins d'un de nos soldats qui etait ivre. Le meme journee, dans l'apres midi, nous avons essayes de retrouver le Regiment et n'avons pas reusse alors nous avons rejoins une compagnie de signaleurs de l'Armie Anglais et sommes reste avec eux jusqu'au 23 Aout la journee que je me suis blesse. Le soir du 22 aout, avant de me coucher, j'ai enleve le magasin de ma fusil "sten" mais je n'ai pas regarde se il restait une balle dans le canon. Vers les 8 hrs a.m. j'ai pris ma mitraelleuse "sten" avec l'intention de la nettoyer vu que j'avais l'occasion de le fair. En prenant ma fusil"Sten" j'ai tire sur la detente et il a tire, me blessant au pied gauche, la balle penetrant au dessus de la cheville et traversant de droite a gaughe. Je n'ai aucune idee de quelle maniere la chose est arrivee parce que j'etais certain que ma mitrailleuse etait vide. A ce moment la le soldat Maurice Belanger de mon Regiment etait près de moi et il m'a fait le premier peusement, et apres l'on m'a conduit au premier poste de secourse. Je suis passe dans plusiers hopitaux et j'ai ete opere pour la premiere fois a l'hopital Anglaise Numero (29).

Je suis anxieux de retourner a mon Regiment le plus tot possible. Ma blessure est purement accidentelle.

Cette declaration est voluntaire et c'est la verite. On me l'a eu lu et l'avoir lu moi-meme.

Signature "J.R. Tousignant"

Statement takendown in writing and witnessed
and caution administered by B.76047 S/Sgt H.W. Chester, SIS
Cdn Pro C. 1 Cdn Dis Centre.

Witnessed by "J.A. Thomson" Lt.

Certified true translation of Exhibit "D"
ENGLISH TRANSLATION "M Rousseau " SIS/W-477-CDC
Capt
Ex B
DM

CANADIAN PROVOST CORPS
Special Investigation Section 1 Canadian Disciplinary Centre
STATEMENT

PLACE: Field DATE: 15 Mar 45

Reg No D61947 Rank: Pte Name: TOUSIGNANT, Joseph Roland
Unit: Fusiliers Mont Royal, HQ Coy, 2 Cdn Inf Div

STATES: "I have been cautioned that I am not oblied to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I fully understand the meaning of this warning and to show that I do so, I sign my name herewith."

Signature (Sgd) J.R. Tousignant

I am Reg No D61947 Pte Joseph Roland Tousignant, Fusiliers, Mont-Royal. I am 25 years old. On 6 Apr 40 I enlisted for Active Service with the FMR. I arrived in Englnad 3 Oct 40 and we were stationed at Aldersnot Camp. On 1 Jul 44 I was sent to 1 CDRU on a 3 months clerk's course. By the middle of July I learned that my Regiment had been in France since 9 July and I was paraded before the Major and told him that I did not wish to continue the course, but wished to rejoin my unit in France. After my interview with the Major I was transferred to CIRU and on 30 July I arrived in France as a reiforcement for my Regiment. On arrival in France I stayed two days at 2 CBRD and then went to rejoin my Regiment which was at that time at St Andre. I have had about 20 days of action with my Regiment and during that time we made about five attacks. After the attack at Falaise on 19 Aug I was instructed by the RSM to stay behind and take care of one of our soldiers who was drunk. In the afternoon of the same day we tried to locate our Regiment , but without success, so we joined up with a signalling Coy of a British Unit, and stayed with them until 23 August, the date of my accident. On the night of the 22 August, before going to bed, I took the magazine off my sten, but i did not look to see if there was a round in the breech. At about 0600 hrs I picked up my Sten I pulled the trigger and it went off, wounding me in the left foot, the bullet penetrating just above the ankle from right to, left. I have no idea how the accident happened as I was sure that my Sten was not loaded. At that moment Pte Maurice Delanger of my Regiment was near me and applied the first dressing. I was then taken to the First Aid Post. I went to several hospitals but was operated on for the first time at No 29 British Hospital. I am anxious to return to my Regiment as soon as possible. My wound was purely accidental.

This statement is voluntary and it is the truth. It has been read over to me and I have read it over myself.

Statement was taken down in writing and witnessed, and caution administered by: (Sgd) J.R. Tousignant
B76047 S/Sgt (sgd) H.W. Chester, S.I.S.
Cdn Pro C, 1 Cdn Disc Centre

CERTIFIED TRUE TRANSLATION OF STATEMENT VOLUNTEERED 15 Mar 45 at 2 Cdn Gen Hosp by D61947 Pte TOUSIGNANT, Joseph Roland.

" H W Chester " S/Sgt
B76047 (H.W. Chester)

Witnessed by
" J A thomson " Lt

E-10
D47

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D61947 Pte Joseph Roland TOUSIGNANT, X-3 List Fus M R, presently attached 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, charged with, first charge, wilfully wounding himself with intent thereby to render himself unfit for service (AA Sec 18(2)), second charge (alternative), neglect to the prejudice of good order and militry discipline, third and fourth charges, absence without leave (AA Sec 15(1)).

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit 'A' - Certified true copy of Extract from Pt II Order No 19 dated Feb 45.

Exhibit 'B' - Certified true copy of extract from Pt II Order No 1 dated 4 Jan 45

Exhibit 'C' - Certificate of apprehension dated 16 Jan 45.

FIRST WITNESS Capt A A Toms, Med Officer 1 Cdn Disciplinary Centre, duly sworn, states:

The accused had a GSW, sten, left foot. Bullet entered foot two inches below the medial malleolus passing in an oblique direction forward through the foot to emerge in the plantar surface one inch below the fifth metatarso-phalangeal joint. There is no muscular weakness of muscular wasting. There is no limitation of movement of foot. Disability at present is of a minor nature. Wound could have been caused by a weapon held in the man's own hands.

The accused declines to cross-examine the witness.

" A A Toms " Capt

Witness

SECOND WITNESS B76047 S/Sgt Chester, H.W., SIS, C Pro C 1 Cdn Disciplinary Centre, duly sworn, states:

On 15 Mar 45 I interviewed the accused, whom I recognize at 2 Cdn Gen Hospital. I identified myself and cautioned him as follows: You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence The accused understood the caution and volunteered a statement in French and signed his name to the caution and statement which is attached to these proceedings as Exhibit 'D'.

The accused declines to cross examine this witness.

" H W Chester "

Witness

The accused is cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to say anything.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Dated in the Field
20 Mar 45

" Maurice Rousseau " Capt
(Maurice Rousseau) Capt
Officer detailed to take the Summary of Evidence.

DM

LIST OF WITNESSES.

PROSECUTION

Capt A A Toms, Medical Officer 1 Cdn Disc Centre

B65047 S/Sgt Chester H.W. SIS 1 Cdn Disc Centre

DEFENCE

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 19 dated Feb 45	"A"
Certified true copy of Extract from Pt II Order No 1 dated 4 Jan 45.	"B"
Certificate of apprehension dated 16 Jan 45	"C"
Statement of accused taken by B76047 S/Sgt Chester H.W. SIS, 1 Cdn Disciplinary Centre dated 15 Mar 45.	"D"

I, D61947 Pte Joseph Roland TOUSIGNANT, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge, on 20 Mar 45.

" J R Tousignant "

(D6194 Pte Joseph Roland TOUSIGNANT

Exhibit "A" "Maurice Housseau " Capt DM

TO: A.8

16 Feb 45

X-3 List FUS M.R.

ABSENT WITHOUT LEAVE

AWL from 1900 hours 15 Nov 44 App from AWL 0001 hours 19 Dec 44 (X-3 List)
D61947 Pte TOUSIGNANT R.

AWL from 2359 hrs 29 Dec 44 (X-3 List)
D61947 Pte TOUSIGNANT R.

16 Feb 45

" B F Saunders " Capt "X"

FOR INFORMATION

PMNJG-J

Exhibit "B" "Maurice Rousseau " Capt DM

TO: A.B.

16 Feb 45

X-3 List FUS M.R.

1

A Jan.45

6. ABSENT WITHOUT LEAVE (X-3 List)

(c) AWL from 1900 hrs 15 Nov 44
D61947 Pte TOUSIGNANT R.

(d) AWL from 1900 hrs 15 Nov 44 Still absent 1900 hours 23 Nov 44 (8th day)
D61947 Pte TOUSIGNANT R. (X-3 List)

(e) AWL from 1900 hours 15 Nov 44 Still absent 1900 hours 6 Dec 44(22nd day)
D61947 Pte TOUSIGNANT R. (X-3 List)

16 Feb 45

" B F Saunders " Capt

"X"

FOR INFORMATION

FWHJG-J

DM

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (i)

Certified that D61947 Pte TOUSIGNANT J.R. of the Sig Sec, FMR 2 Cdn Div Regt., was apprehended by L/Cpl WHITE R.A. of the ~~2 Cdn I of C~~ Provost Coy Detachment at GHENT at 1600 hrs., on the 16th day of Jan 45, as an absentee without leave.

He was wearing Military uniform at the time of his arrest.

" C Wood "

(C Wood) Capt
DAPM - HQ 2 CBNG

PLACE: Ghent Belgium

Date: 16 Jan 45

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D61947	Pte	TOUSIGNANT J.R.	PUS M.R. (1 Cdn Disciplinary Centre)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15(1) 9 times.

For A.A. Sec 18(4) 1 times.

For A.A. Sec 40 1 times.

For ____ times.

Date of first entry in Field Conduct Sheet ____

Date of last entry in Field Conduct Sheet 9 Jul 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ____

beginning on the ____ day of ____

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 68 days in military custody, *i.e.*, nil days in open arrest, 68 days in close arrest; of which 16 days were spent in hospital.

P65

5. The present age of the accused is 25 years 9 months old

6. The date of his attestation ~~calling up for military service~~ is 6 Apr 40

7. The service which the accused is allowed to reckon is ____

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM with Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of ____

In the war substantive rank of ____

In the acting rank of ____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(38694) Wt.42129/4299 45,000 11/44 A.& E.W.Ltd. Gp.693 Forms/P.2 & W(War)/4

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	In the Field	A.W.L. A.A. Sec 15(1)	60 days detention	
F.G.C.M.	In the Field 21 Oct 1943	Stealing goods the property of a person subject to military law A.A. Sec 15(4)	1 yr imprisonment with H.L.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this _____ day of _____

" R P Stagg " Capt
Admin Offr
1 Cdn Disciplinary Centre

MFM 6 (AFB 122) 40/PAS/136 (3488)

DM

No D61947 Name COUSIGNANT R | Sqn, Battery, or Company A | Corps FUS M R CA(O) | Date of enlistment 6 Apr 40 | GC Badges | Service or Proficiency Pay No

Date of last entry in Company Conduct Sheet 10 Jan | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
6 Oct 40 SHEET DESTROYED ON HAVING COMPLETED SIX MONTHS SERVICE ACC TO RO 319 DATE OF LAST ENTRY - 10 Jun 40				LAST ENTRY DRUNKENNESS - NIL					
England	26 Nov 40	Pte	Nil	AA Sec 15(1) WOAS AWL from 2359 hrs 1 Dec 40 until 0730 hrs 26 Nov 44	Cpl Varmette	7 days C.B.	11 Dec 40		Forf 5 days pay
England	22 Aug 41	Pte	Nil	AA Sec 15(1) WOAS AWL from 2300 hrs 18 Aug 41 until 640 hrs 20 Aug 41 (Absence: 3 days 17 hrs 40 mins)		14 days FP	22 Aug 41		Forf 4 days pay
New Haven	11 Mar 42	Pte	Nil	AA Sec 15(1) WOAS AWL from 2300 hrs 11 Apr 42 until 0030 hrs 12 Apr 42.	Sgt Ferrault E	5 days pay 7 days CB	12 Apr 42		
Field	11 Oct	Pte	Nil	AA Sec 15(3) WOAS AWL from camp limit in that he was found behind the camp limit.	Documentary	60 days detn	21 May 43		Forf 60 days pay & 12 days pay. (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
							6		Forf 5 days pay
Field	1 Feb 43	L/C	Nil	AA Sec 15(1) WOAS AWL from 0800 hrs 1 Feb 43 until 1200 hrs 5 Feb 43 (Total 4 days 4 hrs)	Cpl Lavoie	Reverted to Pte Feb 43			
Field	28 Mar 43	Pte	Nil	AA Sec 15(1) WOAS AWL from 2300 hrs 28 Mar 43 until 1500 hrs 29 Mar 43 (Absence 16 hrs)	Cpl Boudrias	3 days pay 3 days CB	30 Mar 43		Stoppage of pay £9-10-5 Forf 1 days pay
Field	8 May 43	Pte	Nil	AA 15(1) AWL from 2359 hrs 8 May 44 to 1230 hrs 20 May 43 Abs 11 days 12 hrs 31 mins.	Documentary	60 days detn	21 May 43	FGCM	Forf 60 days pay Under Forf 12 days pay

MFM 6
(AFB 122)
10/PAM/136 (34387)

No D61947 Name TOUSIGNANT R | Sqn, Battery, or Company A | Corps FUS M R (O/S) | Date of enlistment | GC Badges | Service or Proficiency Pay | Character CM

Date of last entry in Company Conduct Sheet | No and date of last drunk NA | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Jul 43	Pte	--	AA Sec 40 WOAS conduct to the prejudice etc., in that he on the 20 Jul 43 his sten gun was found dirty and rusty	CQMS Campeau	7 days C B	20 Jul 43	Capt F M Rousseau	
Field	15 Aug 43	Pte	--	AA Sec 15(1) AWL from 2359 hrs 15 Aug 43 to 2359 hrs 19 Aug 43 Abs 4 days	Cpl Lessard	14 days pay 14 days C.B.	20 Aug 43	J. Sauve Major	Forf 4 days pay
Field	21 Oct 43	Pte	--	AA Sec 16(4) Stealing good the property of a person subject to military law. Forf 373 days pay	Capt J J Langlois	1 year imp with R L	29 Oct 43	J.A.Dextraze Capt	FGCM

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Puqishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Certified to be a true extract from the regimental books and documents in my custody 12 Oct 1944 " " Lt Officer IC Records "XJ" Cdn Sec GHQ 2 Echn 21 A Gp								
				CERTIFIED TO BE A TRUE EXTRACT OF MEM 6 in my possession					
Field	9 Jul 44	Pte		Sec 15(1) AA AWL from 0800 hrs 9 Jul 44 to 2000 hrs 12 Jul 44 Absent 3 days 12 hours	Sgt Quelch Documentary	7 days detention 14 Jul 44		Lt Col J N Midhurst	7 days pay FRI 149 (1)(b) 4 days pay FRI 149 (1)(a)

175.

C. S. M. Toussaint, A. C.

O. H. M. S.

[redacted]

M. F. B. 270

175

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Seventh day of November, 1942

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ BaQ

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint~~ : — BaQ

*~~(1. Three Officers to form the Court.)~~ BaQ

*~~(2. A Field Officer as President.)~~ BaQ

for the following reasons, namely :—]

* Omit if not applicable.

Proceedings Reviewed
A. Mason Capt.
Reviewing Officer (J.A.G.) CMHQ
26 NOV 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	T.S. Ketcheson	Hast & P.E.R.

Members.

Rank.	Name.	Regiment.
Captain	H.E.C. Price	R.C.R.
Captain	F.G. McLaren	48th Highrs
Captain	W.K. Stockloser	Hast & P.E.R.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed BaQ Sutcliffe Major
(B.A. Sutcliffe)
A/ Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
U1523 CSM TOUSSAINT, Harry Alexander 48th Highrs	FIRST CHARGE A.A. Sec 40.	Guilty	Guilty Severe Reprimand T.S. Ketcheson Maj Asst & P.E.R. 9 Nov. 42	I confirm the finding and sentence F.F. Simonds Brig 10 Nov. 42

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) B.A. Sutcliffe Major — *Commanding* 1 Cdn Inf Bde
(Signed) T.S. Ketcheson Major — *Convening Officer* (*e*) Hast & P.E.R. — *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of November, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 9th day of November 1942

President of the Court Martial.
(T.S. Ketcheson)
Hast & P.E.R.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ~~day of~~ 19

President of the Court Martial.

D. Confirmative

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ Nil

Signed this 10th day of November 1942

F.F. Simonds Brig
Confirming Officer.

Promulgated and extracts taken in the case of U1523 C.S.M. Toussaint H.A.

(*a*) (Dated) 11 Nov. 42 (Signed) Hounsell Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47797/1937 30 M. 5/41 K.J.L.(3052) Gp. 698/3

48th Highlanders of Canada. B. 2.

CHARGE SHEET.

The Accused U.1523 C.S.M. Harry Alexander TOUSSAINT "A" Coy., 48th Highlanders of Canada, C.A.(A.F.) a soldier of the Canadian Army (O/S) is charged with:

1ST CHARGE
A.A. SEC 40.

When on Active Service, Conduct to the prejudice of good order and military discipline,

in that he

at "DALLINGS" near UCKFIELD, Sx., on 16 Oct. 42 was improperly in possession of 5 lbs. of butter, 2 tins of pineapple, 2 tins of Lyles Golden Syrup, 3 tins of herring, being rations on issue to 48th Highlanders of Canada.

(J.E. GANONG) Lt-col.,
Commanding Officer,
48th Highlanders of Canada.

To be tried by Field General Court Martial.

Major.

In the Field (B.A. Sutcliffe)
7 Nov 42 A/Comd., 1 Cdn Inf Bde.

(ER (Conn) 807)

I certify that I have this morning examined No U.1625

C.S.M. TOUSSAINT, H.A. of 48th Highlanders of Canada, in my opinion,

he is fit to undergo trial by Court-Martial.

xxxxx

Station In the Field

Date 9 Nov 42

Medical Officer

Medical Officer

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for ~~General and District~~ Courts-Martial

Proceedings of a ~~Field General~~ Court-Martial held at St Michaels Alleppo
on the 9th day of November 1942 by order of Maj. G.A. Litchfield
A/Commanding 10th Cdn. Inf. Bde.
dated the 9th day of November 19

President.
Majr T.J. Allen Nash. & A.E. Regt

Members.
Capt. D.B. McLellan 48 Highrs.
Capt. W.R. Sharkey Nash. & A.E. Regt

, Judge ~~Advocate~~.

Trial of* 4 1523 C.S.M. Beaubaint, Harry Alexandre - 48 Highrs.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

The Court satisfy themselves that Capt. H.E.C. Price is not available to serve owing to not being present.
Capt. W.R. Sharkey Nash. & A.E. , waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt. D.B. Benton 48 Highrs.

Counsel‡ or defending officer† Majr D.S. Johnston 48 Highrs.

At 10.15 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—8-41 (1319)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Capt. J. C. Allison, Hdqrs. 1 P.R. Regt.
Lieut. A. M. Mawat. Hdqrs. 1 P.R. Regt.

Charge-Sheet

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC 2 / 201.

Q. 1 — was the statement that you made before M. P. voluntary

ans 1 — yes Sir.

Q. 2 — In statement you confessed taking army rations. What where you going to do with them

ans 2 — Take them to some friends.

Q. 3 — Did you have any intention in obtaining any benefit. — sell them.

ans 3 — None whatever Sir.

Q. 4 — Did it occur by taking rations that you were depriving the men

ans 4 — I understood they where surplus

Q 5 — what way did you think they where surplus

ans 5 — They where laid up over a period of time and never used.

Exhibit 7 Service 7 Gren. Guards handed in by defending Officer.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused U.15283 C.S.M. Harry Alexander Beaudoin
is found guilty of the first charge.

*The summary (or abstract) of evidence is read, marked
signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?
Yes, Sir

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked CC2, signed by
the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

[redacted]

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

yes. Sir

Answer.

Lieut. Cl. J. E. Lenong. U.S. [redacted] Rg.
Lieut. Cl. R. Mitchell. C. T. S.

Evidence as to character.

D.O.2

DD 2

DD 2
Lt. Col. J. E. Gahony.
Character Witness

Q. 1 — Do you recognize accus
yes
Does he serve in your Bn
Q. 2 — yes.
The C.S. M. is a most efficient Warrant
Officer. good. Character

Lt. Col. D. Fletcher
Character Witness

Q. 1 Now recognize accused.
yes.

C.S.M. Tommint was acte
#1 Inf. Bde. in early and Summer 1940. Good
soldier and promoted to Cpl. Then to Sgt
& Sgt. and then become C.S.M. 48th Coy
# 1 C.D.I.R.W. I personally saw him
1940 until 16th Jun 44. During the
N.Co. and warrant Officer. During the
he was present as a prisoner
wars., and was never known
operated. Personally I would
absolute confidence in C.S.M. Tom
and would be glad to have him as

DD 2

DD 2

Lt. Col. J. E Ganong.

Character Witness

Q. 1 — Do you recognized accused
Yes

Q 2 — Does he serve in your Bn
Yes.

The C.S.M is a most efficient Warrant Officer.. good. Character

Lt. Col. D. Fletcher

Character Witness

Q. 1 Does recognized accused.
Yes.

C.S.M. Toussaint was with

#1 Sig. holding unit Summer 1940. Good soldier and promoted to Cpl. Then to rank of Sgt. and then become C.S.M. 48th Coy # 1 C.D.I.R.W. Personnally since summer 1940 until 16th June 44. During the whole time he served with us, reliable and capable N-Co. and Warrant Officer. During that the time he was presented as a president of Mess., and was never more capably served. Personnelly I would have absolute confidence in C.S.M Toussaint and would be glad to have him as W.O. any place.

E

Finding

**To be struck out except in cases where trial has taken place on a plea of "Not Guilty."*

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

**When the Court is already open this sentence will be struck out.*

*~~The Court being re-opened, the accused is again brought before~~ it.

Evidence of character, &c.

Capt. D.A. Canton - 4 Highs. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, Sir

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked C., signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes, Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes, Sir

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.* No, Sir

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence ~~the~~ accused A. 15 2 3 C.S.M. Harry Alexander Sentence.
Accused

Three Reprimand

Adjutant major
President

Summary of evidence by order of the Commanding Officer, Lt. Col. J. E. Ganong, 48th Highlanders of Canada, in the case of No. U1523, C.S.M. Toussaint, H.A. of "A" Coy. 48th Highlanders of Canada, charged in the field on the 16 Oct. 42 with conduct to the prejudice of good order and military discipline in that he was in improper possession of Army rations. (A.A. 40)

1st Witness:-

B72676 C.Q.M.S. Marr, A.T. having been duly sworn states:-

"I am and have been at all times material hereto, Company Quartermaster-Serjeant of "A" Coy. 48th Highlanders of Canada. On the 12 Oct. 42, the Company returned from the scheme BREASTSTROKE II. That evening, Pte. Rank reported for duty as second cook and the following morning reported to me that there was no butter. I told him that I would try and find out where it had gone and approached Pte. Irvine, the other cook, who verified that there had been no butter used for cooking or baking since returning from the scheme. On the morning of the 14 Oct. 42 Pte. Matson, the first cook, took me to the larder and there told me that Pte. Rank must have used the butter in some way. I was not satisfied and carried on my own investigation. Pte. Matson was preparing to go on leave and I watched for him going out but he got away without me seeing him. I had one other suspect left but had not decided just what action I was going to take.

1st Witness (con't.)

I was sitting in my room on Friday morning, the 16 Oct., thinking things over and suddenly wondered if C.S.M. Toussaint had a suitcase. I looked underneath his bed and saw the case sitting back against the wall and reached in and lifted it out. It was a dead weight. On second thought, I decided not to open it without a witness and went out and contacted Cpl. Hunt, who was the only N.C.O. present at that time and we returned and opened the case. There was the butter and also some other goods that had not been missed.

My suspicions of C.S.M. Toussaint had been founded on the fact that he and Pte. Matson had recently been working very close together and also by a remark that Sjt. Crease had made to the effect that there was something queer going on between the C.S.M. and Matson.

I returned the case under the bed and then went down to the Battalion Quartermaster's Office and reported my findings to Capt. Catto and also Sjt. Goodall. I then returned to my Company and waited for Capt. Corbett, the Coy. Comd. to return from the Battalion parade. I explained everything to him and he said he would see the C.S.M. About half-an-hour later, Capt. Corbett came and asked me to take him to where the

1st Witness (con't.)

evidence was. There he informed me that he had received orders from the Commanding Officer to confiscate the evidence if it was still there and that he did."

QUESTION:- How many keys were there to the larder where the rations were kept?

ANSWER:- Two keys.

QUESTION:- Who had possession of these keys?

ANSWER:- Pte. Matson and myself had one key each.

QUESTION:- Did you share the same bedroom with C.S.M. Toussaint?

ANSWER:- Yes sir.

QUESTION:- Did you have any reason from personal observation to suspect that rations were put in the suitcase by C.S.M. Toussaint?

ANSWER:- No sir. I had not seen the suitcase previous to finding it under C.S.M. Toussaint's bed.

(SIGNED) A.J. Marr C.G.M.S.

2nd Witness:

B60804 Cpl. Hunt, G.M. having been duly sworn, states:

"I am and have been at all times material hereto, the Corporal Mechanic of "A" Coy. 48th Highlanders of Canada.

On Friday, 16 Oct. 42. at approximately 0945 hrs., C.G.M.S. Marr came to me in the garage and asked me to accompany him to the C.S.M's. room. This I did. He took a case from underneath the bed and

2nd Witness (cont'd)
asked me if I thought it felt rather heavy for a leave bag and I agreed it did. He then opened the bag and I saw that it contained several pounds of butter, some tinned fish, some pineapple and some syrup. There was also some clothing packed in around these articles. After that I drove the C.Q.M.S. to Capt. Catto's office."

(SIGNED) G Marr Cpl

The accused declines to cross examine.

3rd. Witness
B73126 Pte. Matson, G.S. having been duly sworn, states:-
"I am and have been at all times material hereto, the cook for "A" Coy. 48th Highlanders of Canada.
On Tuesday, 13 Oct. 42. it was my day off and before leaving the kitchen in the afternoon I had checked the larder and noticed that I was well up on rations, and then gave my key to Pte. Irvine, the second cook.
The next day on going to the larder again, I was quite surprised to see the quantity of rations that had either been used or were missing. I asked Pte. Irvine where they had gone and he said he couldn't understand it. I then asked C.Q.M.S. Marr to come to the larder and told him about the rations disappearing so suddenly."

(SIGNED) Pte G Matson Pte.

The accused declines to cross examine.

4th Witness.

B73863 Pte. Irvine, R.H. having been duly sworn, states:-

"I am and have been at all times material hereto, the No. 2 cook for "A" Coy. 48th Highlanders of Canada.

On Tuesday, 13 Oct. 42. Pte. Matson, the No. 1. cook for the Coy. was taking his day off and I was left in charge of the kitchen and had the key to the larder. On Wednesday morning, on going in to the pantry, I noticed that a quantity of butter had disappeared since the day before and called Pte. Blencowe, the helper, and asked him if he noticed the difference in the amount of butter. He said he did and then I called Pte. Rank and told him and he reported it to the C.Q.M.S.

I heard no more about it until Capt. Corbett asked me a few days later if I had any idea where it had gone and I said I didn't know, it was just missing."

(SIGNED) R.H. Irvine Pte

The accused declines to cross examine.

5th Witness

Capt. Corbett, E D.A.B. having been duly sworn, states:-

"I am and have been at all times material hereto, the Company Commander of "A" Coy. 48th Highlanders of Canada.

On the morning of Friday 16 Oct. 42 the Coy. paraded to BUXTED PARK. On our return at about 1130 hrs., C.Q.M.S. Marr drew me aside and informed me that he had found some rations, which he knew

5th Witness (Con't.)

to be issue, in a small suitcase underneath C.S.M. Toussaint's bed. Being shocked by such news, I told the C.Q.M.S. to leave things as they were for half-an-hour while I considered the matter. The C.Q.M.S. agreed to this and left. Almost immediately the Commanding Officer called me on the telephone and asked me if I had heard of the incident. I said that I had and he then told me to go and find the suitcase, examine it, and if I found it to contain rations, to take possession of it. I sent for the C.Q.M.S. and with him went to C.S.M. Toussaint's room, examined the case and found it to contain rations along with some clothing, among which was a shirt marked with the initials H.A.T. I examined the rations and found the butter, at least, to be issue. I then took the case to the Officers' Mess, sent for C.S.M. Toussaint and in the presence of Capt. Wilson, T.T., showed him the case and contents. He said the case was one he had borrowed from Sjt. Gunn the previous night and admitted that the clothing was his but stated that the last time he had seen these articles of clothing, they were on top of his kit-bag in a corner of his room. He said he knew nothing of the rations and claimed that someone must have placed them in the case in his absence.

I then told C.S.M. Toussaint that he was under open arrest and reported

5th Witness (con't)

the fact to the Commanding Officer."

(SIGNED) D.J.B. Corbett Capt.

The accused declines to cross examine

6th Witness

Capt. Wilson. J.T. having been duly sworn, states:-

"I am and have been at all times material hereto, a Supernumery Officer attached to "A" Coy 48th Highlanders of Canada.

On Friday 16 Oct. 42 at approximately noon, after returning from the Battalion parade at BUXTED PARK, Capt. Corbett came into the Officers' Mess carrying a brown leather suitcase and informed me that C.S.M. Toussaint would be coming in in a moment and that I was to remain. When the C.S.M. arrived, Capt. Corbett asked him if the suitcase was his and he replied that he had borrowed it from Sjt. Gunn. Capt. Corbett then opened the suitcase and showed it to contain several pounds of butter, some tinned sardines, some syrup and other things and also a shirt and some underclothing marked with C.S.M. Toussaint's name.

When asked for an explanation, the C.S.M. acknowledged ownership of the clothing, but denied all knowledge of the rations."

(SIGNED) J.T. Wilson Capt.

The accused declines to cross examine.

The Accused, after being cautioned in accordance with R.P. 4 (E) states:-

"I am and have been at all times material hereto, Company Serjeant-Major of "A" Coy. 48th Highlanders of Canada.

At approximately 1830 hrs. on Thursday 15 Oct. 42 I asked Sjt. Gunn if I could borrow his small suitcase. He said I could so I went upstairs to his room and got the case and then placed it under my bed in my room. Immediately after that I had a bath after which I went to the Coy. Orderly Room and remained there until 2135 hrs. and then returned to my room and went to bed.

Next morning the Coy. paraded to BUXTED PARK at 0815 hrs and did not return until approximately 1130 hrs. when Capt. Corbett informed me that we would have Coy. Orderly Room at 1200 hrs.

After getting the Orderly Room parade lined up, he called me to the Officers' Mess and asked me if I recognised the case and I said I did. He then opened it and asked me what I knew about the contents. I said that the clothing was mine but the rations I knew nothing about but thought that someone had placed them there in my absence."

(SIGNED) [illegible] C.S.M.

Taken down by me in the field this 27th day of October 1942 in the presence of the accused. Rule of Procedure 4 complied with.

(SIGNED) Donald E. Banton CAPT
48th Highlanders of Canada.

Statement of Reg.No. U1523 - C.S.M. - TOUSSAINT, Harry, Alexander - 'A' Coy, 48th Highlanders of Canada.

I have been warned that I need not say anything, but what ever I do say will be taken down in writing and may used as evidence at the time of my trial. I fully understand the warning.

(Sgn)
H.A. Troussant.

I came from the Holding Unit at Whitley to 'A' Coy of the 48th, as C.S.M., I think on the 27 June 42.

When we moved to this new location I made several alterations to the kitchen. This pleased Matson very much. Later he found that I was going on leave, and asked me if I would like to take some articles with me. I said I would. On Wednesday night the 14th, Oct 42, Matson brought some rations to my room, but I was not there. He put them under my bed. I found them there later when I went to bed that night. He had told me before hand that he was going to bring some rations up. They stayed there until Thursday night, and then I put them in the case which I had borrowed from Sgt. Gunn. They were later found under my bed where I had put them. I was going to take the suitcase and rations with me on leave to some people I know in Slough.

On one other occasion about five or six weeks ago Matson gave me a pound of butter and a can of fish

(cont'd over)

OF FISH before I went on a week end pass to Slough. These are the only occasions which I have received any rations from our stores.

(Sgn)
H.A. Toussaint

Further to my statement, at no time have I given Matson anything for the rations which I received. The rations I received consisted of two tins of syrup, two cans pineapple, ~~or~~ three or four cans of fish, I can't remember how much butter there was.

(Sgn)
H.A. Toussaint

M.F.B. 355
2251—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.1523	C.S.M.	TOUSSAINT, H.A.	48th Highlanders of Can

1. The following is a fair and true summary of the entries in the M.P.M.6 Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	----------	times	----------	times
For	----------	times	----------	times
For	----------	times	----------	times
For	----------	times	----------	times

– Number of instances of gallantry or distinguished conduct None

or,

– There are no entries in the conduct sheets of the accused. None

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

– 2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 76 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

– 3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and N/A days in ~~Air Force~~ military custody, making a total of N/A days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service is 39 years, 9 months, 7 days ~~attestation paper~~

6. The date of his ~~enlistment~~ attestation specified in his record of service is 23 Jul 40 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is N/A

– 8. The accused is entitled to reckon 2 yrs, 3 months, 16 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of Sjt. (17 Aug 40 to 30 April 41)

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
N/A dated N/A, and in his regiment (or corps), the rank of
unit
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

30 April 41 Date of promotion.

In the rank of L/Sjt. 25 days years.

In the rank of Sjt 8 Months years.

In the rank of C.S.M. ONE years, 6 months, 7 days.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank
Air Force
Name of
Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	This W.O. has NOT previously been tried by Court Martial or by Civil Court.			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this NINTH day of NOVEMBER 42.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

48th Highlanders of Canada

Battalion Headquarters,
4 Nov 42.

I hereby certify that I desire

Major I.S. Johnston

of 48th Highlanders of Canada

to defend me at my pending trial
by Court Martial.

S.M. Toussaint

U.1523 C.S.M.Toussaints, M.A.

No. U 1523 Name Toussaint, H.A. Son, Battery or Company: Corp. Date of enlistment: 23-9-40 G.C. Badges: Service or Proficiency Pay: M.F.M. 6 (A.F.B.122)

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. Two Signature O.C. Company, etc. D.Caxley Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Confirmed in the rank of C.S.M 17-9-41		Previous sheet destroyed		A.M.H. Capt., Adjutant	
				I Certify that this is a true and exact copy		Hounsell			

(P.T.O.)

REVIEW SHEET

F.G.C.C.M. - Trial: U.1583 CSM Toussaint, H.A., 48 Highrs

Date of Trial: 9 Nov 42

President of Court: Major T.S. Ketcheson, Rest & P.E.R.

1. For the information of the officers asked to sign below, the following irregularities are noted :

1. Charge sheet not dated by unit C.O. (R.P. 11, fn 1, M.M.L. 714)

2. N.F.B. 355 not certified (A.A. 163(1)(h)).

3. Name of unit omitted from minute of promulgation.

AB16 #9

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters.

C.C. 48 Highrs

Adjt 48 Highrs

President

A.D.J.A. 1 Cdn Div

Staff Offr for Convening Offr

Staff Offr for Confirming Offr

L.M. Graham
(Express) Captain
A.D.J.A. 1 Cdn Div

FFF-116

TPR TOWAKINO A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D/ 3837 Tpr Arthur Tonakino, 7 Cdn Recce Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st O.A. Sec 15(c)	Guilty	Guilty	
2nd O.A. Sec 24 (2)	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for...~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for 7 months and 14 days. and to be put under stoppages of pay until he has made good the sum of £0.19.6 in respect of appointment and relegation

(Sgd) ..... Judge-Advocate, if any. 24 Feb 44 Date awarded. (Sgd) C.W. MacLean President. (RP 45, 90.) 24 Feb 44

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not committed to [illegible] in~~ detention barracks until ~~further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) D.C. Morton Brig

Date 26 Feb 1944 Acting Commanding 3 Cdn Inf Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 3837 Tpr Arthur Tonakino	29 Feb 44	Capt & Adjt 7 CANADIAN RECONNAISSANCE REGIMENT 612 SYRACUSE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. 1 FEB 46

CPA96 (In lieu of AFA3) A.G.P.S. 1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R.O.G. Morton a/ Comd 3 Cdn Div dated 23 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D/ 3837	Tpr	Arthur	TONAKINO,	7 Cdn Recce Regt

PROCEEDINGS REVIEWED H.C. Dod Rear Adm Rcd 3 28 Mar 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 10 Mar 46 AUTH: FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 24 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fam ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

~~A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 44(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. ~~RP 110(B).~~ If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge, if any, and Offrs under instr, if any, are sworn.~~(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.W. MacLean	7 Cdn Recce Regt
Member	Capt	H.G. Marsh	C.H. of O
Member	Capt	R.J. Belcourt	22 Cdn Fd Amb, RCAMC
Judge-Advocate			
Prosecutor	Capt.	J.L. Whittington	7 Cdn Recce Regt
Defending Offr	Lieut	D.A. Crawford	- - -

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused D/ 3837 Tpr Arthur TONAKINO before arraignment make(s) ~~(no)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or trial Judge~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(1)(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

~~(If so)~~ President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes. .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to ~~Not Guilty on~~ the charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex #A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (~~them~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~(2) The Court ~~is cleared and considers the submission.~~(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, ~~make a statement, or do neither~~? Ans Yes. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans NO.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes. My troop officer Lt W.B. McCullough.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex H and Ex C respectively.(2)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes. .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. D 3837 Tpr. Arthur TONAKINO of the 7th Canadian Reconnaissance Regiment (17 D.Y.R.C.H.) C.A.(O/S), a soldier of the Canadian Army Overseas, being a member of the Active Force, is charged with:-

FIRST CHARGE
ARMY ACT SEC. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE,

in that he, in the Field, absented himself without leave from 2230 hours 13 Mar 43 until surrendering himself to the Civil Police, Brighton, Sussex at 2035 hours 29 Jan 44, thereby incurring costs of return to Unit amounting to £-/19/6. (Total time absent 321 days, 22 hours and [illegible] minutes.)

SECOND CHARGE
ARMY ACT SEC. 24 (2)

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he, in the Field, on (or about) 1 Feb 44, was deficient of the following articles:-

	Cost	Unexpired wear value
1 drawers, woollen	£-/5/04½	£-/4/-
1 pr braces	1/03	/1/-
1 brush, polishing	1/03	/1/-
1 comb, hair	/02	/01½
1 dressing, First Field	1/01	/09
1 bag, ration	/03	/02
1 cover, mess tins	1/09	1/04
2 straps, supporting	1/02	/10
1 Cape anti-gas	12/04	9/03
1 mug, enamel	/06½	/05
1 net, camouflage, S.H.	/08	/06
	£1/5/10	£-/19/04½

Forwarded
~~(W.W. Hagman) Lt.-Col.~~
Commanding Officer
7 Cdn Recce Regt (17 DYRCH)

In the Field
1 Feb 44.

To be tried by Field General Court Martial.

R.O.G. Morton
(R O G Morton) Brig
a/Comd 3 Cdn Inf Div

In the field
1st Feb 1944

FIELD GENERAL COURT-MARTIAL

CFA 30 (In lieu of AFA 8)
40-1-8(1097 (2503)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname. Unit.
D/ 3837	Tpr	Arthur TONAKINO, 7 Cdn Recce Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~6. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C W MacLean	7 Cdn Recce Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H G Marsh	C H of O
Capt	R J Belcourt	22 Cdn Fd Amb, RCAMC
	~~WAITING MEMBER.~~	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	~~JUDGE-ADVOCATE.~~	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

R.O.G. Morton (Signed personally. RP 105 fn 2.) (Rank.)

(R O G Morton) Brig

Date 23 Feb 44 ~~Commanding~~ a/Comd 3 Cdn Inf Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

7 CANADIAN RECONNAISSANCE REGIMENT
(17 DYRCH)

MEDICAL OFFICER'S CERTIFICATE
K.R. (CAN) Para 557

I certify that I have this morning examined

D 3837	Trooper	TONAKINO, A.	and in my opinion
Number	Rank	Name	

he is fit to undergo trial by Court Martial.

(E.J. Tabah) Capt., RCAMC
Medical Officer
7 Cdn Recce Regt (17 DYRCH)

Date. 24 Feb 19 44
Field.

7 CANADIAN RECONNAISSANCE REGIMENT
(17 DYRCH)

MEDICAL OFFICER'S CERTIFICATE
K.R. (CAN) Para 557

I certify that I have this morning examined

D 3837	Trooper	TONAKINO, A.
Number	Rank	Name

and in my opinion he is fit to undergo trial by Court Martial.

(E. J. Tabah) Capt., RCAMC
Medical Officer
7 Cdn Recce Regt (17 DYRCH)

Date 24 FEB 1944
Field.

1 Record of Witness's Statements 24 Feb. 1944.

accused: D 3837 Tpr. Arthur Tonakino
7th Cdn. Recce Regiment C.A.O.

Pleads guilty on first charge: A.W.L.
Pleads not guilty on second charge: Deficiency of Kit.

Second Charge:
Prosecuting Officer: D

Due to time elapsed since time of first kit inspection there will be but one witness.
The original kit deficiency was $7-14-0\frac{1}{2}$.
The present kit deficiency is $7-19/04\frac{1}{2}$
I have a certified true copy of kit deficiency form. MIDDTS
Defending Officer:

The evidence by prosecuting Officer is a prima facie evidence of kit deficiency.
But the circumstances surrounding the check of the accused's kit are questionable and not a true story of the facts as existed prior to his going A.W.L.

Pte Tonakino D 3837
Sworn, states:

I was detailed to take advanced party back to camp my belongings were left on the ground and I was in another truck. All my things had been left behind and I have not seen them since.

Defending Officer:
Prior to Spartan scheme Tonakino's equipment was complete as per kit check. The bulk of kit was left at camp and only necessary items taken for scheme.

Accused:
At last minute on returning to camp all my equipment was dumped out on ground and I was sent in another truck, losing track of my equipment.

Cross exam:
Prosecuting Officer:
a soldier is responsible for his own equipment. Certain articles in which you are deficient were absolutely necessary on scheme. Cream, razor blades and ~~razor~~ were found deficient in them is a ~~razor~~ shaving ring, razor.

Defending Officer:
Discrepancies are noted in accusation. The accused is charged of AWL. as of 15 minutes to 10 only. Therefore overstay of ~~two~~ one and one half hours.

~~Presiding Officer~~
Prosecuting Officer:
Cpl ~~[illegible]~~ Witness. Cpl McDermott O'Connor
Tonakino's truck was rushed on that night
I do not know what was taken or removed
or what personnel was transported.

First Charge:
Defending Officer:
Due to personal nature of statement to follow
could except be removed?

Accused's Statement:
When I left the unit I went to see my girl friend
She was pregnant and sick so I stayed with her. Later on
she began having labour pains and eventually she
had her child. So I stayed on with her.
Reading on the papers of possible military
activites I decided to report my unit. As I did
not know where they were so I gave myself up at
the place I knew they had last been (Brighton).
The civilian police turned me over to the military
police.

Defending Officer:
The accused has now been 26 days in custody since
he has given himself up. Could this report
up to date on MFB 355.

Witness as to Character: Lieut W.B. McCullough. 7 C.H. Regt.
I am the accused's Officer since Aug '42. I was
satisfied with him till his present offence
except for one short AWL.

~~Defence~~

Second Charge:
Defence: The loss "by neglect" is inadvertently laid since
the circumstances at the time of loss are not
neglect.
Prosecution: The loss is small but what was lost
has not been proved as having been lost
at the time stated. Furthermore what was
lost should normally be carried on the
person therefore neglect.

EXHIBIT "A"

Ex A

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 15th day of April 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D 3837 Tpr. Tonakino, A.

DECLARATION

The Court declare that No. D 3837 Tpr. Tonakino, A.
7 Cdn Recce Regt (17 DYRCH) C.A. O/S
illegally absented himself without leave 2245 hours
at In the Field on the 13th day of March 1943,
that he is still so absent, and that on the 15th April 43 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES	Price List Value	Unexpired Wear Value	ARTICLES	Price List Value	Unexpired Wear Value
1 Blouse Battle Dress	£1-7-8	£1. 0. 9	1 mug drinking	5	4
1 pr trousers " "	1-7-11	1. 0.11	1 net camouflage steel helmet	8	6
1 Cap Tank Bn	3-10	2.10½			
1 Pr boots ankle	1-1- 6	16. 1½			
1 pr drawers woollen	5- 7	3.11½	Total	£10- 5-4½	£7-14-0½
1 greatcoat	3-17-0½	2.17. 9½			
1 shirt angora drab	9- 5	7. 0½			
1 badge, cap	7½	5½			
1 pr braces	1- 7½	11½			
1 brush polishing	9	7			
1 comb hair	2	1½			
3 discs identity	0½	0½			
1 dressing first field	1- 1	10			
1 bag ration	1½	1			
1 vest gymnasium	1- 6	1. 1½			
1 cover mess tins	4½	3½			
2 ~~straps~~ supporting	2- 2	1 7½			
2 cape anti-gas	1-3- 6½	17. 7½			

(Sgd) W.C. Bowen, Majr President

(Sgd) W.T. Butler, Lieut. Member

Signed at in the Field

(Sgd) J.O. Borlase, Lieut. Member

this 15th day of April 1943

Signature of Commanding Officer (Sgd) V.W. Hugman, Lt.-Col.

Certified true copy [signature] Capt & Adjt

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 116
25M—4-41 (750)
H.Q. 1172-39-257

Exhibit: B

I CERTIFY that the man whose personal description is given below surrendered himself to* Thomas Wm Stockley No.669

at Police Station, Brighton at (hour) 20.45hrs on the

29th day of January 1944 as being No.

(Rank and Name) TOMKINS Arthur D3837

a deserter (or absentee without leave) from 17th Gen. Duke of York Regt. 7th Recog. battn.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 26 Height 5 Feet 6 Inches

Complexion sallow Hair dk Brown. Eyes Brown.

Marks Tattoo, Scroll, mother, bird. (Rt forearm) mole rt cheek.

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	8.4.1941
Probable Date of Desertion or beginning of absence, and from what place	1.3.43.

SUSSEX POLICE FORCE 29 JAN 1944 SUPERINTENDENT BRIGHTON DIVISION

Signature of Officer of Police in charge of Walter Broadbridge Brighton Station.

29/1/44 Date of Signature.

Exhibit :- C

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No D3837 Rank Spr. Name Lonakino, L. Unit 7 Recce Regt.

The following expenses were incurred in apprehending and returning the M'N Soldier to ~~his Unit From~~ London from Brighton

Date	Particulars ½ portion	Amount		
	Escorts return fare from LONDON To Brighton		4	0
	Prisoners single fare to LONDON From Brighton		4	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L.B. Crayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & R/483(3287)

Exhibit - D/1045

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. D3837. Rank Spr. Name Tomkins, A. Unit 1 Recce Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
16.6.44	Escorts return fare from LONDON To Hillsborough		7	8
	Prisoners single fare to LONDON From			
	Prisoners fare from London Hillsborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L Brayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/F & S/482(3287)

EXHIBIT "E"

Kit deficiencies of D 3837 Tpr. Tonakino, A.

Article	Total	½ value
1 drawers, woollen	5/04½	4/-
1 pr braces	1/03	1/-
1 brush, polishing	1/03	1/-
1 comb, hair	/02	/01½
1 dressing first field	1/01	/09
1 bag, ration	/03	/02
1 cover, mess tins	1/09	1/04
2 straps supporting	1/02	/10
1 cape anti-gas	12/04	9/07
1 mug, enamel	/06½	/05
1 net, camouflage, S.H.	/08	/06
	1/5/10	19/04½

I, D.3462 Sqn. Q.M.S. McConomy, J.J. certify that the articles of kit on charge to D 3837 Tpr. Tonakino, A. were checked by me and the above deficiencies were noted.

D 3462 Sqn. Q.M.S. McConomy, J.J.

6x AFA

Summary of evidence in the case of No. D 3837 Trooper Arthur TONAKINO of the 7th Canadian Reconnaissance Regiment (17 DYRCH) C.A. (O/S).

By direction of the Commanding Officer, this summary of evidence is taken on oath.

First Witness for the Prosecution

D. 3572 Cpl. McDermott-O'Connor, B. of the 7 Cdn Recce Regt (17 DYRCH) CA (O/S) having been duly sworn, states:-

I am Section Corporal of the section of "B" Squadron Assault Troop of which the accused, whom I now recognize, was a member. The troop returned to billets from exercise "SPARTAN" on 13 Mar 43. At 2230 hours the accused was not in billets. I have not seen him in lines since then until now. I would have seen him had he returned in the interval.

B McD'Connor
D 3572 Cpl. McDermott-O'Connor, B.

The accused declines to cross-examine this witness.

Second Witness for the Prosecution

Lieut. W.B. McCullough of the 7 Cdn Recce Regt (17 DYRCH) CA (O/S) having been duly sworn, states:-

I am Troop Officer of "B" Squadron Assault Troop of which the accused, whom I now recognize, was a member. A part of the Troop, including the accused, returned to billets as advance party from exercise "SPARTAN" on 13 Mar 43. At about 1700 hours that day, at the Brighton Public Baths, I told the accused to drive part of the troop back to billets and that the troop could walk out until 2230 hours. I would have seen the accused in the interval had he returned to lines but did not see him until after his return to the Unit in custody this week.

QUESTION BY THE ACCUSED

Who was with me when you gave permission to walk out?

I don't remember.

B. McCullough
Lieut. W.B. McCullough

The accused declines to further cross-examine this witness.

E & H

Third Witness for the Prosecution

Capt. W.L. Hutton of the 7 Cdn Recce Regt (17 DYRCH) CA (O/S) having been duly sworn, states:-

I present (1) MFB 375, being certified copy of the Record of the Declaration of a Court of Inquiry held to inquire into the absence without leave and deficiencies if any in the arms, ammunition, equipments, instruments, Regimental necessaries or clothing of No. D 3837 Tpr. Tonakino, A. (2) Certificate of surrender to the Civil Police at Brighton, purporting to be signed by Walter Broadbridge, Superintendent's Office, Brighton Division, Sussex Police Force and (3) certificates of costs of return to Unit, purporting to be signed by Capt. L.S. Grayson, D.A.P.M. London Area, all of which relate to the accused, whom I now recognize. (Attached as Exhibits "A" "B" "C" and "D" respectively.)

W.L. Hutton
Capt. W.L. Hutton.

The accused declines to cross-examine this witness.

Fourth Witness for the Prosecution.

D 3462 Sqn QMS McConomy, J.J. of the 7 Cdn Recce Regt (17 DYRCH) CA (O/S) having been duly sworn, states:-

I am Squadron Quartermaster Sergeant of "B" Squadron. On 1 Feb 44 I took an inventory of the kit of the accused whom I now recognize. I present a list of the deficiencies in his kit found that day, showing the vocabulary and unexpired wear values. (List attached as Exhibit "E".)

J.J. McConomy
D 3462 Sqn QMS McConomy, J.J.

The accused declines to cross-examine this witness.

The accused having been duly cautioned with Rule of Procedure 4 (E) "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence", reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 5th day of February 1944, in the Field.

W.L. Hutton
Capt. W.L. Hutton.

No D3837 Name TONAKINO Arthur | Sqn. Battery or Company B | Corps Cdn Armd Corps | Date of enlistment 7 Apr 42 | Badges | Service or Proficiency Pay | (AFB 122) (PAM/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc J. Whittingham Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet #1 Destroyed after 6 Mos. Service w.e.f. 7 Nov 41.									
Field	5 Dec 42	Tpr		A.A. 15(1) - A.W.L. from 2359 hrs 5 Dec 42 to 0600 hrs 7 Dec 42 (Absent 1 day, 6 hrs and 1 Min.)	Cpl McDermott-O'Connor, B.	7 Days C.B.	7 Dec 42	(T.O'Hara) Major	Forf. 2 days pay under FR&I 149(1)(a

CERTIFIED TRUE COPY
Officer Commanding
7 Canadian Reconnaissance Regiment
(17 DYRCH)

(PTO)

Ex H

M.F.B. 355
22M—5-41 (572-8)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 3637	Trooper	TONAKINO, A.	7 Cdn Recce Regt (17 DYRCo)

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act / A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for [illegible] beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 26 days in military custody, making a total of 26 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 26 years 285 days

6. The date of his attestation specified in his record of service is 7 Apr 41

7. The service which the accused is allowed to reckon towards discharge is 2 years 321 days.

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any air force decoration or reward.
military

10. (The accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Pte unit

dated ....., and in his regiment (or corps), the rank of

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number R 3837 Rank Tpr

Name TONAKING, A of 7 Cdn Recce Regt (17DYRCH) Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of February 1944.

Officer Commanding
Canadian Reconnaissance Regiment

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

A.A-145

SPR TOWERS M.R

Correspondence to be PINNED here.

AA-145

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty second day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of RCE First Cdn Army Tps Canadian Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the matter by reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint
*1. Three Officers to form the Court,
*2. A Field Officer as President,]
for the following reasons, namely:—

* Omit if not applicable.

Proceedings reviewed
[illegible]
Asst Judge Adv Gen CMHQ
10 Apr 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.E. Chalmers	2 Cdn Rd Const Coy

Members.

Rank.	Name.	Regiment.
Capt	to be detailed by C.O.	4 Bn RCE
Capt	to be detailed by C.O.	3 Bn RCE
Officers Under Instruction		
Lt	to be detailed by C.O.	4 Bn RCE
Lt	to be detailed by C.O.	3 Bn RCE

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (D.H. STORMS) Lt-Col,
CRE First Cdn Army Tps
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B26344, Spr Towers, M.R., 1 Bn RCE	First Charge A.A. Sec 15(1) Absence Without Leave See Charge Sheet attached	Guilty	Guilty To undergo detention of 45 days 22 Mar 43	Confirmed 23-3-43

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [redacted] (D.H. STORMS) Lt-Col, [redacted] CRE First Cdn Army Tps
Convening Officer (e)

(Signed) [redacted] 2 Cdn Rd Const Coy RCE
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22 day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Nil
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 22 day of March 1943.

[redacted] Maj
President of the Court Martial.

C. Certificate in case of death sentences. Nil

* See footnote (*b*) on page 702 M.M.L. 1929.

I certify that the terms of *~~A.C.I. 570~~ of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23rd day of March 1943;

[redacted] Lt. Col.,
Confirming Officer. 1 Cdn. Army Tps.

Promulgated and extracts taken in the case of B26344 Spr. Towers, M.R.

(*a*) (Dated) 26 Mar 43 (Signed) [redacted] Commanding Officer
1st. Battalion, R.C.E. - C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47797/1927 35 M. 5/41 K.J.L./3265(2) Gp. 698/2

MEDICAL CERTIFICATE (K.R.(Can)557)

I certify that I have this morning examined No. B-26344
Spr. Towers M.R. Of 1st Battalion RCE and, in my
opinion he is fit to undergo trial by Court-Martial.
~~unfit~~

Station In the Field
Date 22 Mar 43

(C.C. Evans) Capt. RCAMC
Medical Officer 1 Bn RCE

CHARGE SHEET.

B26344 Spr.Towers,M.R., a soldier of the Canadian Army Overseas, placed on active service, is charged with

ABSENCE WITHOUT LEAVE

in that he

FIRST CHARGE
A.A.Sec.15(1)

absented himself without leave from 0200 hours 1 Mar 43 until 0800 hours 14 Mar 43 (absent 13 days 6 hours)

In the Field,
19 Mar 1943.

(A.J.KERRY) Lt-Col., RCE.,
Cmdg. 7Bn., RCE., C.A.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(D.H.STORMS) Lt-Col,
C.R.E.,
First Cdn Army Tps

In the Field
22 Mar 1943.

FORM OF PROCEEDINGS OF A F.G.C.M.

TRIAL OF:- B-86344, Spr. Towers, M.R. 1 Bn RCE

Held:- In the Field on 22 Mar 43.

PRESIDENT:- Major A.E. Chalmers, 2 Cdn Road Const Coy. R.C.E.

MEMBERS:- Capt. B.M. Arnott, 4 Battalion, R.C.E.
Capt. G.C. Bourbonnais, 3 Battalion R.C.E.

Officers under instruction:-
Lieut. J. Aubin, 3 Battalion, R.C.E.
Lieut. K.M. Brown, 4 Battalion, R.C.E.

1. The Order convening the Court, the Charge Sheet and the Summary of Evidence arelaid before the Court.

2. The Court satisfy themselves as provided by Rs.P. 22 and 23.

Prosecutor:- Lieut. B.H. McLeod, 1 Battalion, R.C.E.
Defending Officer:- Lieut. D.F. Morton, 1 Battalion, R.C.E.

3. The accused is brought before the Court.

4. The medical certificate is attached to the proceedings.

At 1715 hours the trial commences.

5. The order convening the Court is read by the President.

6. The names of the President and Members of the Court are read over in the hearing of the accused and they severally answer to their names.

President to the Accused:-

Question:- Do you object to be tried by me as President or by any of the officers whose names you have heard read over?

Answer:- No, sir.

7. The President and Members and Officers under Instruction are duly sworn.

8. The Charge sheet is signed by the President, marked "A" and annexed to the Proceedings.

9. The accused is arraigned upon the charge in the charge sheet.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (in 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans No

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans Yes

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans Yes

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (N.F.B.6), signed in the manner required by A.A.163(1)(a) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "C", and "D", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans Yes (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (See re on page 2 of R.P.A.3)
(Punishments, A.A.44, R.M(Can)563 - 566; one sentence only awarded, R.P.48). Sentence should be noted)

The sentence is not now made known to the accused by the Court.

A Chalmers Maj
(Signature President)

Statement in mitigation of punishment (see page 5, question 4)
The accused in mitigation of punishment hands in a written statement which is read, marked "B" signed by the President and attached to the proceedings.

Evidence as to character (see page 5, question 5)

M-7198, L/Sgt. Stemp, H.C. having been duly sworn states:-
"I have known Spr. Towers since he arrived in England, I have known him better since a year ago now he came to B Coy. He was posted to the same section as I was an N.C.O. in. I have never had any trouble with the man either on the parade square or work, I have always found him neat and tidy and gives due respect to all officers and N.C.O's. I had him on a working party last summer while building a camp. We were painting the camp at the time and in that work I found Spr. Towers to be very satisfactory. On any other jobs that I have given him he has always done it satisfactory. Apart from his army life I know very little."

Statement by Defending Officer (see page 5, question 7)

"Spr. Tower is of English descent born 1912, enlisted in Toronto about the middle of 1940. Served with 1 Battalion since that date until now with the exception of three months when he was in hospital and re-inforcement unit. His next of kin is his mother who is in receipt of dependants allowance and assigned pay from Spr. Towers. He has also three sisters. He is not in receipt of trades pay at the moment. He is a qualified Miner Group "C" and Painter Group "B". I have known Spr. Towers for about a year myself. He was in my section for about 2 months, and at that time he was a good soldier and good worker.

Statement made by B 26344 Spr Towers MR

'E'

CFA 19
40(P.&S./1548 (12/42)

CANADIAN LEGION WAR SERVICES

23-7-42 19

The reason of most of my A.W.O.L. charges, (which are mostly petty ones) is that when I get a few drinks under my belt, I get disgusted some, thinking of not drawing trade pay, and have never seemed to be able to get any satisfaction from any of my commanding officers, although I have been promised trade pay several times. And after passing two trade tests don't see any reason why I should not be ~~able~~ entitled to it. having always worked as hard as any other soldier, and worked at my trade since being in the

CANADIAN LEGION WAR SERVICES 19

1st Battalion R.C.E.F. another reason for being discusted, men coming to the Battalion from the R.C.E.R.C. only being in the country a few months and only in the Battalion a matter of a few weeks. get their trade pay almost immediately which to my judgement doesn't seem to be fair, that is my only reason for going A.W.O.L. so often, otherwise (I will & can) soldier as good as ~~the~~ next Soldier, and could get any N.C.O. who's command I have

Been under. to recommend me
as a good worker and soldier
while on my duties.
That is all I have to say "Sir".

B. 36344.
Spr. Towers. R. A

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted
		N/L.		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Eighteenth~~ Eighteenth day of March, 1943

W.B. Sinclair, Lieut R.C.E.

'C'

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B.26344 Spr. Towers, H.R. of the 1 Bn RCE CA

Note.—The Regimental and Squadron, Battery or Company Conduct sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

Army Pam. 464, K.R., 1935.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	7	times	9	times.
For Breaking out of Bks	1	times	2	times.
For Absent from roll call	1	times	2	times.
For Losing by neglect Sec 40	1 1	times	1 1	times.

*The numbers herein stated should correspond with the number of *Entries* in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

[Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

~~Number of instances of gallantry or distinguished conduct.~~

—

There are — entries in the Conduct sheets of the accused.

~~2. The accused has not been previously convicted.~~

—

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.~~

Wt. 42845/661 50,000 2/40 W. S. Ltd. 21—6304

3. ~~The accused is not under sentence at the present time.~~

~~or~~,

~~The accused at the present time is under sentence for~~

~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges

~~days in Civil Custody,~~

~~and~~ 2 days in Military Custody.

Total 2 days.

~~[or state]~~ ~~days were spent in hospital.~~

5. The present age of the accused according to his record of service is 21 years 10 days

6. The date of his ~~attestation~~ specified in his ~~pay~~ record of service is 8 Feb 40 (18 years 6 days)

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 2 months 26 days years' service.

9. The accused is entitled to reckon 2 yrs 2 months 26 days years' service for the purpose of determining his pension, &c.

~~10. The accused is in possession of, or entitled to, no military decoration or~~ ~~military reward (or is in possession of or entitled to).~~

~~1. (If the accused is a warrant officer.)~~ The accused before he was made a ~~warrant officer~~ last held the ~~regimental~~ rank of

~~2. (In the case of an officer.)~~ The accused holds in the army the rank of ~~dated~~ , and in his ~~regiment~~ (or corps ~~(if supernumerary)~~ the rank of ~~dated~~

~~3. The accused has served as a non-commissioned officer continuously without reduction to the present date.~~

Date of Promotion.

~~In the rank of~~ ~~years~~

~~In the rank of~~ ~~years~~

~~In the rank of~~ ~~years.~~

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

~~The above statement (with the exception of convictions and of cases in which trial has been dispensed with) is read, marked~~ , signed by the ~~president and witnessed to the proceedings.~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name B.26344 Spr. Towers, M.R. of the 1 Bn RCE CA

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(Continued overleaf.

'D' Ack

M.F.M. 6 (A.F.B. 122)

No. R-26344 Name Towers M.B. Sqn., Battery or Company 1 Bn Corps RCE Date of enlistment 25 May 40 G.C. Badges Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet 16-9-40 No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No. 1 Signature O.C. Company, etc. W.A. McDill Capt & Adj RCE Character Adjutant 1 Bn RCE CA

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SUBSTITUTED FOR ORIGINAL OWING TO CONDITION OF SHEET, on 3 Nov 42									
Sheet No.1 Destroyed 25 Nov 40. Last entry 16-9-40 (C.A.P.O. 2084) No cases of drunkenness.									
Field	10 Jan 41	Spr		WOAS AWL from 1830 hrs 10-1-41 until 1145 hrs 11-1-41 Sec 15(1) A.A.	Sgt. Sutherland Documentary	72 hrs detn	14-1-41	Major H.R.Forfs 1 Lynn	days pay RR&I 149(1)(a
Field	17-2 41	Spr.	(1) (2)	WOAS AWL 6 days 3 hrs Sec 15(1)AA WOAS breaking out of Bks. while under open arrest Sec 10(4) A.A.	L/Cpl Ralff	15 days detn	26-2-41	Lt. Col P. R. Henshaw	
Cove Hants	14 Sep 41			WOAS absent tattoo roll Sec 15(2)AA	L/Cpl Ralff	Admonished	16-9-41	Major A.J. Wood	

(P.T.O.)

Place	Date of offence	Rank	Cause of no pass	Offence	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Cove	21 Sep Spr			WOAS AWL 2359 hrs 21-9-41 to	L/Cpl Mills	21 days detn	29-9-41	Major K. Southern	
Hants	41			2350 hrs 28 Sep 41. Sec. 15(1) AA	L/Sgt White				
Cove	24 Feb Spr			WOAS improperly dressed AA Sec40	Cpl McMahon	14 days C.B.	5-3-42	Lt. Col L.F. Barnes	
Hants	42								
Cove	1 Mar			WOAS AWL 6 hrs 16 mins Sec 15(1)	L/Cpl Herhorst R.	14 days C.B.	3-3-42	Lt. Col. L.F. Barnes	Forfs. 1 days pay
Hants	42			AA		1 says forf			P.R.A.I.149 (a)
Field	24 Mar Spr			WOAS absent 8 hrs 45 mins. Sec 15(1)	Documentary	7 days C.B.	26-3-42	Major G.C. Tyrrell	Forf 1 days pay PR&I
	42			A.A.					
Field	14 May Spr			WOAS AWL 11 hrs 15 mnls Sec 15(1)	Documentary	7 days fd. punishment with forf of pay	14-5-42	Major G.C. Tyrrell	Forfs 1 days pay PR&I 149(1)(a) Total forf 8 days pay
				A.A.					
Weston	3 Jul Spr			WOAS losing by neglect cigarette	Cpl Mahood	5 days C.B.	7-7-42	Major G.C. Tyrrell	
	42			ration card Sec 24(2)					
Field	10 Sep Spr			WOAS AWL 1 day 9 hrs. Sec 15(1)	L/Cpl McCready	7 days F.P.	26-9-42	Lt Col A.J. KERRY	Forf 7 days pay PR&I 149(1)(b) Forf 2 day pay PR&I 149(1)(a) Total forf 9 days pay
	42			A.A.					

D 427

No B-26514 Name Towers M.E. | Sqn., Battery, or Company 1 Bn Corps RCE | Date of enlistment 25 May 40 | G.C. Badges | Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine N.A. | Sheet No. 2 | Signature O.C. Company, etc. W.A. McDill Capt RCE Adjutant 1 Bn RCE CA

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Sep 42	Spr		WOAS failed to attend sec roll call Sec 40 A.A.	Cpl. Foster	7 Days C.B.	21-9-42	Major G.C. Tyrrell	
Field	25 Oct 42	Spr		WOAS AWL 3 days 20 hrs 19mins Sec 15(1) A.A.	Spr. Wright P.S.	28 days F.P. with forf of pay	31-10-42	Capt RCE	Forf 4 days pay PR&I 149(1)(a) Total forf 32 days pay
2 Nov 42 Certified true copy- Verified to date - Orig. destroyed due to poor condition (W.A. McDill) Capt. RCE Adjutant 1 Bn R.C.E.(C.A.)									
17 Jan 43	Field	Spr		A.A. sec 15(1) WOAS AWL from 2200 hrs 17 Jan 43 until 0615 hrs 18 Jan 43 (Abs 11 hrs 15 mins)	L/Cpl Duncan J.	7 days C.B. forfs 7 days pay PR&I	18 Jan 43 149(a)	Major	Forf 1 days pay PR&I 149 (a) Total forf 8 days pay

(P.T.O.)

Rank	Date of offence	Name	Corps or Regiment	OFFENCE	Signature of Witness(es)	Punishment awarded	Date of award or if under Stoppages Reg. refer letter	By whom awarded	Remarks
23 Jan 43 Pte	23 Jan 43 Field	Spr		Charged under A.A.Sec 22 WOAS while under sentence of confinement to barracks escaped and was AWL from 1230 hrs 23 Jan 43 until 1030 hrs 25 Jan 43 (Absent 1 day 22 hrs.)	L/Sgt Rippon W.J.	7 days C.B. 7 days forf pay	25 Jan 43	R.J. Smaldian Major	Forf 2 days pay FR&I 149(1)(a) Total Forf of 9 days pay.

Certified to be a true copy from the Regimental Books in my custody.

Wm B Sinclair.

(W.B. Sinclair) Lieut RCE
A/Adjutant 1 Fd Sqn RCE CA.

Summary
of
Evidence

In the case of B.26344 Spr. Towers, M.R., taken at BORDON, HANTS, on 18 Mar 43 on the order of Lt. Col. A.J. Kerry, Commanding 1 Bn RCE CA.

First Witness - B.26078 Cpl. Cooney, W.R. having been duly sworn states - I am B.26078 Cpl. Cooney, W.R. No. 4 Sub-section commander of 9 section, "C" Coy 1 Bn RCE. When I check-ed the rooms at 0730 hours 1 Mar 43 I found that the accused, B.26344 Spr. Towers, M.R. was not present. Spr. Towers had a pass from 1200 hrs. 27 Feb 43 till 0200 hours 1 Mar 43. I reported that he was absent to M.7258 Sgt. Allan R., section sergeant of 9 section.

I did not see Spr. Towers again until Sunday even-ing, 14 Mar 43 at approximately 2200 hrs. He told me he had already reported to M.7198 L/Sgt Stemp, H.C. who is 9 section L/Sgt.

W.R. Cooney

The accused declines to cross examine.

Second Witness - M.7258 Sgt. Allan R. having been duly sworn states - I am M.7258 Sgt. Allan, R., Section Sergeant of 9 section "C" Coy 1 Bn RCE CA. Sir: On Monday 1 Mar 43 at about 0730 hours Cpl. Cooney reported to me that Spr. Towers, M.R. was absent. From then on until Sunday 14 Mar 43, when he was reported in at 0800 hrs by L/Sgt Stemp.

Question - Do you call the roll every morning?
Answer - No sir, the sub section corporals report to me. I number the men off on parade which must check with my roll book.

Question - Did you issue Spr. Towers with a pass on Saturday 27 Feb 43.
Answer - Yes sir, I did. It was a usual week end pass from 1200 hrs 27 Feb 43 till 0200 hrs 1 Mar 43.

R. Allan

The accused declines to cross examine.

Third Witness - M.7198 A/L/Sgt Stemp, H.C. having been duly sworn states - I am M.7198 A/L/Sgt Stemp, H.C. of 9 section "C" Coy 1 BN RCE CA. Spr. Towers reported to me at 0800 hrs Sunday 14 Mar 43. He was properly dressed and sober. I placed him under open arrest. I reported this to CSM Hall, Sgt-Major of "C" Coy 1 Bn RCE.
That is all the evidence I have sir.

H.C. Stemp

The accused declines to cross examine.

A.Y.

The accused has been cautioned has follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

Statement of accused - B.26344, Spr. Towers, W.R. having been duly sworn states - Sir - I, Spr. Towers, W.R., B.26344 returned from being absent without leave at approximately 2330 hrs. 13 Mar 43. I was going to report to the section sergeant, but did not find him in his billets. When I went in to see the Sub-Section corporal, but he was not in either.

Finally, my equipment being at the Q.M., I slept in Sapper Clarke's bed who is billeted in the same room. L/Cpl Courtney woke me up in the morning, I reported to my section sergeant.

That is all sir.

W. R. Towers

In the Field
18 Mar 43

RP 4 (c) (d) (e) and (f) have been complied with.

Taken down before me in the presence of the accused on the 18 Mar 43 at Bordon, Hants.

G. H. McLeod Lieut

(G.H. McLeod) Lieut RCE
"C" Coy 1 Bn RCE CA

698 - Pte Townley E.

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Tenth day of December, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2nd. Canadian Division, Canadian Army (A.F.), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—

In my opinion, military exigencies, namely the dispersion of units and other exigencies render it inexpedient to observe those rules of procedure inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule

Reading Reviewed 6/12/42 Reviewing Officer (Q.M.G.) Can. M.G.

President.

Rank.	Name.	Regiment.
MAJOR	C. PETCH	8 Can Recce Rm. (14 H)

Members.

Rank.	Name.	Regiment.
CAPT.	T.V. KENNEY	2 Cdn. Div. Sup. Coln.
LIEUT.	C.M.C. DALE	Tor.Scot. R. (MG)
	Waiting Member	
A CAPT.	(TO be appointed by A.D.M.S. 2 Cdn. Div.)	R.C.A.M.C

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (W.H. Roberts) Brigadier
Commanding 2 Cdn. Div.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-76092 Pte. Edward Townley, Tor. Scot. R. (M.G.) a soldier of the Canadian Army (A.F.)	FIRST CHARGE A.A. Sec. 11(4) Stealing public property (See Charge Sheet Att'd)	Guilty	Not guilty	
	SECOND CHARGE A.A. Sec. 11 (4) Receiving public property (See Charge Sheet Att'd) (Alternative)	Guilty	Not guilty	
	Third Charge A.A. Sec. 40 Conduct to the prejudice of good order and military discipline (See Charge Sheet Att'd) (Alternative)	Guilty	Guilty	
			Sentenced to undergo detention for ~~twenty eight~~ Sixty (60) days.	Confirmed. J.W.L.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ? "
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.W.L. (Signed) Arthur Gray

J.W.L. Roberts) Brigadier
Commanding 2 Cdn. Div.
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of Dec 41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 13th day of Dec 19 41.

Arthur Gray
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.) J.W.L.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23rd day of Dec 1941.

J.W.L. Roberts Brig:
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) DEC 29 1941 (Signed) Arthur Gray Capt
THE TORONTO SCOTTISH REG. (M.G.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41753) Wt. 40123—893 200 m. 1/40 P. St. G. 82

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. B.76092 Pte. Towpley, L.

of THE TORONTO SCOTTISH REGIMENT (MG) C.A.(C) is fit ~~unfit~~ to undergo Trial by Field General Court Martial.

J. J. Brisbin Capt

DEC 13 1941
(Date)

Date:- DEC 13 1941

CHARGE SHEET

The accused B- 76092 Pte. Edward Townley, Tor. Scot. R. (MG) a soldier of the Canadian Army (A.F.) is charged with:-

FIRST CHARGE
A.A. Sec. 18(4)

STEALING PUBLIC PROPERTY
in that he
at Rye, Sussex in October 1941 stole an army issue greatcoat, being property of the public, valued at £2-14-6

SECOND CHARGE
(ALTERNATIVE)
A.A. Sec. 18(4)

RECEIVING KNOWING IT TO HAVE BEEN STOLEN PUBLIC PROPERTY
in that he
at date and place aforesaid received said greatcoat, being property of the public, knowing it to have been stolen.

THIRD CHARGE
(ALTERNATIVE)
A.A. Sec. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
in that he
at date and place aforesaid wrongfully having possession of a greatcoat, being property of the public, did sell said greatcoat to Arthur Stephen Tiltman, a civilian, such sale being a wrongful one.

To be tried by F.G.C.M.

(H.H. Roberts) Brigadier
Cmdg. 2 Cdn. Div.
In the field
10 Dec. 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT HEATHFIELD, SUSSEX, ON FRIDAY, 12 DEC 41

TRIAL OF NO. B76092, Pte. Edward Townley, Tor Scot R (MG)

PRESIDENT: Major C. Petch, 8 Cdn Recce Bn (14H)

MEMBERS: Capt. T. VE. Kenney, 2 Cdn Div Sup Coln, RCASC
Lieut. GMC Dale, The Tor Scot R (MG)

PROSECUTOR: Lieut. T. H. Lines, Tor Scot R (MG)

DEF. OFFICER: Lieut. B. Anderson, Tor Scot R (MG)

1. The accused is arraigned and pleads guilty to all charges.

2. R. P. 35(B) is complied with.

3. The abstract of evidence is read and the accused is found Not Guilty of the first and second charges.

4. The Prosecutor files MFM 6 and AFB 296.

5. The defending officer makes the following statement in mitigation of punishment:

The accused found the coat and made a real effort to find the owner. He had two coats and when solicited to sell one did so.

THE COURT IS CLOSED FOR SENTENCE.

ABSTRACT OF EVIDENCE

in the case of

B.76092, Private Edward Townley - Tor Scot R (MG) C.A.(O).

Arthur Stephen Tiltman, 62 Kings Avenue, Rye, Sussex, will say:-

That he gave Accused 10/- for an Army issue great coat.

Edward Fowler, Det. Constable, Rye, Sussex, will identify great coat produced as one he got from Tiltman's house, and will also produce Statement made by Accused, marked Exhibit "B".

Lieut. J.E. Burnett, "B" Coy. Tor Scot R (MG) C.A.(O) will identify great coat as one which Accused had been wearing, and that Accused is not deficient a great coat.

(T.H. Lines) Lieut.,
Courts-Martial Officer,
Tor Scot R (MG) C.A.(O).

E & B

Statement by Pte. Edward TOWNLEY, B.76092, "B" Company, Toronto Scottish Regt (MG), 19 Cadborough Cliff, Rye.

"I am billeted at 19 Cadborough Cliff, Rye. About 5 weeks ago, when we came to Rye, I found an Imperial greatcoat in one of the billets. I sold this great coat to a youth named TILTMAN about a month ago for 10/-."

(Signed) E. Townley B.76092.

Taken at 3.50 p.m. on the 22 Nov 1941, at Rye Grammar School in the presence of Captain Merritt.

(Substitute for A.F.B. 2961)
or M.F.B.355

STATEMENT OF CHARACTER & PARTICULARS
OF SERVICE OF THE ACCUSED.

No. S.76092. Name:- Pte. Townley, E.J. Unit The Tor.Scot.R.(MG)C.A.(C).

Age:- 23. Married or Single _____ No. of Dependents:- _____

Date of Attestation:- 13 Sep 39.

No. of days spent in Close Arrest (To date of Trial):- 20 days

Civil _____ Military _____ Hospital _____ Total 20 days.

Dates of Promotions, Appointments and Confirmation of Rank, if any
Nil.

(A certified true copy of M.F.W. 6 must accompany this Form)

(J.R. Christie), Lt-Colonel,
Commanding,
The Tor.Scot.R.(MG)C.A.(C).

FIELD.
Date:- DEC 13 1941
(To be signed and dated as of date of Trial).

No. B76098 Name Townley E. Sqn., Battery or Company B Corps Tor.Scot.R.(MG) CASF Date of enlistment 13/9/39 G.C. Badge Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	4/3/40	Pte		Sec.15 A.A. A.W.L.	L/Cpl. Hicks	Admonished	5/3/40	Capt.G.M.Soper	
" "	14/4/40	"		Sec.15 A.A. A.W.L.	L/Cpl. Hicks	5 days C.B.	15/4/40	Maj.Roach	
Warren	25/6/40	"		Sect.15. A.A. A.W.L.	Sgt. Burnett	7 days C.B	26/6/40	Maj.Roach	
Chipstead	29/6/40	"		Sect. 15 A.A. A.W.L.	Cpl. C.H. Hicks	21 days detention 15 days pay	22/7/40	Lt-Col. Thompson	
Bordon	5/10/40	"		Sect.15 A.A. A.W.L.	CSM.Farrell	7 days detention	8/10/40	Lt-Col. Carpenter	Forf.2 & 7 days pay
Bordon	10/11/40	"		Sect.15 A.A.A.W.L. 7days 14 hrs and 31 minutes.	Cpl.Barrett	Forfeiture of 7 days pay	19/11/40	Lt-Col. Carpenter	Forfeits 8 days pay
Bordon	23/12/40	"		Sect.15 .A.W.L. 18 days 16 hrs & 41 minutes	Cpl.Barrett	Forf.Of 28 days pay.	14/1/41	Lt-Col. Carpenter	Forf.19 days pay

(P.T.O.)

Place	Date of offence	Rank	Corps or Regiment	OFFENCE	Witnesses	Punishment awarded	Date of award or if under stoppages	By whom awarded	Remarks
Aldershot	24/3/41	Pte.		Sec.40 A.A. Improper possesion of stamps	Documentary	28 days Det.	12/3/41	Lt/Col. Christie	
Aldershot	25/5/41	"		Sect.15 Absent from duty	Cpl.Smith	5 days C.B.	26/5/41	Captain Rogerson	
Bulford	31/8/41	"		Sect.15.A.A. A.W.L. ½ hr	L/Cpl.Donaghy Cpl. Graham	7 days C.B.	1/9/41	Major J.A.Northey	

certified true copy
[illegible]
Major

142 T. (2nd case)
See 69E for 1st case

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

NAME Pte TOWNLEY E ..... REGIMENTAL No. .....

UNIT OF ENLISTMENT ..... RANK .....

	CONTENTS	NON-EFFECTIVE BY
	COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
	SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
	PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
	FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
	CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
	FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
	DENTAL HISTORY SHEET	DISCHARGE
	MEDICAL REPORT OR CASE HISTORY SHEET	DATE
	MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
	TRANSFER CLOTHING STATEMENT	AUTHORITY
	LAST PAY CERTIFICATE (M.F.D.930A)	
	PROCEEDINGS ON DISCHARGE	
	PROCEEDINGS COURT OF ENQUIRY	DESERTION
	DECLARATIONS COURT OF ENQUIRY	DATE
	PAY SHEETS	AUTHORITY
	CARDS	
	SUNDRY	

M.F.W.2109

Correspondence to be PINNED here.

142 J.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Sixteenth day of JUNE, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 5 Canadian Infantry Brigade Group Canadian Army (A.F.), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[illegible] In my opinion, military exigencies, namely the dispersion of units, difficulties of communication, and other difficulties, render it inexpedient to comply with these rules inconsistent to Appendix "A" to D.R.O. 772 on the trial of the soldier named in the margin.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
MAJOR	T. B. Donald	Calg Highrs

Members.

Rank.	Name.	Regiment.
Captain	F. Savoy,	R de Mais
Lieut.	H. B. Gourlay,	Sigs 2 Cdn Div.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G. W. Whitehead) Brigadier
Commanding 5 Cdn Inf Bde Group
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B76092, Pte Edward Townley, Tor Scot R (MG), a soldier of the Canadian Army (A.F.) is charged with:	FIRST CHARGE A.A.Sec. 41(5) COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING (See charge sheet attd)	Not Guilty.	Not Guilty	
	SECOND CHARGE A.A.Sec. 41(5) (Alternative) COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS (See charge sheet attd,	Not Guilty	Not Guilty	
	THIRD CHARGE A.A.Sec. 41(5) COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, (STEALING(See charge sheet attd)	Not Guilty	Not Guilty	
	FOURTH CHARGE A.A.Sec. 41(5) (Alternative) COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS (See charge sheet attd)	Not Guilty	Not Guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No Sir

(Signed) G.H. Whitehead (G.H. Whitehead) Brigadier,
Commanding 5 Cdn. Inf. Bde Gp.
Convening Officer (*e*)

(Signed) Thos B. Donald Major
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of July, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of July 1942.

Thos B. Donald Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of * C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W1 40125—893 100 M 1/42 P.St. O. 6a

CHARGE SHEET

The accused, B76092, Pte Edward Townley, Tor Scot R (MG), a soldier of the Canadian Army (A.F.), is charged with:

FIRST CHARGE
A.A.Sec. 41(5)

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

at about 2020 hours on Saturday 6 Jun 42, at Guildford, Surrey, stole 1 cigarette machine and contents and 1 salt cellar, of the total value of £1/0/0, the property of Reginald Charles Stevens.

SECOND CHARGE
(Alternative)
A.A.Sec. 41(5)

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS,

in that he

at about 2020 hours on Saturday, 6 Jun 42, at Guildford, Surrey,, did receive 1 cigarette machine and contents, and 1 salt cellar, of the total value of £1/0/0, the property of Reginald Charles Stevens, knowing the same to have been stolen.

THIRD CHARGE
A.A.Sec. 41(5)

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING,

in that he

On or about 6 Jun 42, at Guildford, Surrey, stole three brushes and one bottle of soda water and siphon, to the total value of £1/6/0, the property of Frederick Reginald Kerry.

FOURTH CHARGE
(Alternative)
A.A.Sec. 41(5)

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS,

in that he

On or about 6 Jun 42, at Guildford, Surrey, did receive three brushes and 1 bottle of soda water and siphon,, of a total value of £1/6/0, being the property of the said Frederick Reginald Kerry, knowing the same to have been stolen

TO BE TRIED BY F.G.C.M.

G.V. Whitehead

(G.V. Whitehead) Brigadier,
Comd 5 Cdn Inf Bde Group

In the field, this 17th day

of June, 1942

MEDICAL OFFICER'S CERTIFICATE.

This is to certify that B76092 Pte Townley E. has been examined by me this date and found fit to undergo trial by Field General Court Martial.

F J Milner Capt

(F.J.Milner), Captain, R.C.A.M.C.
Medical Officer att'd for Scot R (MG)
C.A.C.

DATE. 1 July/42

MEDICAL OFFICER'S CERTIFICATE

This is to certify that - B 76092 Pte Townley, Elwood has been examined by me this date and found fit to undergo a FIELD GENERAL COURT MARTIAL.

F J Milner Capt

(F.J. Milner), Captain, R.C.A.M.C.

DATE 22 June/42

A.

1

B 76092 Pte Townley, Edward — 1st Sask R.
23 June 17

2 May N.B. Donald — Calg Regt
Capt P. Savage — 2 M.G.
Lieut H.B. Townley — Sup Hdqrs Div.

3 Asst Lieut J.H.H. Depew — Lawyer — 1st Sask R.
Def Lieut Madeson

4 1st Charge — Not Guilty
2nd charge — Not Guilty
3rd Charge — Not Guilty
4th Charge — " Guilty

5 — No. — Def counsel asks for adjournment of a week

6 Pros 1st witness
#1725 P.C. Goddard C.7
Q Have you ever seen accused
A Yes
Q When & where
A At 10½ [illegible] on State Rd Guildford. Accd & friends stop three soldiers. One of the men placed a cig machine in my hands. I saw them throw a syphon of soda & a salt cellar. 2 the hunkies were there & away but did not see them throw anything
Q who put cig machine in your hands
A Pte Townley
Q Had he been drinking
A yes but he wasn't drunk

Def cross exam
Q You say it was Pte Townley who put cig machine in your hands
A Yes
Q Carrying anything else
A Dish & chips
Q It was a quite night
A Yes
Q Seen Pte Townley before

Q Both dressed the same
A Yes
Q Both together
A Yes
Q You can positively identify Downley a man who thrust machine in your hand
A Yes – Mr Downley
Q Who threw cyphon away
A I don't know which

Court Q You took him to police Station & what happened
A Questioned, searched & locked up
Q Was Downley present when woman made statement
A – No
Q About the knuckles
A One found on Hurst didn't see the others thrown away
Q Can you tell me if Hurst was carrying anything
A – No

Def Q When machine was thrust at you you you did not arrest the prisoner
A No he was on the run
Q Your only identification is from other onlookers
A Yes

2nd witness

Miss Audrey Stephens Stoke Road
Guildford sworn
Q will you tell court who you are
A Asst in Forbes Hair Shop 83 Stoke Rd Guildford
Q Have you seen accused before
A I could identify him

Q Can you tell court anything happened last night

A After the two soldiers left a cig machine & salt cellar were missing

Q Explain to court what you saw outside shop

A 2 Soldiers were walking with cig machine under arm

Q What did you do

A Beckoned to policeman

Q Who owned machine

A My father

Q What is value

A I don't Know

Def counsel Witness couldn't identify either of the two men on which man was carrying it Policeman 100 yds away

Court The shop was busy & witness couldn't tell who they were only knew they were Cdns by way they spoke witness saw cabinet again & identified it as one from fathers shop also identified salt cellar

Def Does accused want to give evidence on his own behalf - Witness warned Decided to give evidence on oath

1st Def witness The accused Pte Swaby sworn

Knew fact plaintiff was in for fish & chips with Pte Hurst of Scotch R. Regt in front of him by the time he had been dining Hurst came out & shouted run, some did I saw him carrying cig machine. Both went up St Mary's Rd. Police Constable on beat caught me & took me to station searched & found nothing on person. We were accused of stealing

Crossed by pros Stupp & Swaby together all evening & were together when Hurst came out & ran

Re-examined by Def Threats also

(4)

I usually stop when policeman tells me but didn't this time. Didn't know why policeman was chasing me

Court adjourned sine die

Pros to produce Cpl Benning

Court reopened July 15th - 45
2nd witness
A76776 Pte Hurst H.

I know the accused. I was with him in Guildford of 6 June. We visited several pubs and then went I don't remember where we went. I woke up in the police station. I remember running because there was a policeman there. I remember carrying a cigarette machine. I handed the machine to the policeman. I don't remember throwing anything away.

I didn't see a clothes brush

Pros cross-ex

I was very drunk but I remember a few things such as the cigarette machine. I don't know Stoke Road. It is possible I was in the fish & chip shop. I was with Townley all the time. I remember giving the machine to the policeman I do not know where I got the machine. I last saw the accused in the guard house last night

Court. I do not know where I gave machine to police. I was hungry but don't remember going to an eating house. I have no recollection where I got the machine.

Court closed for consideration of R.P. 86 D
Court reopened & called Cpl Binning
2614597 Cpl Binning R.T.

Examined by the court

I was on duty at 10.35 PM on June 6 in Guildford I recognized the accused & first saw him when he was being pursued by P.C. Goddard. I arrested Pte Hurst. I didn't notice if Townley was carrying anything as I was too far away.

Court called Mr Kerry

I now do not recognize accused. I am a hotel proprietor. On June 6th I was in the Stoke Hotel all evening. I reside in the Stoke Hotel. A large number of Canadians were in my hotel that evening. At 11.45 PM the civil police called and asked me if I had lost anything and on looking I found I had lost 3 brushes. I have subsequently recovered them through the police. A siphon of soda was also missing. The last time I saw the brushes was in the morning. I couldn't identify the siphon. I identified the brushes. They are hotel brushes.

(6)

~~Court is closed for finding~~

summation defense.

Consider 4 charges. Civil police stated he could identify Townley. Accused denies his guilt & Thurst admitted he had machine. Case of mistaken identity of police. Miss Jeffries couldn't identify Townley. Cpl Benning couldn't identify Prisoner. Mrs Kerry couldn't identify Townley or Soda siphons. Bunch found on another Soldier nothing on Townley. Loretta statement over a week ago from Thurst admitting theft of machine. Thurst was quite drunk and may have been in alcoholic fog. Sobered up on being chased.

Pros. Accused charged with theft of salt cellars cig machine Townley definitely identified by PC Goddard as man carrying cig. machine. Townley admitted having salt cellar in evidence and ran from police. Actions of accused & Thurst not of innocent men. Definition of theft.

Court is closed for finding

Finding 1st charge not Guilty
2nd charge not Guilty
3rd charge not Guilty
4th charge not Guilty

Certified that the foregoing pages No 1 to No. 6 is a true record of this trial.

11 Day of July 1942.

Thos. B Donald. Major
Pres.

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ABSTRACT OF EVIDENCE IN THE CASE OF

B.76092, Pte. Edward TOWNLEY, Tor Scot R (MG), a soldier of the Canadian Army (A.F.)

FIRST WITNESS — Appendix "A", being a report by P. GODDARD, P.C. No. 125 of the Guildford Borough Police.

SECOND WITNESS — Appendix "B", being a statement by Frederick Reginald Kerry, of the Stoke Hotel, Guildford.

THIRD WITNESS — Appendix "C", being a statement by Mrs. Edith Ward of Kings Head, P.H. Kings Road, Guildford.

FOURTH WITNESS — Appendix "D", being a statement by Audrey Stevens, 83 Stoke Road, Guildford.

FIFTH WITNESS — Appendix "E", being a statement by Mrs. Millicent May Hill, 2 Belmont Avenue, Guildford.

The accused, B.76092, Pte. Townley, E., having been duly cautioned in accordance with R.P. 4(E), declined to make a statement.

THE ABOVE STATEMENTS HAVE BEEN READ TO THE ACCUSED IN MY PRESENCE THIS 11 DAY OF JUNE 1942.

D.J. Wilkins

(D.J. Wilkins) Capt,
A/Adjt-Tor Scot R (MG),
C.A.C.

Copy. Appendix A

135

6.6.42.

Sir,

I respectfully beg to report at 22-25hrs on Saturday 6th June 1942 I was in Stoke Road, Guildford when I saw two Canadian Soldiers of the Toronto Scottish Regiment R.C.A. walking up Stoke Road towards North Street, followed closely by a young lady who works in the Fish Shop, 83, Stoke Road, Guildford, who shouted to me to stop the two soldiers. I went to them and saw that Private Townley was carrying a cigarette machine, this he pushed into my hands, and they both then ran away towards North Street. I gave chase, during this chase I saw the soldiers , which one I would not say, throw away a salt cellar and a soda syphon bottle. I overtook and caught Townley in Martyr Road, the other soldier was caught by Cpl Binnig. I took Townley into custody then returned and took Hurst into custody to "A" Division, North Street.

I returned and recovered the articles which the soldiers had thrown away. When being searched I found a hat brush hidden under the tunic of Pte Hurst.

Inquiries were made and it was found that this brush and two others not recovered, also the soda syphon bottle had been stolen from the Stoke Hotel, Guildford that evening. The cigarette machine and salt cellar had been stolen from the fish shop, 83, Stoke Road, Guildford by the two soldiers in question.

I then cautioned and charged them with being concerned together in feloniously stealing from the Fish Shop, 83, Stoke Road, Guildford at about 20.20. hours on Saturday 6th June 1942 One cigarette machine and contents, one salt cellar together to the value of £1.0.0. the property of Reginald Charles Stevens.

I further charged them with being concerned together in feloniously stealing from the Stoke Hotel, Guildford sometime between 17.00 hours and 22.20 hours on Saturday the 6th June 1942, three brushes, one bottle of soda water and syphon valued at £1.6.0 the property of Frederick Reginald Kerry.

They replied "O.K.Buddy"

Two brushes have not yet been recovered .

I questioned the two soldiers with regard to the Fund for the Forces collecting tin which had been stolen from the Kings Head Public House, Stoke Road, Guildford which was found on the step of the Stoke Hotel, Guildford, but they denied having seen the tin before, therefore no charge was made against them regarding this larceny.

I am, Sir,

Your Obedient Servant,

P.Goddard. P.C. 135.

W.Oliver Esq.,
Chief Constable.

Appendix B 2

GUILDFORD BOROUGH POLICE.

6th June 194 2.

Subject Larceny from Stoke Hotel

Name Frederick Reginald Kerry.

Address Stoke Hotel, Guildford.

Age 62 years Occupation Hotel Manager.

states :- At about 17.00 hours on Saturday 6th June 1942., I saw that three brushes, one a long round hat brush colour black, and the other two small hand brushes were in their correct position hanging in the Hotel Hall. The brushes are now missing.

I identify the clothes-brush shown to me by the Police as my property.

I also identify a soda water syphon which the Police have shown me as my property and which is missing from the Hotel bar counter.

The value of the brush produced is 5/- and the soda water syphon 2/- The other two brushes are worth 10/- each.

Statement made at 22.45 hours 6.6.42.

Signature of Person making statement In my note book. G.W. Almond. P.S.8.

Witness to above G.W.Almond. P.S.8.

APPENDIX "C"

GUILDFORD BOROUGH POLICE.

Subject Larceny from Kings Head, P.House. 6th June 1942

Name Mrs. Edith Ward.

Address Kings Head, P.H. Kings Road, Guildford.

Age 54 Occupation Housewife.

states :- At about 21.55 hours on Saturday the 6th June 1942. I was assisting my husband to serve customers, when two Canadian soldiers came into the Saloon Bar and called for whiskey. I refused them as I had just called Time.

I was very busy at the time, and took no more notice of the soldiers, only that they were wearing coloured caps and had yellow on their shoulders. After the two soldiers had left the bar, one of the customers asked me if I had an ink bottle behind the bar. I told the customer "yes" He then said "Them two soldiers have taken it" I then noticed that the ink bottle was missing also a collecting tin for the Forces which was standing on the counter close to the ink bottle. I cannot say how much money was in the tin. I would not be able to identify the two soldiers again and I could not say which customer saw the soldiers take the ink bottle.

Statement taken at 23.30.hours Saturday 6th June 1942.,

Signature of Person making statement In my pocket book Page 27

Witness to above George Thayer. T.P.S.15.

GUILDFORD BOROUGH POLICE.

APPENDIX D
4
130

7th June 1942

Subject Larceny from 83, Stoke Road,

Name Audrey Stevens.

Address 83, Stoke Road, Guildford.

Age 18 Occupation Fishmonger.

states :- At about 20.20 hours on Saturday 6th June 1942., I was busy serving in my father's shop at 83, Stoke Road, Guildford when one of the customers shouted "Hey" and pointed to the end of the counter where there should have been a cigarette machine. This was missing. I ran out into the street and shouted to the two Canadian soldiers, ~~xxxxxxx~~ who had just left the fish shop, and had the cigarette machine in their possession. These two soldiers refused to stop. I then saw a Police Officer coming down Stoke Road, and shouted to him to stop the two soldiers.

When the cigarette machine was brought back to the shop by the Police, I identified it also the salt cellar as being the property of my father.

The value of the cigarette machine and contents is 17/6d., and the salt cellar 2/6d.,

This statement was taken at 11.40 hours Sunday 7th June

Signature of Person making statement In pocket book Page 4

Witness to above Percy Goddard. P.C.125.

GUI

GH POLICE.

Subject Lercemy

Name Millicent May Hill Mrs. Iden[illegible] June

Address 2, Belmont Avenue Guildford.

Age 44 Occupation Barmaid.

states :- At about 22.20 hours on Saturday 6th June 1942., I was walking along Haydon Place, Guildford towards North Street, when opposite the Co-operative fruit store I heard someone running . I turned round and saw two soldiers running along The Bars, Guildford towards Haydon Place chased by a Police Constable, they turned into Haydon Place and as they rounded the corner of the Co-operative boot shop I saw one of the soldiers take something from his tunic and throw it over the iron gates into the shop doorway. I did not look what it was at the time, but went back there at 12.10 hours on Sunday 7th June. I then saw a black clothes brush in the Co-operative Bootshop door way. This I immediately recognised as one I had used at the Stoke Hotel, Stoke Road, Guildford, during my employment there as a barmaid. I at once telephoned Mrs Kerry at the Stoke Hotel and told her that one of her brushes was in the place described above. Mrs. Kerry then asked me to notify the Borough Police, which I did.

Statement taken at 14.30 hours Sunday 7th June 1942.,

~~Statement taken at 14.30 hours.--Sunday~~

Signature of Person making statement Pocket book page 34.

Witness to above George Eaton. P.C.140.

Appendix E.

GUILDFORD BOROUGH POLICE.

7th June 1942.

Subject Larceny

Name Millicent May Hill Mrs. Identity Card No. DMPE/334/2

Address 2, Belmont Avenue Guildford.

Age 44 Occupation Barmaid.

states :- At about 22.20 hours on Saturday 6th June 1942., I was walking along Haydon Place, Guildford towards North Street, when opposite the Co-operative fruit store I heard someone running . I turned round and saw two soldiers running along The Bars, Guildford towards Haydon Place chased by a Police Constable, they turned into Haydon Place and as they rounded the corner of the Co-operative boot shop I saw one of the soldiers take something from his tunic and throw it over the iron gates into the shop. doorway. I did not look what it was at the time, but went back there at 12.10 hours on Sunday 7th June. I then saw a black clothes brush in the Co-operative Bootshop door way. This I immediately recognised as one I had used at the Stoke Hotel, Stoke Road, Guildford, during my employment there as a barmaid. I at once telephoned Mrs Kerry at the Stoke Hotel and told her that one of her brushes was in the place described above. Mrs. Kerry then asked me to notify the Borough Police, which I did.

Statement taken at 14.30 hours Sunday 7th June 1942.,

~~Statement taken at 14.30 hours.--Sunday~~

Signature of Person making statement Pocket book page 34.

Witness to above George Eaton. P.C.140.

40-119

Pte. Townley L. E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-4[illegible] Pte Lloyd Everett TOWNLEY - CIC - 1 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 590 15(a)	NOT GUILTY	GUILTY	
Alternative 2nd AA 590 40	NOT GUILTY	NOT GUILTY	
3rd AA 590 40	GUILTY	GUILTY	
~~4th AA 590 40~~			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention per a period of Sixty (60) days.

(Sgd) ..... 6 Feb 45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 177 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

Date 9 Feb 45 (Sgd) H Blackader Brig

Commanding 13 Cdn Infantry Brigade

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 4[illegible] Pte Townley L.E	13 Feb 45	

Promulgated in Part A order 36 d/ 14 Feb 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 426-119

FIELD GENERAL COURT-MARTIAL

CFA96 (To item of AFA31) 40/P & B/1068 - 40/01 4/38B

Convened by Order of Brigadier K G Blackader Comd 13 CIBB dated 2 Feb 45 DSO, ED

2 FEB 45 RECEIVED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-[illegible]		Lloyd Everett	TOWNLEY	CIC 1 CITR

PROCEEDINGS RECEIVED 23 FEB 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held ~~at~~ in The Fd in (country) ENGLAND on (date(s)) 6 Feby 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (1).~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to Capt Sgt Shanks, NZ as shorthand writer? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN VC	HQ CRU
Member	CAPT	L.A. BOURGEOIS	1 CITR
Member	LT	B.Y. MACLEOD	3 CITR
~~Judge-Advocate~~			
Prosecutor	LT	J. COWAN	1 CITR
Defending Offr	LT	R.B. ALLAN	1 CITR

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B" and "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO - I AM (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - I AM (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE AT 1
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ~~establish a prima facie case against~~ the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I WILL GIVE EVIDENCE. Do you intend to call witnesses on your behalf ? Ans NO - I AM. Are they witnesses as to character only ? Ans .
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1 ST charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - I AM
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans I WISH TO MAKE A NOTE AT (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of records after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K-49019 Pte. Lloyd Everett TOWNLEY, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 18(4) ARMY ACT
When on Active Service, stealing property belonging to a person subject to military law

in that he

at Aldershot, Hants on the 25th day of January 1945, stole one officers great coat, the property of Lt.Col R.E. Bricker, 1 Canadian General Reinforcement Unit, a person subjectoto military law.

SECOND CHARGE (Alternative)
Section 40 ARMY ACT
When on Active Service, Conduct to the prejudice of good order and military discipline

in that he

at Aldershot, Hants, on the 25th day of January 1945 improperly took and threw away one officers great coat the property of Lt.-Col. R.E. Bricker, 1 Canadian General Reinforcement Unit.

THIRD CHARGE
Section 40 ARMY ACT
When on Active Service, conduct to the prejudice of good order and military discipline

in that he

in the field, on the 25th day of January 1945, was improperly in possession of a record book entitled "Consultations and Specialists" the property of the F.A.P., 1 Cdn Inf Trg Regt.

~~FOURTH CHARGE~~
~~Section 40 ARMY ACT~~
~~When on Active Service, conduct to the prejudice of good order and military discipline~~

~~in that he~~

~~in the field, on the 25th day of January 1945, referred to an officer of the Canadian Army Overseas as a "Zombie Colonel".~~

C.B. Ware Colonel
(C.B. Ware) Commander
1 Cdn. Inf. Trg. Regt.

In the Field
31st January 1945

To be tried by Field General Court martial.

K.G. Blackader
(K G Blackader) Brig
Comd
10 Cdn Inf Trg Bde

In the Field
3 Feb 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA33)
40/PAM/1697 (2503)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, see RP B7(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, frs, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-[illegible]	Pte		Lloyd Everett	TOWNLEY	CIC 1 CIR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	R L MEDMAN, VD	HQ CHU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CIR
Lieutenant	to be detailed by Commanding Officer	2 CIR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CIR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 5 Feb 45

(Signed personally. RP 105 fn 2.)

(A G Blackader)

Brigadier (Rank.)

Commanding 12 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. H49019 Pte Townley L. B. .....

of ..... L.C.I.R. ..... and in my opinion he

is ~~not~~ fit to undergo Trial by Court Martial.

Station L.C.I.R.

Date 6 Feb 43

..... Medical Officer

CASE OF

K.49019 Pte TOWNLEY. L.E. 1 CITR.

TRIAL ON FIRST & SECOND CHARGES

PROSECUTION

FIRST WITNESS

Lt.-Col. R.E. Bricker of No.1 CGRU. having been duly sworn states:

"On the night of 25 Jan 45 at 1715 hrs I went into the Imperial Hotel and hung my coat on the coat hook outside the upstair lounge. I was in there about an hour and fifteen minutes and when I came out I found my great coat gone. I notified the manager and we searched all the bars and lounges that were open and it was not there. There was no other great coat left so that it could not have been taken by mistake. The next morning I informed the Provost and was later informed by them that they had recovered the great coat. I can identify that coat by the fact that my name is on the inside sewn on a piece of cloth, the beaver buttons which are pre war , regimental patch on one shoulder taken off, the right shoulder ranking badges and Canada badge taken off but they still remain on the left. This is my great coat." (Great coat marked exhibit 1 by Court).

Q. Where is the Imperial Hotel?
A. In Aldershot, Hants.

Q. What did you mean when you said you searched for the coat and there was no other coat left in the hotel?
A. Everyone had their own coat and it appeared that mine disappeared.

CROSS-EXAMINED

Q. You are not certain of the dates now are you?
A. The dates in my statement in the Summary of Evidence is correct.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

B.66852, Sgt. Sheehan, FH of 1 CGRU having been duly sworn states:

Q. What is your present job?
A. I am Provost Sgt. at No.1 CGRU.

Q. What do you know about the theft of a coat on 25 Jan 45?
A. On 26 Jan 45 Lt-Col. Bricker came into the guard room and reported the loss of his coat in Aldershot. I investigated the matter and found the coat was in No.1 CITR guard room. I went there that afternoon and had a talk with the Provost Sgt. He had the coat there and the accused in the guard room. I asked if I could see the accused. He brought the accused out of the cells. I asked the Sgt. if the accused had been cautioned when he was brought in the guard room in the presence of the accused. He said 'yes'. I asked the accused if he stole the coat and he said 'yes'. I asked him why and he said nothing."

Q. How do you identify this coat as being the coat which was stolen?
A. If that is the coat I spoke to the accused about, it has my name underneath the lining on a piece of tape and it has a red mark on one pocket. This is the coat.

Q. What did you do with the coat?
A. I gave a receipt for the coat to the Sgt and took the coat back to my unit and giave it to the Col. as it was miserable weather to be going around without a coat and the Col. gave me a receipt for it.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

PROSECUTOR SAID HE WOULD NOT CALL THE THIRD WITNESS AS HIS EVIDENCE RELATED ONLY TO THE THIRD CHARGE TO WHICH THE ACCUSED HAD PLEAD 'GUILTY'.

DFG OFFR STATED HE DID NOT REQUIRE HIS PRESENCE FOR CROSS-EXAMINATION.

THIRD WITNESS

K.47162, Cpl. Wellington, JE. of 1 CITR having been duly sworn states:-

Q. What is your present work?
A. R.P. Cpl. at 1 CGRU Guard Room.

Q. Will you tell the Court what happened on the evening of 25 Jan 45?

"On the night of 25 Jan 45 a knock came at the door of the guard room and RP Brayall one of the R.Ps on duty opened the door and admitted into the guard room Pte. Townley the accused. Pte. Townley said to me "I wish to have a bed for the night and I want to surrender myself". I asked him why he wished to surrender himself and he said to me I have just robbed a _____Colonel."

THE DFG OFFR SAID - "I object to the word before the word Colonel being put on record". The President said that the word would not be in the record but that a blank would be left.

CPL. WELLINGTON (Cont'd)

"I asked him what he had robbed from the Colonel and he said "I have stolen a great coat and threw it in an alley way near the Imperial Hotel". He said he had taken it off the hook in the lobby way in the Imperial Hotel. I asked him why he did it and he said "I am a kleptomaniac I do this all the time, I have done it several times and got away with it and I am afraid I will do something serious". I smelt he had a few drinks and I thought he was giving me an exaggerated story and I told him that the best thing for him to do was to go to bed. I asked him what unit he was in and he said he thought he was in R.A.D. Wing of 1 CITR. It was approximately 10 minutes later after he was let out of the guard room that he was re-admitted by Pte. Brayall again. He came over to where I was sitting at the table and said"I have just stolen this from the Col to prove to you guys I am a kleptomaniac". The book was 'Consultations and Specialists'. I immediately said to him that anything you say will be used in evidence against you."

DFG OFFR SAID - "I object to this witness giving evidence as to what the accused then said, as the caution was defective in that he did not say to the accused "you are not required to say anything unless you wish" and he also improperly used the words "against you".

PROSECUTOR STATES - "I believe the DFG OFFR is objecting on the grounds that rules laid down, page 91 MML have not been complied with but I would point out to the Court and Dfg Offr that at the bottom of page 92 and the top of page 93 there is this observation (Prosecutor reads). I submit that the statement made by the accused after the caution should be admitted in evidence as we have before this Court already evidence that the accused freely volunteered information and the Dfg Offr I submit must show that it was unfair and that it was obtained by some fear of prejudice."

DFG OFFR SAID - "There is authority which I cannot lay my hands on at the moment, I can remember seeing it in red ink, it must be an amendment, which states "where in the caution, the person is warned that evidence is to be used against him, that it is equal to a threat and therefore it can not be admissable. Those two words "against him" I submit make the caution defective."

PROSECUTOR SAID - "I submit that it is the statement itself that is admissable and not this particular bit of evidence."

COURT WAS CLOSED TO CONSIDER THE SUBMISSION.

THE COURT RE-OPENED AND SUSTAINED THE OBJECTION OF THE DFG OFFR TO THE ADMISSION IN EVIDENCE OF ANY STATEMENT MADE BY THE ACCUSED AFTER THE DEFECTIVE WARNING.

CPL. WELLINGTON'S STATEMENT (Cont'd)

"From that point I took all the personal belongings from Pte. Townley and I told him I would place him under close arrest. I placed him under close arrest and made the usual entries in the guard room books."

Q. What did Pte. Brayall do?
A. I sent Pte. Brayall out and he came back and brought with him the Colonel's great coat. This, exhibit 1, is the great coat he brought back, I can identify it by the name of Major Bricker.

Q. What do you know about the great coat leaving the guard room?
A. I was with Sgt. Sheehan and I released the great coat to him.

Q. Who brought the great coat in with Pte. Brayall?
A. Pte. Shepherd another R.P.

Q. What time did the accused first come to the guard room?
A. At 2035 hrs.

Q. What was your job at that particular time?
A. I was i/c the night shift from 1600 hrs to midnight, as Cpl. i/c guard room.

NO CROSS-EXAMINATION.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THIRD WITNESS

G.18154, Pte. Brayall, M.E. of 1 CITR having been duly sworn states:

Q. What is your work?
A. R.P. at #1 CITR.

Q. Were you on duty on 25 Jan 45?
A. Yes sir.

Q. What happened that evening?
A. I was on duty at the guard room when I heard a knock at the door. I opened the door and Pte. Townley whom I recognize entered. We went to the desk where Cpl. Wellington was in charge and he said "I want to be put up for the night, I have just robbed a _____ Colonel".

THE DFG OFFR SAID - "I object to the word before the word Colonel being put on record". The President said that the word would not be in the record but that a blank would be left.

Pte. BRAYALL (Continues)

"So the Cpl. then asked him.

DFG OFFR SAID - "I object to this unless there was any caution given".

PROSECUTOR SAID - "I dispute this object. This man had not been arrested and was volunteering this statement. On that grounds it should be admitted."

THE COURT RULED THE DFG OFFR OBJECTION SUSTAINED.

Q. Did Cpl. Wellington threaten the accused?
A. No sir.

Q. Did he make any promises to him at that time?
A. No at that time.

DFG OFFR SAID - "I do not wish to cross-examine this witness but wish to point out that a soldier in the guard room should be cautioned before he is asked about any offence he is alleged to have committed and in those surroundings the caution is definitely necessary.

PROSECUTOR SAID - "I wish to point out in saying he is alleged to have committed an offence, there was no charge at that time, he just came into the guard room and volunteered the information and the guard wanted to know what it was all about. The whole thing was volunteered on the part of the accused."

COURT WAS CLOSED

COURT WAS RE-OPENED AND THE PRESIDENT SAID THAT AS THE DFG OFFR HAS OBJECTED TO THE ADMISSION OF THE EVIDENCE THE COURT AFTER CONSIDERING THE SITUATION SUSTAINED HIS OBJECTION.

PTE. BRAYALL (Continues)

Q. As a result of something the accused said where did you go a few minutes later?
A. As a result of something the accused said to me I left the guard room and went down town to look for the great coat. I went to the Imperial Hotel and looked in the laneway around the Imperial Hotel but didn't find anything. I marched about 300 yrds down the roadway and in the back end of the amusement hall I found the great coat hanging on a post. This exhibit 1 is the great coat. It has a tab marked by Cpl. Wellington, also I note the name Major Bricker on the inside and also I note that patches had been taken off the right arm.

Q. What did you do with the great coat you found?
A. I brought it back to the guard room and just as I brought it to the guard room Pte. Townley came out of the lavatory and there was some discussion about the great coat.

Q. After Cpl. Wellington talked to Pte Townley when he first came in what happened?
A. He went back out and came back with a medical book and said, "maybe this will satisfy you fellows that I am a kleptomaniac".

Q. What happened then?
A. Cpl. Wellington placed him under close arrest and said that anything he would say may be used as evidence against him.

Q. The roadway you found the great coat in does it lead to the Imperial Hotel?
A. It is straight across from the main door of the Imperial Hotel.

Q. Where is the Imperial Hotel?
A. In Aldershot.

NO CROSS-EXAMINATION.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTOR HAVING BEEN DULY SWORN STATES:

"I am the officer who took the Summary of Evidence in respect of the charges against K.49019, Pte. Lloyd Everett TOWNLEY, the accused whom I recognize in this Court Room. At the conclusion of taking the Summary of Evidence I cautioned the accused as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence". The accused elected to make a statement under oath. The accused was duly sworn and made the following statement:- "Sometimes I take things without knowing why I take them. It comes in spells and I always return the things that I take, but not directly. I am really afraid to turn them back directly. These spells started while I was in the hospital after coming back from France. I gave myself up, I have never been caught. I figured it was the best thing I could do, as I may get myself into real trouble sometime. If I could get medical attention it might help me. If I should get into civilian life again I wouldn't want to have a thing like that".

PROSECUTION IS CLOSED.

THE DFG OFFR SAID - "I ask the Court to aquit the accused because a prima facie case has not been made out on the first and second charges. Unfortunately with respect to the first charge, I did not make an objection soon enough during the evidence of Cpl. Wellington. I submit that that evidence should have been disallowed also we would then have simply in evidence that the coat disappeared from the hotel, that the accused came to the guard room and he said something which may have been anything. He may have said that he took a coat from a hotel and the coat was later found and I submit that is not evidence. Furthermore the fact that the coat was obtained and recovered later is some evidence that the coat was not deprived permanently from the owner. In relation ~~to~~ the second charge I submit that it is an improper charge, that there is multiplicity of charges there and he should be aquitted on that charge also."

PROSECUTOR SAID - "I submit that the Prosecution has given sufficient evidence before this Court that should justify the Court in finding there is a case which the accused should answer that they have therein brought on the accused and we should hear the evidence of the Defence if shown that Col. Bricker's great coat was missing on the night of 25 Jan 45 and we have the evidence of Sgt. Sheehan that the accused stated he stole this great coat from the Imperial Hotel. We have also the evidence of Cpl. Wellington that the accused told them he had robbed a Col. had stolen a coat from the Imperial Hotel. We have further evidence by Pte. Brayall that the accused stated he had robbed a Colonel and later on we find that this same witness brought back a great coat from a laneway near the Imperial Hotel, the place that he said he had put it according to the evidence of Cpl. Wellington."

COURT WAS CLOSED TO CONSIDER THE SUBMISSION

COURT WAS RE-OPENED AND THE PRESIDENT SAID THE SUBMISSION WOULD BE DISALLOWED.

DEFENCE

FIRST WITNESS

The accused, K.49019, Pte. Townley, LE. of 1 CITR having been duly sworn states:

Q. Will you tell the Court what you know about this matter, what you remember on that evening?
A. What I do recall is that I went to the Imperial Hotel and I had a glass of beer and what happened is I seen this great coat and picked it up and out I went with it. I was in a sort of a coma.

Q. Why did you do that?
A. I couldn't tell you, I don't know.

"I just walked out the front door and crossed the street and down this little laneway. I suddenly realize what I was doing and so I folded it three times and laid it in a corner of a lane way where it could be found and went away. There was quite a battle going on inside and I was wondering whether I should go in and tell them about it or what to do. I was quite mixed up about the whole thing, so I went in and had another drink and I was going to go back and give myself up and then I said to myself 'No' and so I went in and had another drink and eventually I got back to this guard room up here and I knocked at the door and I entered the guard room and addressed the Cpl. and told him I wanted to be locked up for the night so I wouldn't do anything else really big. He would not listen to me and took it as a joke and told me to go home and sleep it off. I guess I looked pretty drunk. He said I would have to have some evidence to be thrown in the guard room like that, so the only thing I could do was to get something to show him."

Q. Did you try to get medical attention?
A. I did once but I held back. They sent me to a psychiatrist but he didn't find out anything wrong. I held back telling him about ~~being~~ a kleptomaniac.

FIRST WITNESS FOR THE DEFENCE (Cont'd)

Q. How old are you?
A. I am 21.

Q. Will you tell the Court about your family life?
A. To begin with I was adop ted when I was very young. My real mother and father are missing. I lived with my foster parents, I only had a foster father and foster brother. I don't know what else to say.

Q. How far did you go in school?
A. I went as far as Grade 8.

Q. Then what did you do?
A. I went to work with my father for awhile on odd jobs.

Q. What other jobs?
A. Jobs that were not permanent such as digging ditches. I then went to work on a printing firm.

Q. How long did you keep that job?
A. Quite awhile, I couldn't say exactly but I think a couple of years.

Q. When did you join the army?
A. 30 Dec 42.

Q. When did you come overseas?
A. June 43.

Q. When did you go to the field?
A. August 43.

Q. To what Regt?
A. Canadian Scottish.

Q. How long were you with the Canadian Scottish in the field?
A. Up until 14 Jun 44.

Q. Did you go into Normandy on "D" Day?
A. Yes sir.

Q. Were you wounded?
A. Yes sir.

Q. What date?
A. 14 Jun 44.

Q. What kind of wound did you get?
A. A bullet wound in my leg.

Q. Any concussion?
A. Yes before that. I never said anything about it. One knocked me out worse. I was in a building and a shell landed in the next room. It dazed me a bit. It was really the only one I ever felt. The others only dazed me a little, you would not notice it. I guess later on I did funny things.

Q. When did this kleptomaniac trouble of yours start?
A. It started on 23 Jun 44 when I w as in hospital.

Q. After you returned from France?
A. Yes sir.

Q. Did you ever have anything of this nature before?
A. No sir.

Q. When you took these things did you intend returning them?
A. At the time I took them it is hard to explain, you don't think of things like that, it is just like walking over to something picking it up and walking out and afterwards you realize what you did and return them indirectly.

FIRST WITNESS FOR DEFENCE (Cont'd)

Q. Have you been examined by an M.O. here?
A. Physical, yes.

Q. Do you know of any recommendation he has made about you?
A. No sir.

Q. Do you know if he has recommended that you have a psychiatrist examination?
A. I don't know sir he said I was high strung.

Q. Have you ever had any other charges against you in the army?
A. No sir none whatever.

CROSS-EXAMINED

Q. What badges were on the coat you took from the Imperial Hotel?
A. At the time I didn't know but after I was the coat in the guard room I found there was a Midland Regt. badge.

Q. You saw the coat in the guard room later in the same evening after you took it from the Imperial Hotel?
A. Yes I believe I did.

Q. Did you intend to return the coat?
A. After I had realized what I had done yes but I would have been caught and you just can't go up to a person and say here I stole this coat from you. I was afraid.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

PROSECUTION ADDRESSES THE COURT

I submit to this Court that the accused by his own admissions has admitted to his guilt of stealing this great coat. He said that the great coat he took and placed in the laneway he later saw in the guard room that evening and we have the evidence that the great coat seen in the guard room that evening is exhibit 1 and that is the great coat which is the subject of this charge. I submit that at the time he took the great coat he did intend to deprive the owner of that coat and therefore is charged with theft. With respect to the second charge I say that the words 'took away' is not a separate offence but is part of the one action.

DFC OFFR ADDRESSES THE COURT

In answer to that I would like to ask the Court to aquit this man on the first charge on the ground that he did not intend to deprive the owner permanently of the coat. The coat was taken out and at the moment he realize what he was doing he dropped the coat and didn't take it back but didn't intend to deprive the Colonel of the coat and therefore could not be charged with theft. Secondly I submit the accused did not take this coat with the necessary guilty mind that he in view of mental obligation he has, he didn't realize and he should therefore be acquitted. With respect to the second charge I submit that two offences are charged in one charge, that he improperly took and that he threw away. They happened at different times and they took two separate pieces of thought. They were two distinct actions and if he is to be charged under Sec.40 he should have been charged twice. The accused could do nothing else but plead guilty to the third charge. He didn't take it for any purpose, he felt he should have been examined and the only way to convince people of this was to do something of this kind for which they would lock him up. I submit that this man is not a thief. He has never had a crime against him. He has mental trouble and the Court should not punish him like they would a thief. I sa y that this is a case where a psychiatrist should examine the man and that he be dealt with on that footing and not on the footing as a criminal. I can say that the M.O. of this unit has recommended that he be examined by a psychiatrist. I have also talked to the SPO who feels sure that the man will be brought down with an "S" category. He is obviously nervous and high strung and his experience in France may have caused him some slight averation which would cause him to do these things but they are not of a criminal nature.

DFS OFFR ADDRESSES THE COURT (Cont'd)

Taking in consideration in mitigation of sentence and particularly his home life and background which was not a normal one and his overseas experience in France and his clean record, I ask the Court that the accused be examined by a psychiatrist before any sentence that the Court might pass.

COURT WAS CLOSED FOR SENTENCE.

6 Feb 1945

Received from Lt. Col. Redmond, President of the Court Martial which tried K 49019 Pte Townley L.E., one officers great coat, the property of Lt. Col. R.E. Bricker, 1 C G R U

[illegible] Lt.
Prosecuting Officer
1 C / T R

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-49019	Pte	L.E. Townley	1 CITR

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	~~Within last 12 months~~	Since enlistment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under ~~A.A. 73~~ are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and eleven days in military custody, making a total of eleven days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 20 yrs 10 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service is~~ attestation paper 30 Dec 42

7. The service which the accused is allowed to reckon towards discharge is 762 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of ~~or entitled to no air force decoration, or air force reward (or is in possession of or entitled to).~~ State any ~~air force~~ military decoration or reward. Canadian Volunteer Service Medal and Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

EXB
My

11. (In the case of an officer.) ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name.....of.....Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~3rd~~ 6th day of ~~January~~ February 1945 (J.H. Galloway) Capt
Records Officer 1 CITR

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. K-49017 Name TOWNLEY Lloyd Everett | Sqn., Battery, or Company | Corp CIC | Date of enlistment 30 Dec 42 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. CEC McNeil Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 30 Jun 43; Entries NIL.	(Sgd) C.E.C. McNeil, Capt.				

CERTIFIED TRUE COPY

J.H. Galloway Capt.
(J.H. Galloway) Records Officer
1 Canadian Infantry Training Regiment
Officer Having Custody of Original
31 January 1945.

(P.T.O.)

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everet Townley, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt.-Col. R.E. Bricker, Midland Regiment, on the strength of 1 Canadian General Reinforcement Unit, an officer of the Canadian Army Overseas having been duly sworn states:-
I am Lt.-Col. R.E. Bricker, Midland Regiment on the strength of 1 Canadian General Reinforcement Unit. At approximately 1915 hours on the 25 January 1945 I visited the Imperial Hotel, Aldershot and hung my great coat on a ho hook in the upstairs hall in the Hotel. On preparing to leave about 2030 hours I found my greatcoat missing. I notified the manager and a search was made thruugh all the cloak rooms and bars, but the great coat could not be found. The following morning I notified the Provost of No 1 Cdn Gen Reinforcement unit and gave them a description of the coat. I produce my great coat which was stolen as exhibit "A". I identify the great coat by my name on the inside of the coat, the beaver buttons, the missing ribbon from the inside of the coat, the rank badges, the style of the coat and in other ways. The rank badges, regimental flash and Canada patch had been removed from the right shoulder when it was returned to me. I received the coat on 27 January 1945 from the Provost Sergeant of the Regimental Police of 1 Canadian General Reinforcement Unit.

The accused declines to cross-examine this witness.

R.E. Bricker Lt.-Col.
(R.E. Bricker)

SECOND WITNESS FOR THE PROSECUTION

B-66852 Sgt Sheehan, F.H., Canadian Provost Corps, attached to 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:
I am B-66852 Sgt Sheehan, F.H., Canadian Provost Corps. attached to 1 Canadian General Reinforcement Unit. On 26 January 1945 at approximately 1000 hrs Lt.-Col. R.E. Bricker reported to me the loss of his great coat and asked me to try and locate it. As a result of inquiries I found the great coat in the Guard Room of 1 Canadian Infantry Training Regiment (greatcoat marked exhibit "A") and also saw the accused K-49019 Pte. Townley, L.E. I signed a receipt for the great coat and delivered it to Lt.-Col. R.E. Bricker the next day. I identify exhibit "A" as the great coat I obtained from the Guard Room by a red mark on one pocket and by my signature on a piece of tape attached to the lining of the coat.

Cross-examined by the accused:

Q1. Do you know where the great coat was found?
A1. No, I do not.

F.H. Sheehan Sgt.
(B-66852 F.H. Sheehan)

THIRD WITNESS FOR THE PROSECUTION

M-65511 Pte. Coles, J.A.T., Canadian Scottish Regiment, on the strength of 1 Canadian Infantry Training Regiment a soldier of the Canadian Army Overseas, having been duly sworn states:
I am M-65511 Pte. Coles, J.A.T. on strength of 1 Canadian Infantry Training Regiment. I ams First Aid man in the F.A.P. of 1 Cdn Inf Trg Regt. I was on duty in the P.A.P. at 1 CITR in the evening of 25 January 1945. At about 2100 hrs I was asked to ~~the~~ the Guard Room. I went to the Guard Room 1 CITR and the Corporal on duty showed me the book marked exhibit "B" which I identify with my initials.

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everet Townsley, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

THIRD WITNESS FOR THE PROSECUTION (Continued)

M-65511 Pte. Coles, J.A.T., Canadian Scottish Regiment, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states:

with my initials./ The book contains a record of Consultations and Specialists and is so entitled. The book is the property of the F.A.P. 1 CITR. I took the book back to the F.A.P. and it has been there ever since. The book is kept at the F.A.P. and is never taken away from there. The accused, Pte. Townley, did not have permission to take it away.

The accused declines to cross-examine this witness.

M 65511 Pte. J.A.T. Coles.
(M65511 Coles, J.A.T.

FOURTH WITNESS FOR THE PROSECUTION

K-47162 Cpl Wellington, J.E., Westminster Regiment, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states:

I am, K-47162 Cpl Wellington, J.E. Westminster Regiment on strength 1 Canadian Infantry Training Regiment, and am employed on the Regimental Police. On the evening of 25 January 1945 I was NCO in charge of the Guard Room 1 CITR. At approximately 2035 hours the accused, K-49019 Pte. Townley, L.E., whom I now recognize, was admitted to the Guard Room by Pte Brayall M.E. one of the Regimental Police. Pte. Townley said to me "I want a bed for the night and I am surrendering myself because I robbed a Zombie colonel". I then asked him where he had robbed the colonel and he said "I just stole his coat from the Imperial Hotel". I then asked him what he had done with the great coat and he said "I threw it in an alley way near the hotel". I asked him why he did that and he said "I am a kleptomaniac, I do it all the time and I can't help myself." I smelt liquor on the accused and I thought he was under the influence of liquor as his story was so unbelievable. I asked him where he was billeted and he said he thought it was R&D Wing. I told him to go to bed. Pte. Townley left the Guard Room and reappeared approximately ten minutes later. He was admitted to the Guard Room by Pte. Brayall. He placed a medical record book entitled "Consultations & Specialists" in front of me on the table. The book marked exhibit "B" and which I identify by my initials, is the book the accused brought to the Guard Room. I recognize the book by the title on the cover, the corner off the sticker and the ink blot on it. Pte. Townley said to me "I had to prove to you I am a kleptomaniac so I stole this book from the Medical Room". I told him that anything he might say would be used against him and I placed him under close arrest. I searched him and made the usual entries in the Record Book kept in the Guard Room. I then phoned the FAP and asked for the medical Orderly to come to the Guard Room immediately. Pte. J.A.T. Coles of the FAP came to the Guard Room and identified the book as being the property of the FAP. I went with Pte Coles to report to the Orderly Officer and then released the book to Pte. Coles. I then sent Pte. Brayall M.E. and one other member of the Regimental Police to search for the great coat. They returned later with a great coat which did not have badges of rank on one shoulder. One regimental patch and a Canada patch were also missing. The one shoulder had the badges of rank of a Lt.-Col. and the regimental patch of the Midland Regiment

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everet Townley, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Command Officer this Summary of Evidence is taken on Oath.

FOURTH WITNESS FOR THE PROSECUTION (continued)

K-47162 Cpl. Wellington, J.E., Westminster Regiment, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas having been duly sworn states:
Midland Regiment./ I identify the great coat marked exhibit "A" as the coat which Pte. Brayall brought to the Guard Room. I recognize it by a piece of adhesive tape on the lining on which is my number, rank and name which I placed there. The number rank and name of the provost Sergeant from 1 Canadian General Reinforcement Unit is also on the adhesive tape. I also recognize it by red marks on a pocket and on the makers tab, and by the tab with Major Brickers' name on it. After I received the great coat I saw Pte. Townley. I asked him if this was the coat he had stolen and after he had examined it he replied "That's the coat I stole". I asked him if it was in good shape when he stole it and he said "Yes it was in good shape". I was in the guard room the next day when the Provost Sergeant Sheehan received the great coat ~~and~~ marked exhibit"A".

Cross-examined by the accused.

Q1. Where was the coat found?
A1. I don't know, Pte. Brayall found it.

J.E. Wellington Cpl
(K47162 J.E. Wellington)

FIFTH WITNESS FOR THE PROSECUTION

G-18154 Pte. Brayall, M.E. Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states:-
I am G-18154 Pte. Brayall, M.E. Canadian Infantry Corps, on strength of 1 Canadian Infantry Training Regiment. I am one of the Regimental Police of 1 CITR. I was on duty in the Guard Room on the night of 25 January 1945, when I heard a knock at the door at approximately 2035 hrs. I opened the door and K-49019 Pte. Townley, L.E., the accused, whom I now recognize, came in. He went to the desk to speak to Cpl Wellington, J.E., the NCO in charge of the Guard Room. He said "I want a bed for the night as I am in trouble". The Corporal asked him what was the trouble and he said "I have just robbed a Zombie Colonel". The corporal asked what he had stolen and where from. He said "I stole his great coat from the Imperial Hotel". When the corporal asked him what he did with the coat he said "I threw it in the alley across from the Imperial Hotel". He also said "I am a kleptomaniac and I steal anything I get my hands on when I am that way". He smelt of beer. The corporal told him to go to bed and Pte Townley left. About ten minutes later there was another knock at the door and Pte Townley in again. This time he was carrying a book in his hand and said "Maybe this will satisfy you that I am not right". I recognize the book marked exhibit "B" and identified by my initials on the book which Pte. Townley brought into the Guard Room. I identify it by the name and the label on the front of the book. He put the book on the desk and Cpl Wellington asked him where it came from. He said "It came from the ~~RAP~~". When the corporal asked him how he got it he said "I just walked in and picked it up". The corporal then placed him under close arrest and told him that anything he said might be used as evidence against him.

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everet Townley, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Cacommand O

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everet Townley, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath;

FIFTH WITNESS FOR THE PROSECUTION

G-18154 Pte. Brayall, M.E., Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states:-

against him./The corporal took his personal belongings away from him. A little later Pte. Shepherd, one of the Regimental Police, and myself went into town to look for the great coat, where Pte Townley said he had thrown it. We found a great coat approximately 300 yards from the Imperial Hotel, Aldershot. It was hanging on a post along a road way, not far from the back of the Amusement Hall. I recognize the great coat marked as exhibit "A" as the great coat which we found on the post. I identify it by the name tab on the inside of the coat bearing the name "Major R.E. Bricker". I also recognize it by the markings left on the coat in the places where there were formarly patches. We brought the great coat back to the Guard Room. On one shoulder of the great coat there was no flashes or badges of rank, while on the other shoulder there was one pip and one crown and a Midland Regiment patch. I hung up the great coat in the Guard Room and later in the evening when Pte. Townley was coming back from the lavatory, I stopped him and asked him if he recognized the great coat. He looked at it and said "Yes, that is the coat that I stole" Cpl Wellington asked him if that is the way he left the coat and he replied "No, it had the ranks on both sides and regimental flashes".

Cross-examined by the accused:-

Q1. Are you sure that I said I threw it in the alley across from the Imperial Hotel?
A1. Yes.

M E Brayall Pte.
(G-18154 M.E. Brayall)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence"

The accused elected to make a statement under oath.

The accused having been duly sworn states as follows: Sometimes I take things without knowing why I take them. It comes in spells and I always return the things that I take, but not directly. I am really afraid to turn them back directly. These spells started while I was in the hospital after coming back from France. I gave myself up, I have never been caught. I figured it was the best thing I could do, as I may get myself into real trouble sometime. If I could get medical attention it might help me. If I should get into civilian life again I wouldn't want to have a thing like that.

SUMMARY OF EVIDENCE

In the case of K-49019 Pte. Lloyd Everett Townley, Canadian Infantry Corps on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

The accused elected to make a statement under oath.

The accused having been duly sworn states as follows: like that./ The word "Zombie" in its common use by the average Canadian Soldier means the same as a non active soldier. It is just a common word, that is used by each and every active soldier overseas for the past while. If the government allows this word to be used in the Canadian newspapers, it must be a common word. It may be just force of habit that one refers to a person belonging to a regiment not in one of our overseas divisions as a Zombie.

Pte
(K.49019 L.E. Townley)

I certify that the foregoing Summary of Evidence consisting of five (5) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

Lt
(J. Cowan) Officer detailed to take summary of evidence

In the Field
31 Jan 45.

EXA (Brad ...)
MM

WW-21

PTE TOWNLEY T.

WW-21

FIELD GENERAL-COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & S/1698 (2864)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.Sec.15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

R At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of Sixty (60) days

(Sgd) ..... Judge-Advocate, if any. 19 Nov/43 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and Sentence set forth in Part I is confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) O.C.

(1. AA 57A. Delete if not used.)

Date 22 NOV 43 (Sgd) [signature] Commanding D GP CDN RFT UNITS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B79087 PTE. TOWNLEY, T.	23 NOV 43	[signature] Captain Adjutant, 4 Cdn Inf Rein Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Convened by Order of (G. Francoeur) Brigadier Comd "D" Group, CRU dated 17 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
B-79087	Pte Proceedings Reviewed 10 Dec 43	Thomas	TOWNLEY	2 Canadian Division Support Battalion, Tor Scot R. (4 CIRU)

[signature] Brigade Major
Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) England on (date(s)) 19 Nov/43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member~~, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2)
R The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 10:04 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1)
R ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused : Do you object to ..... as interpreter ? Ans .....
R ~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer ? Ans .....
R ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO SIR(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col.	D.E. Ramsay DSO	1 C.I.R.V.
Member	Capt.	D.E. Mitchell	1 C.I.R.V.
Member	Lieut.	M.J. Gorman	1 C.I.R.V.
UPGRADED UNDER ORDER	Lieut.	J. Morgan	3 C.I.R.V.
R ~~Judge-Advocate~~	Lieut.	D.E. Craig Law	3 C.I.R.V.
Prosecutor	Lieut.	A. MacMillan	4 C.I.R.V.
Defending Offr	Lieut.	D.E. Walker	4 C.I.R.V.

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

R A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

R A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) ~~plea(s)~~ of Guilty to Not Guilty on ..... charge(s). ~~The accused is~~ (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded ~~GUILTY~~ are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans I'd like to give evidence under oath NOT AT ALL

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans I only want to say I'm sorry for what I've done NOTE (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to depose on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

NOTED

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 61(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

3.74087 Pte Townley, T.
21st Div Sup Bn - In both - 4 Cirs

Remarks	Date
Trial in (Country) England	19 Nov
Charges 15 (c)	
Sentence 60 days' det'n	19 Nov
Rec'd from CR at JAG Branch	2 Dec
To Rev 4 for (pre)(post) rev	9 Dec
Recommendations by J.A.G. Rev 2 (1) Pass and record. (2) ~~Ltr on irregularities.~~ (3) Quash ~~Charge(s)~~: (4)	
Ret'd to JAG Rev 1 by Rev 2	10 Dec 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal Record to file	10 Dec 43
Instrs completed by	

CHARGE SHEET

The accused, No. B 79087 Pte. THOMAS TOWNLEY, of 2 Canadian Division Support Battalion, (TSR) on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

WHILE ON ACTIVE SERVICE, Absenting himself without leave,

in that he

at Aldershot, Hants., absented himself without leave from 2359 hours, 24 October, 1943, until surrendering himself to Company Night N.C.O. at 2230 hours, 14 November, 1943; (Time absent:- 20 days, 22 hours, 31 minutes.)

(J.H. Christie) Col.
Officer Commanding,
4 Cdn Inf Rft Unit, C.A.O.

IN THE FIELD
15 NOVEMBER 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
18 NOV 1943.

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. B79087
PTE. TOWNLEY T. of #4 C.I.R.U.
and in my opinion, he is fit to undergo trial by Court Martial.
Station. FIELD
Date. 19-11-43 (Sgd.) (Medical Officer)
(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

FIELD GENERAL COURT-MARTIAL

CFA95 (To face of CFA93)
40/PARS/1697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-79087	Pte		Thomas	TOWNLEY	2 Canadian Division Support Battalion, Tor Scot R. (4 CIRU)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 17 Nov 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.col	D.L. REDMAN ED	Calg. Highrs.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
1 Captain	to be detailed by C.O.	7 CIRU
1 Lieutenant	to be detailed by C.O.	7 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

G Hamilton (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

Date 17 Nov 43

Commanding "D" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

NOTE E1 Townley

Subject by accident in Instigation

My reasons for going A.W.L. is my association with a young married woman who is having a child on Sept 15/44. Her husband is on furlough home before X mas I thought I should see him before he got home and tell him about it so that it would be easier for her. He has been away over a year. We hope to be married if she can get a divorce I am 23 and unmarried I joined 24 Jun/40 I worked for 1 Eaton boy as right electrician I got three junior fourth. My people home live in Toronto. Nothing else is worrying me in the army. My mother is ill in Hospital with high blood pressure. My home life was good. This woman wrote me before I went telling me the Husband might be home in October so I went and waited time to see if the husband would turn up.

K.R.P. & B. ~~wrote with~~ Mrs

Statement in mitigation of sentence offered by the offic
defending B 19087 Pte. Townley T. NOTE
E-3 WW

The accused enlisted on June 24, 1940 when he was 20 years old. He came overseas in February 1942. He is now 23 years old. His parents are both living in Toronto and his home life was good. He was employed as night electrician with the T. Eaton Co. Ltd in Toronto. Prior to enlistment he left school at the age of 16 having only reached Junior 4th grade.

He was almost 2 years without a crime in the army. All of his offences prior to his last trial General Court Martial consisted of offences in connection with A.W.L. mostly for a matter of hours.

He was convicted [illegible] a day and mostly for a matter of hours.

His last F.B.C.M. was for absence of 10 days. He went to South Devon and spent it mostly with the young woman mentioned later.

He has now been involved in an affair with a young married woman as a result of which she is pregnant. She expects to be confined in April 1944. Her husband who is stationed with the Royal Marines in Malta with home leaving that he would be home before Christmas and possibly at the end of October or first of November. She wrote to the accused telling him of this and not unnaturally he wrote to be present with her to help her. Her parents had turned against her and there was no one she could turn to other than the accused. He realized that the possibility of obtaining leave for the purpose was practically nil and went absent without leave. They intend to be married if she can obtain a divorce from her husband. He is quite serious about the matter.

He is a smart appearing lad and is well turned out. A stiff sentence will only embitter him and will not help him as a soldier. He surrendered voluntarily when it appeared that the husband was delayed in arriving. He is very anxious to do a good job as a soldier especially as he realizes he will need all his money to help finance his marriage and the birth of the child.

All of which is respectfully submitted to this Court.

[illegible]
for the accused

1944 #3

15 Nov 43.

This is to certify that I have received the following documents, free of charge.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 Copy of List of Witnesses.

T. Townley Pte. B79087.
B 79087 Pte. Townley, T.

...R CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.(O). 40/24

15 Nov 43 19..

I, No. B 79087 Pte. Townley, T. wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Spl. Duty Officer Available
if he is available. (Sgd.) T. Townley Pte.

LIST OF WITNESSES

In the caseof B 79087 Pte. Townley, T., 4 C.I.R.U.

FOR THE PROSECUTION

1. B 78577 C.S.M. Sumner, E.H., "C" Coy. 4 C.I.R.U.
2. B 46977 Cpl. Oggy, J., "C" Coy., 4 C.I.R.U.

FOR THE DEFENCE

N I L

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B 79087 Pte. Townley, T., of 2 Canadian Division Support Battalion (TSR), on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army overseas.

By direction of the Commanding Officer, the summary of Evidence is taken on oath.

FIRST WITNESS

For the Prosecution

B 78577 C.S.M. Sumner, E.H., of the Irish Regiment of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I am C.S.M. of "C" Coy. 4 C.I.R.U., to which the accused, whom I now recognize, is attached. At 2359 hours 24 Oct 43, the accused failed to return from Priviledge Leave which expired at that time. His name was called on parade at 0730 hours 25 Oct 43 and he failed to answer his name. He has been continuously absent since that time.

The accused declines to cross-examine this witness.

.....
B 78577 C.S.M. Sumner, E.H.

SECOND WITNESS

For the Prosecution

B 46977 Cpl. Oggy, J., of the Lorne Scots of Canada, on the strength of No. 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

On 14 Nov 43 I was Night N.C.O. of "C" Coy. At 2230 hours 14 Nov 43 the accused, whom I now recognize, reported to me in "C" Coy. Orderly Room.

The accused declines to cross-examine this witness.

.....
B 46977 Cpl. Oggy, J.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused makes the following statement:-

"My reasonfor going Absent is a personal matter and I would rather not make a statement at this time.

.....
B 79087 Pte. Townley, T.

I certify that the foregoing Summary of Evidnece consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (e) and (f) have been complied with.

.....
Officer detailed to take Summary

IN THE FIELD
15 NOVEMBER 1943.

EXA

M.F.M. 6
(A.F. B.122)
40/3 As 7/3136 12/6(5)

No. B 74087 Name Townley J. | Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 24-6-40 | G.C. Badges | Service or Proficiency Pay N.A.

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine | Sheet No. 1(a) | Signature O.C. Company, etc. J.A. Rogerson Maj. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposing with case	By whom awarded	Remarks
Camp Borden	4-2-42	Pte		A.W.L. 3 days A.A. Sec 15(1)	Documentary	Admonished	4-2-42	Capt. Donaldson	[illegible]
Field	11-2-42	"		Did not go on parade at the appointed A.A. Sec 46 time	Sgt. Rogers	7 days C.B.	11-2-42	Maj. Rogers	[illegible]
Field	20-2-42	"		A.W.L. 1 day A.A. Sec 15(1)	Pte. Ryder	1 days F.S.	21-2-42	Lt. Col. Edwards	[illegible]
Field	9 Feb 43	Pte		A.A. Sec 15(3) N.D.S. being found when on camp, beyond the limits of the Islands Barracks without a pass in writing from the Officer in charge of the Camp or some person duly authorized by him to grant such pass	Sgt. A. Hawkes (C.M.P.)	28 days forfeiture of pay F.C.B. 149(1)	11 Feb 43	J.D. Harrison Major	
Field	2 Mar 43	Pte		A.A. Sec 15(1) N.D.S. absenting himself from the Camp at Base Borden without leave from 1900 hrs 27 Feb 43 to 0800 hrs 2 Mar 43	L/Cpl. Martin H.E.	4 days C.B.	4 Mar 43	C.A. Harrison Lieut.	Forfeits 4 days pay 4 & 5 Mar 43
Field	10 Mar 43	Pte		A.A. Sec 15(1) N.D.S. absenting himself from the Camp at Base Borden without leave from 1900 hrs 9 Mar 43 to 0800 hrs 10 Mar 43	Cpl. Harris R.	Forfeits 2 days pay F.C.B. 149(1)	11 Mar 43	Lt. Col. R.S. Mortlock	Forfeits 2 days pay Lt. Col. R.S. Mortlock

(P.T.O.)

B-19083 Tousley C

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lalli	7 Apr 43	Pte		AWL from 2330 hrs 7 Apr 43 to 2330 hrs 8 Apr 43 (1 hour 00 days)	Pte Christopher, PA	15 days detention	4 May 43	A.P.M.	Left Regt 7 Apr 43 / Rejoined 8 May 43
						Returned from 4 I.S. Detention Barrack Reading Room on June 2, 1943 Sentence having expired thereon. Transferred under Escort to Detention Barracks and Military Prisoner 15 days Commandant initials J.A.M.			
Field	20 Jul 43	Pte		AA Sec 15(1) AWL 3 hrs 30 mins	Lt Graham R.A.	3 of 5 days pay & Detn 21 Jul 43	Lt Col E.G. Johnson		Forf 3 days pay. Det 21 Jul 43

Certified to be a true copy from the Regimental Books and Documents in my possession

Fred B. Wallace Captain
Admin. Officer, Holding Wing,
4 Cdn. Inf. Reinf. Unit.

16 Nov 43

EXC
MB

M.F.B. 358
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 79087	Pte.	Townley, T.	4 C.I.R.U.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. 15(1)	4	times	6	times
For A.A. 40	Nil	times	1	times

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 4 days in military custody, making a total of 4 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23

6. The date of his attestation specified in his attestation paper is 24 Jun 40

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number B79087 Rank Pte. Unit

Name Townley, T. of 4 C.I.R.U.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	4 May 43 In the Field	A.A.15(1)	45 days Detention	15 Days Remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19 day of Nov 43 Captain

Admin. Officer Holding Wing. 4 Cdn. Inf. Reinf. Unit.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

EXB

RRR-23

PTE TOWNLEY T

RECEIVED
12 JUL 1944
JAG BRANCH
C.M.H.Q.

RECORDED AT CMHQ IN AB 160 R R R - 23

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & R/1604 (2664)

Convened by Order of Brig G S N Gostling Comd "A" GP CRU dated 20 JUN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B79087	Pte	Thomas	TOWNLEY	6 CIRU CIC

PROCEEDINGS REVIEWED
13 Jul 44
"W.R.Marshall"Capt
"WPT"
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Certified true copy of original proceedings herein.
R. Deanlills capt
28 Aug 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 22 ~~Jun 44~~ CM2.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~XX, X XXX~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and ~~[illegible]~~ to have effect as ~~[illegible]~~ the corresponding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

"PHL"

A2. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~[illegible]~~ amenable to military law, and each charge discloses an offence.(3)

"PHL"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

"PHL"

A3. The Court is opened. The accused is ~~[illegible]~~ brought before the Court. At 1025 hours trial commences.

"PHL"

A4. The Prosecutor produces a Medical Certificate that accused is ~~[illegible]~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2) "PHL"

"PHL" (1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? ~~[illegible]~~

"PHL"

The interpreter is sworn. Do you object to ~~[illegible]~~ as shorthand writer? ~~[illegible]~~

The shorthand writer is sworn.

"PHL" (1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

"PHL"

(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~XX, X XXX~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P. H. LAMBERT	6 CIRU
Member	Capt	D. Lahaie	6 CIRU
Member	Lt	J.M. LeSellier	6 CIRU
Waiting Member ~~Judge-Advocate~~	Capt	S.M. Caithness	6 CIRU
Prosecutor	Lt	J.D. McGill	6 CIRU
Defending Offr	Lt	G. Rosenberg	6 CIRU

"PHL"

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dr. p3.)

A8. The accused B79087 Pte TOWNLEY, T before arraignment make(s) (no) ~~X~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

"PHL" "PHL" "PHL"

A9. The accused is ~~XX~~ arraigned ~~severally~~ on all charges in the charge sheet.(1) The accused does ~~XX~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"PHL"

A10. The Court ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B79087 Pte Thomas TOWNLEY - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences ~~[illegible]~~ alternative charges see ~~[illegible]~~ p 483 fn 4 and 5, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"PHL"

At present under sentence for ~~[illegible]~~ beginning on (date) ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo one year detn, and to be placed under ~~and to undergo~~ a stoppages of pay in the amount of £4.12.3 cost of apprehension

(Sgd) "PHL" Judge-Advocate, if any. 22 Jun 44 Date awarded. (Sgd) "P.H. Lambert" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

"GSNG"

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be discharged from [illegible] custody under the~~ (1. AA 57A. Delete if not used.) "GSNG"

Date 23 Jun 44 (Sgd) "G.S.N. Gostling" (G.S.N. Gostling) Brig Commanding "A" Gp Cdn Rft Units C A (O) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B79087 Pte Thomas Townley 6 CIRU - CIC	Jun 26 1944	"L.G.A. Barett" Capt Adjt., 6 CDN INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President of the Court complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (...) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) re-informed and re-(his)(their) plea(s) to (that)(those) charge(s) is (are) recorded as Guilty. Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex One initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 73 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Do you intend to call witnesses on your behalf ?

Ans Are they witnesses as to character only ? Ans

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex TWO and Ex Three respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1, para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Mitigation of punishment, Yes (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him.

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest be Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

22 Jun 44
"PHL"

CHARGE SHEET

The accused, No B-79087, Private Thomas TOWNLEY, of the Canadain Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
Army Act

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

on the Field, did absent himself without leave from 2230 hours 14 Apr 44 until he surrendered himself to the civil police at 1940 hours 13 Jun 44, thereby incurring expenses for his return to his unit to the amount of four Pounds, twelve Shillings and three pence (£4.12.3)

(Total absence: 59 days, 21 hours, 10 minutes).

"W.E. Morgan" Col
(W.E. MORGAN), Col
Commander
6 Cdn Inf Rft Unit

In the Field
19 Jun 44

To be tried by Field General Court Martial.

"G.S.N. Gostling"
(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
20 Jun 44

22 Jun 44

"PHL"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PA8/1697 (2869)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B79087	Pte		Thomas	TOWNLEY	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 20 Jun 44 endorsed by me, (~~or by a superior authority~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~ "CNSG"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated hereby~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~Date and place for Judge Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	P H LAMBERT	6 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	to be detailed by OC 6 CIRU	
Lt	to be detailed by OC 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	

~~JUDGE ADVOCATE~~.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*) "G.S.N. Gostling" (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

(G S N Gostling)

Date 20 Jun 44 Commanding "A" Gp Cdn Rft Units C A (O)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"PHL"
22 Jun 44

Plea of mitigation in
the case of B 79087 Pte Thomas TOWNLEY (6 CIRU)
Def Offr: Bearing in mind the accused
length of service overseas and his
state of mind on being in a Cdn.
Rft. Unit for some time.

" G. Rosenberg" Lt.

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: Pte B79087 TOWNLEY T.
of 6 CIRU. M & S and in my opinion he is fit to undergo
trial by Court Martial.

"PHL"
22 Jun 44

Station

Date June - 22- 1944 Sgd "??????????" Capt.
(Medical Officer)

Ex "One"
"PHL"
22 Jun 44

SUMMARY OF EVIDENCE

In the case of No B-79087, Private Thomas TOWNLEY, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the prosecution

Lt M.P. MENARD, Cdn Inf Corps, on the strength of no 6 CIRU., having been duly sworn, states as follows:

I hereby produce the following documents relating to the accused pte Townley:

(a/ Record of the Declaration of the Court of Inquiry purporting to be signed by the Adjutant of 6 CIRU. This document is marked Exhibit "A" and is attached to the Summary of Evidence.

(b/ Certificate of Surrender to the civil police of an absentee without leave (AFO.1617) purporting to be signed by the officer in charge of Paignton Police Stn. This document is marked Exhibit "B" and is attached to the Summary of Evidence.

(c) Expense voucher Re-: Ref: R.R. & O(Can)639 purporting to be signed by the officer issuing Railway Warrant and Expense monies, No 6 Pro Coy, Cdn Pro Corps London. This document is marked Exhibit "C" and is attached to the Summary of Evidence.

(d/ Expense Voucher Re-; Ref: R.R. & O(Can)559 purporting to be signed by the officer issuing Railway Warrant and expense monies, No 6 Pro Coy, Cdn Pro Corps, London. This document is marked Exhibit "D" and is attached to the Summary of Evidence.

The accused declines to cross-examine this witness

"M.P. Menard" Lt. Lt.

The accused is then cautiones as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give any statement unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may by used in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

"??????????" Capt Capt.
Officer detailed to take the Summary of Evidence.

in the Field
19 Jun 44

EX "A" 22Jun 44
"PHL"

RECORD of the Declaration of a Court of Inquiry assembled at Farnley Park, Otley, Yorks on the 11th day of May, 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B.79087 Pte Townley, T. (TSR) No. 6 C.I.R.U.

DECLARATION

The Court declare that B.79087 Pte Townley, T. Toronto Scottish Regt No. 6 Canadian Infantry Reinforcement Unit illegally absented himself without leave from 2230 hrs the 14th day of April, 1944 and that on the 11th day of May, 1944 he is still so absent and tha t on the 14th day of April, 1944 he was deficient and that on the 11th day of May, 1944 he is still so deficient of the articles mentioned in the evidence in the amount of $26-7-7.

see sttached list

Names of President and "embers:

President	Capt.	E.C. Bradly
Members	Lieut	N.A. Muiter
"	Lieut	H.E. Evoy

Signature of Commanding Officer sgd W.E. Morgan, Colonel, Commander No. 6 Cdn Inf Rft Unit.

Certified true copy "L.G.A. Baretti" Capt., Adjt, 6 CDN. INF. RFT. UNIT

Signature of Officer having custody of original record.

M.F.B. 375

ARTICLES	NO	VOCABULARY PRICE	APPX VALUE
Anklets	1	.99	.76
Boots Ankle	2	10.92	8.19
Bonnet tam	1	.60	.45
Drawers Cello	2	.86	.65
Drawers woollen	2	2.40	1.80
Gloves woollen	1	.47	.35
Jacket sweater	1	1.79	1.34
Greatcoat	1	11.55	8.66
Shirt angola drab	2	4.06	3.04
Shoes canvas pr	1	.65	.49
B.D. Trousers	2	10.78	8.08
Vest woollen	2	2.40	1.80
Badge cap	1	.09	.07
Kit bag	1	1.02	.77
Braces pr	1	.28	.21
Brush button	1	.26	.20
Brush hair	1	.34	.26
Brsuh cloth	1	.48	.36
Brsuh shaving	1	.37	.27
Brush shoe polishing	1	.28	.21
Brsuh tooth	1	.11	.09
Braces cleaning	1	.04	.03
Cap comforting	1	.34	.26
Comb hair	1	.04	.03
Discs identity set	1	.02	.02
Dressing F.F.	1	.24	.18
Fork table	1	.07	.05
Holdall	1	.19	.14
Housewife	1	.19	.14
Knife clasp	1	.86	.66
Knife table	1	.15	.11
Lanyard knife	1	.02	.02
Razor	1	.06	.05
Short gym	2	.86	.65
Vest	2	.72	.59
Spoon desert	1	.07	.05
Towels hand	2	.64	.48
Bag ration	1	.04	.03
Belt waiste	1	.67	.53
Bottle water	1	.82	.62
Brace R & L	2	.60	.46
Carriers W Bottle	1	.37	.28
Cover breech	1	.34	.26
Haversack	1	1.79	1.34
Helmet Steel	1	1.50	1.13
Net helmet cam	1	.15	.11
Pack [illegible]	1	1.54	1.41
Socks prs	4	1.19	.89
Combination	1	2.72	2.04
Frog bayonet	1	.19	.14
Strap shoulder haversack	2	.64	.51
Strap web supporting	8	.26	.20
Tab securing	1	.04	.03
Tin mess	1	.35	.27
Sheet ground	1	2.94	2.22
Respirator complete	1	4.66	3.50
Ointment A/G	2	.30	.23
Anti Dim	1	.03	.03
Eyeshield	6	.45	.31
Cape anti gas	1	2.76	2.07
Rifle No. 4 Mk I	1	45.48	45.48
Bayonet	1	2.74	2.74
Oil bottle	1	.06	.05
Pull through	1	.11	.08
Sling	1	.24	.18
		$140.45	$117.81

(Total in english money £26-7-7)

CONSTABULARY
"B" DIVISION
14 JUN 1944
Paignton
Sergeants Office

Army Form C.1617

Ex "B" 22 Jun 44
"PHL"

I CERTIFY that the man whose personal descripton is given below surrendered himself to P.W.K. Constabel No. 86 Haywood at Paignton at (hour) 7.40 P. M. on the Thirteenth day of June, 1944 as being No. B79087 (Rank and Name) Private Thomas Townley a deserter (or absentee without leave) from Toronto Scottish Regiment No. 6 C.I.R.U. and it appears to me from his confession that he is a deserter or absentee without leave.

"After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24 years Height 5 Feet 7 Inches
Complexion Fresh Hair Fair Eyes Hazel
Marks Tattoed, both forearms; Operation scar right side of abdomen.

Probable Date and Place of Attestation	20 : 1 : 1940. Toronto, Ontario, Canada.
Probable Date of Desertion or beginning of absence, and from what place	14 : 4 : 1944. Witley Camp, near Guildford, Surrey.

" G.E. Winder " Sergeant No. 337
for Inspector.

Signature of Officer of Police in charge of Paignton Police Station.

14th, June, 1944. Date of Signature.

Ex "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539 "PRL" 22 Jun44

Reg. No B79087 Rank Pte. Name TOWNLEY, T. Unit 6 C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit~~ London from Paignton

Date	Particulars	Amount		
15 June 44	Escorts return fare from LONDON To Paignton	1	10	8
	Prisoners single fare to LONDON From Paignton		15	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		15	7
	Total £	3	1	7

I certify that the above statement of Expenses is Correct. and that the amounts are fair and just.

"R.E.Birch" Lieut.

R.E.Birch. Lieut.

Officer Issuing Railway Warrant and Expense monies A/M.P. Officer - D.P.M's Br's C.M.H.Q.

No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-5-43
40/P & S/483

Ex "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

22 Jun 44

"PHL"

Reg. No. [redacted] Rank Pte. Name TOWNLEY, T. Unit 6 C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (½ Portion)	Amount		
16 June 44	Escorts return fare from LONDON To Otley		15	4
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Otley		15	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	~~1~~	~~10~~	~~8~~
[redacted]	Total £	1	10	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"R.E.Birch" Lieut.

H.E. Birch, Lieut.

Officer Issuing Railway Warrant and Expense monies. Adjutant Officer - D.P.M's Br

No. 6 Provost Company, Canadian Provost Corps, London. C.M.H.Q.

CMHQ 1000-55
40/P & S/483

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Mar 43	Pte		AA.15(1)AWLFr 2230 hrs 8 mar 43 till 0700 hrs 9 mar 43(8 hrs,30 mi)	Cpl.Martin	7 days C.B.	9 mar 43	Lt.Barman	Forf 1 day pay for AWL
Field	16 mar 43	Pte		AA.15(1)AWL FR 2230 hrs 16 mar 43 till 0700 hrs 17 mar 43(8 hrs,30mi)	Cpl. Currie	3 days pay	17 mar 43	L/Col.Northup	Forf 1 day pay for AWL
Field	7 Apr 43	Pte		AA.15(1)AWL Fr 2359 hrs 7 apr 43 till 2359 hrs 27 Apr 43(20 days)	Documentary	45 days Detn Released 2 jun43 Remission 15 days.	4 May 43	F.G.C.M.	Forf 20 dys pay for AWL & 6 dys pay for time in arrest
Field	20 Jul 43	Pte		AA.15(1)AWL 8 hrs 30 mi	Sgt.Graham	4 days pay	21 jul 43	L/Col.Johnson	Forf 1 day pay for AWL
Field	29 aug 43	Pte		AA.15(1)AWL Fr 2300 hrs 29 aug 43 till 1545 hrs 30 aug(16 hrs,45mi)		Admonished	1 sep 43	DO-191/43	Forf 1 day pay for AWL
Field	24 oct 43	Pte		AA.15(1)AWL Fr 2359 hrs oct 43 till 2230 hrs nov 43(20 dys,22 hrs,31 mi)	Documentary	60 days detn Conf by OC "D" Gp Released: 28 dec 43 Remission 20 days.	19 nov 43 22 nov 43	F.G.C.M. for	Forf 21 dys pay for AWL & 5 dys pay for time in arrest

certified true copy consisting of one page dated 22 JUN 1944

Officer having custody of original documents

"D. Ireland Lieut"

MFM 6
(AFB 122)
40/PAS/136 (3428)

No B-79067 Name Thomas TOWNLEY | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 24 Jun 40 | Badges n/a | Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet n/a | No and date of last drunk n/a | Period not reckoning towards freedom from extra time n/a | Sheet No 1 | Signature OC Company, etc H.J. Gillies Lt | Character 22 Jun44 "GWL"

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Canada		Pte		AA.15(1)AWL 3 days	Documentary	Admonished	9 feb 42	CaptCalmuter	Forf 3 dys pay for AWL
Field	11 Jun 42	Pte		AA.40Conduct ot the prejudice of good order abd military discipline(failing to appear on parade after being duly warned)	Sgt Draper	7 days C.B.	12 Jun42	Maj.Soper	
Field	30 Jul42	Pte		AA.15(1)AWL Fr 1800 hrs 30 jul 42 till 0730 hrs 31 Jul 42(13 hrs,30 mi)	Pte. Kotilic	14 days F.P. 14 days pay.	31Jul42	L/Col.Christie	Forf 1 day pay of AWL
Field	31 Jul42	Pte		AA.10(4) Breaking out of barracks AA.15(1)AWL Fr 1500 hrs 31 Jul 42 till 1515 hrs 10 Aug 42(11 days,15 mi)	Documentary	12 days pay to run concurrently with previous offence	12Aug42	DO-112/42	Forf 12 dys pay for AWL
Field	9 feb43	Pte		AA.15(1)AWL From limits of the camp	Sgt.Monks	4 days pay	11 feb 43	Maj.Morrison	

certified true copy dated."D. Ireland Lieut." Officer having custody of original documents.
22 JUN1944

(PTO)

"PHL"
22 Jun 44
ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-79087	Private	Thomas TOWNLEY	Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1) AWL	2 times	8 times.
For A.A. 10(4)	Nil times	1 times.
For A.A. 40	Nil times	1 times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

"RL" [illegible] "RL"

"RL" [illegible] "RL"

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time "RL" [illegible] "RL"

"RL" [illegible] "RL"

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 8 days in military custody, making a total of 8 days, of which N/A days were spent in hospital. "RL"

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 24 years old

6. The date of his ~~"RL" [illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 24 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years, 27 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 years, 27 days service

9. The accused is entitled to reckon 3 years, 27 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, "RL" [illegible] "RL" Cdn Vol Med & Clasp

"RL" [illegible] "RL"

"RL" [illegible]

rank of

12. (*In the case of an officer.*) The accused holds in the "RL" [illegible] "RL" by the rank of dated

[illegible] "RL"

(*18280) W.13652/144. 125,000. 6/41. A.E.F.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B19087 Rank Private Name Thomas Townley of Cav Inf Corps Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 4 may 43	A.A. 15 (1) AWL	45 days detention	15 days
F.G.C.M.	Field 19 nov 43	A.A 15 (1) AWL	60 days detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 2nd day of June 44.

"R.Laverdull" A/Capt
officer having custody of original documents.

"RTL"13 The account has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of "RTL" Date of Promotion

In the rank of years,

years

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

"RTL"

22Jun 44 "PHL"

LIST OF WITNESSES

In the case of No B-79087, Private thomas TOWNLEY, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

Lt M.P. Menard, Cdn Inf Corps, on the strength of No 6 CIRU.

Defence

Nil

In the Field
19 Jun 44

22 Jun 44
"PHL"

Exhibits

LIST OF ~~EVIDENCE~~

In the case of No B-79087, Private Thomas TOWNLEY, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": Record of the declaration of a Court of Inquiry

Exhibit "B": Certificate of Surrender (AfO.1617).

Exhibit "C" Expense Voucher

Exhibit "D" Expense Voucher

In the Field
19 Jun 44

22 Jun 44
"PHL"

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

....

if he is available.

In the Field
19 day of Jun 1944.
2045 hrs.

"T.Townley" Pte

1966. Ste Louis S. D.

13 Feb 66, 1966 proceedings sent Ed. Bur. Dept for
for remedy action.

Correspondence to be PINNED here.

196-C

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 13th day of September, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to an superior qualified officer.

Omit where convening Officer is Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

Omit if not applicable

*I am unable to appoint—

*(a) Three Officers to form the Court;

*(c) A Field Officer as President;

*(g) Three Officers having more than one year's service;

for the following reasons, namely:—

President.

Rank.	Name.	Regiment.
Major	Roy W. Lent	#1 Cdn Base Depot

Members.

Rank.	Name.	Regiment.
Captain	T.G. Breck	R.C.A.P.C.
Captain	A.E. Jackson	R.C.A.P.C.
Wtg. Member	Lieutenant to be detailed from #1 Cdn Base Depot	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed P.J. Montague (P.J. Montague) Major-General
Senior Officer
Commanding Canadian Military Headquarters
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
No. C.4121 Pte Towns, G.W. 1 C.I.H.U. Att'd.Unit Pay Det R.C.A.P.C.	1st charge A.A.Sec 12(1)(a) 2nd charge A.A.Sec 24 (2)	N.G. N.G.	Not guilty of desertion but guilty of A.W.L. from 21 July/41 to 30 Aug/41. Guilty of loss of kit to extent of £2-0-0 Sentenced to undergo detention for a period of 120 days and to forfeit £2-18-5 for cost of apprehension and also forfeit £2-0-0 for loss of kit by neglect.	J.C.Murchie Brig (J.C.Murchie) Brigadier Senior Combatant Officer,) Canadian Military Headquarters. 13 Nov 41

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—
No.

(Signed) P.J.Montague Major-General (Signed) ROWSTON Major.
Senior Officer Commanding Canadian Military Headquarters Convening Officer (*e*) Cdn. Base Depot (Lancaster)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of September 1941 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) - Rank.
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 19th day of September 1941.

ROWSTON Major.
President of the Court Martial

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this day of September, ~~19 41~~

J.C.Murchie
(J.C.Murchie) Brigadier
Senior Combatant Officer,
Canadian Military Headquarters.

13 Nov 41

Promulgated and extracts taken in the case of C4121 Pte G.W. Towns of the Lancaster

(*a*) (Dated) 24 Nov. 41 (Signed) H.Beard Major
Comd Cdn Base Pay Detachment Royal Canadian Army Pay Corps (Overseas)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(41779) Wt. 40113—833 200 m 1/40 P. St. G. 620

CHARGE SHEET.

The accused C.4121 Pte. G.W. Towns, No.1 Canadian Infantry Holding Unit, attached to Unit Pay Detachment Royal Canadian Army Pay Corps, a soldier of the Canadian Army, Overseas, is charged with

First Charge
Sec.12(1)(a)
A.A.

Deserting His Majesty's Service
in that he, when on active service, at the Royal King's Arms Hotel, Lancaster, on 21 July 1941, absented himself from the Unit Pay Detachment of the Royal Canadian Army Pay Corps, until apprehended by the Canadian Military Police at London, England, on 30 August 1941, dressed in plain clothes, thereby occasioning cost of apprehension in the amount of £3.18.1.

Second Charge
Sec.24(2)
A.A.

Losing by neglect his Equipment, Clothing and Regimental necessaries
in that he, when on active service, at Lancaster on or about 13 August 1941 was deficient of:-

	£.	s.	d.
1 pr. Boots Ankle	1.	2.	6.
1 Brush Boot Black			9½.
1 Brush Boot Pol.		2.	1.
1 Comb			2.
1 Dressing Field		1.	1.
1 pr. Gloves Woollen		1.	11.
1 Knife Clasp & Lanyard		3.	5.
1 Shirts Flannel		10.	0.
2 prs. Socks @ 1/11		3.	10.
1 Bags Ration			2½.
1 Capes A.G.		12.	3.
	£2.	18.	2.

Major.
Commanding Unit Pay Detachment.
Royal Canadian Army Pay Corps.
Canadian Army (Overseas).

Lancaster.
8 September 1941.

To be tried by Field General Court Martial

(P.J. Montague) Major-General
Commanding
Canadian Military Headquarters

London
13 Sep 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT THE ROYAL KING'S ARMS HOTEL, LANCASTER,
LANCS, ON THE 19TH DAY OF SEPTEMBER 41.

Trial of No. C.4121. Pte. Towns. G.W.
No.1.Cdn.Infantry Holding Unit. att'd Unit Pay
Detachment, R.C.A.P.C.

The Members of the Court are:-

President: Major R.W.Lent. No.1.Cdn.Base Depot. Lorne Scots.
Capt. T.G.Breck. R.C.A.P.C., C.M.H.Q.,Acton.
Capt. A.E.Jackson. Unit Pay Detachment. R.C.A.P.C.
Prosecuting Officer.Capt. P.A.Roberts. Unit Pay Detachment. R.C.A.P.C.
Defending Officer.Capt. L.H.Wingate. Unit Pay Detachment. R.C.A.P.C.
Court Reporter: Dorothy Notson. Unit Pay Det. R.C.A.P.C.

The Order convening the Court is read in the presence of the accused, viz:

The President:
I have in my hand proceedings for convening a Field-General Court Martial dated 13 Sep 41, signed by Major-General P.J.Montague, Senior Officer,C.M.H.Q., authorising me, Major R.W.Lent of No.1.Canadian Base Depot, Lorne Scots as President; Captain T.G.Breck, Royal Cdn.Army Pay Corps on my right and Captain A.E.Jackson, Unit Pay Detachment R.C.A.P.C on my left, as Members, to try you on various charges by Field General Court Martial, which will be afterwards read to you.

The Prosecutor files the Medical Certificate that the accused is fit to undergo trial by Court Martial.

The President, Members and Shorthand Writer are duly sworn.

The accused is asked the following questions:-

Q.1. Do you object to being tried by the President or any members of the Court you have heard read over.

A.1. No sir.

President: I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of enquiry respecting the matters forming the subject of the charges before this Court Martial, or are in any other respect disqualified from acting.

(R.W.Lent), Major. (President)

Q.2. Have you any objection to Mrs.Notson acting as shorthand writer and taking down the evidence in shorthand and transcribing it into longhand when so required?

A.2. No sir.

The accused C.4121 Pte.Towns.G.W answers to his name and number and is duly arraigned on the charges.

Q.3. Are you guilty or not guilty of the first charge against you which you have heard read?

A.3. Not guilty sir.

Q.4. Are you guilty or not guilty of the second charge against you which you have heard read?

A.4. Guilty sir.

Q.5. You are guilty?

A.5. Yes sir.

Q.6. I suggest that you plead guilty to the losing by neglect of that equipment, but not to the values as placed on record in this charge; those will be gone into and quoted later, but you plead guilty to the loss of such equipment?

A.6. Yes sir.

President. It is only fair to say to you Private Towns that you do not have to plead guilty to this charge, and when you do plead guilty you are then throwing yourself upon the mercy of the Court and the Court uses its own discretion. You can withdraw your plea of "guilty" if you so desire but you must fully understand you are not compelled to plead guilty to that charge unless you so desire.

Pte.Towns. Anyway, when I went away all my kit was here - that is all I know sir

President. You can make that statement in mitigation of punishment if you so desire.

Towns. Yes sir.

President. Q.7. You still wish to plead guilty to that charge?

A.7. Not by neglect - no sir.

Q.8. You plead "not guilty" then?

A.8. Not guilty, sir.

Q.9. Do you wish to apply for an adjournment on the grounds that any of the rules relating to procedure have not been dealt with, or that you have not had sufficient time to consider these?

A.9. No sir.

Q.10. You are ready to go on with your trial now?

A.10. Yes sir.

Captain F.A.Roberts, the Prosecuting Officer was asked by the President if he had anything to say on opening the case.

Capt. F.A Roberts. The accused, Pte.Towns, was granted leave of absence from the Unit Pay Detachment R.C.A.P.C. from 0800 hours on the 14 July 41 to 0800 hours on 21st July 41, with permission to travel to London in civilian clothes. It was his duty to report back to the Unit Pay Detachment at 0800 hours on the 21st July 41. Evidence will be produced to prove this and also to prove that he failed to report at this time and date. Nothing more was heard of him until he was brought back to Lancaster on 30 Aug 41 by Military escort under arrest and dressed in civilian clothes. In the charge there is "cost of apprehension" in the amount of £3. 16s 1d which will be dealt with by a document here from the Chief Treasury Officer. The accused had in his possession on apprehension the Return portion of his railway ticket which was exchanged for his free transport warrant from London to Lancaster, which he apparently was not permitted to use by the Military Police, and steps were taken when he was returned to this unit to effect a refund on his behalf of this Return portion, and the Chief Treasury Officer has ruled that since this ticket was issued on a warrant, that the refund from this return portion should be credited to Public Funds. Further, it was for the Court to decide, sir, whether or not the 17/8d - which represents the prisoner's single fare from London to Lancaster - shall be charged against this man.

The President: 17/8d?

Capt.Roberts. 17/8d sir. And it is my opinion that that fee should be deducted from the £3. 16. 1d. In regard to the second charge of losing by neglect his equipment, evidence will be produced to show that the accused was in possession of the articles of which he is charged as being deficient, at a reasonable time prior to his absenting himself. Evidence will also be produced that certain of the articles of which the accused was declared to be deficient by the Court of Inquiry, have since been recovered - that is, since the declaration of the Court of Inquiry was recorded. Further evidence will be produced to prove that the articles so recovered are not included in the second charge rate against the accused, - in other words, the deficiencies as listed in your charge are the deficient articles less those since recovered.

First witness for the prosecution B.5612 Sgt.Dagenais.O.J.F.M. Unit Pay Detachment, R.C.A.P.C. having been duly sworn, is examined by the Prosecutor.

President:

Q.11. You are B.5612 Sgt.Dagenais.

A.11. Yes sir.

Q.12. How do you spell your name?

A.12. O.J.F.M. D-a-g-e-n-a-i-s.

Q.13. And what Unit do you belong to?

A.13. The Royal Canadian Army Pay Corps, Unit Pay Detachment.

Q.14. And what is your official position here? What are your duties?

A.14. Orderly N.C.O. sir.

The Prosecutor then asked the first witness the following questions:-

Q.15. Sgt.Dagenais, were you on the 21st July 1941 Orderly N.C.O. at the Unit Pay Detachment R.C.A.P.C.

A.15. Yes sir.

Q.16. Can you identify the accused?

A.16. Yes sir.

Q.17. As C.4124 Private Towns G.W. - no mistake about that?

A.17. No sir.

Q.18. Were you aware that the accused had been granted a pass from 0800 hours on the 14 Jul 41 to 0800 hours on the 21st July 41 when you resumed your duties on the morning of 21 July?

A.18. During the day I was told by the Sergeant Major that he was supposed to be back that day, so I checked up on his presence which was on the guard duty at night when I made the inspection.

Q.19. You were aware that the accused was supposed to be back that morning?

Capt.L.H.Wingate. I object to that.

Q.20. Were you aware on 21 Jul 41 that the accused was due to report back for duty in his capacity as Guard at 0800 hours?

A.20. Yes Sir, I was aware of that.

Q.21. Did the accused report to you on the expiration of his leave at 0800 hours ?

A.21. No sir.

Q.22. Who mounted the Guard at 1800 hours on 21 Jul 41?

A.22. I did sir.

Q.23. Was there anyone with you? Was there an officer with you?

A.23. Yes sir, Captain Coate inspected it with me.

Q.24. Was Capt.Coate the Orderly Officer of the day?

A.24. Yes sir.

Q.25. Was it the duty of the accused to be present at this Guard mountning?

A.25. Yes sir.

Producing Exhibit "A" the Prosecutor asked:- (The Prosecuting Officer produces typewritten document which is marked exhibit "A" Picket Duties Royal King's Arms, Lancaster, setting out the duties for the month of July signed "F.A.Roberts Captain". At the bottom is:-"Distribution" list Guard Room with a red tick - one copy)

Q.26. Do you recognise this document?

A.26. Yes sir.

Q.27. What is it?

A.27. A roster report of picket duties sir.

Q.28. Where is this document hung up?

A.28. In the Guard room sir.

Q.29. Was it hanging there at 0800 hours on the 21st Jul 41?

A.29. Yes sir.

Q.30. Is there any reason then why the accused would not realise that he should be on guard mounting at 1800 hours 21 July 41?

A.30. There is no reason for his absence sir.

Q.31. When you mounted this Guard at 1800 hours on the 21st July was the accused present?

A.31. No sir.

Q.32. What action did you take when you found him to be absent?

A.32. I advised Captain Coate who was the Orderly Officer of the day.

Q.33. And when did you next see the accused?

A.33. When we had the Court of Inquiry at the King's Arms Hotel.

Q.34. The Court of Inquiry?

A.34. No sir, when we had the Summary of Evidence - the Court of Inquiry was held in the absence of the accused.

Q.35. Was he dressed in plain clothes when you saw him?

A.35. He was in civilian clothes sir.

Q.36. Was he under arrest?

A.36. Yes.

The Defending Officer declined to cross examine this witness.

The President however asked this witness the following question:-

Q.37. Sometime during the day of the 21st July 41 the R.S.M. I believe instructed you that Towns was due back at 8 o'clock in the morning?

A.37. Yes sir.

Q.38. Do you remember what time of the day that was?

A.38. Some time in the afternoon sir, around 4 o'clock.

Q.39. And what did you do?

A.39. Well, when I went down to inspect the picket, I checked up on this sir, at about ½ 6."

Q.40. The picket fell in for inspection purposes and you inspected it and found that Towns was not there?

A.40. Yes sir.

Q.41. Did you make any further enquiries?

A.41. No sir.

Q.42. Have you been on duty at the Unit Pay Detachment since the 21st July?

A.42. Yes sir.

Q.43. Have you been on duty every day - you are working here all the time?

A.43. Yes sir.

Q.44. And up until the 30 Aug was the accused here on duty?

A.44 The next time I saw the accused was when he was escorted here to take the Summary of Evidence.

Q.45. He was detailed for various duties after the 21st July to the end of July on this Picket Duty Roster Exhibit "A". Do you know to your own knowledge whether he did these duties or not?

A.45. I checked up on the usual every day report of the picket and he was not there sir.

Q.46. And the first you saw of the accused was taking the Summary of Evidence in Civilian clothes?

A.46. Yes sir.

Q.47. And up to that time had he done any duties with this Unit?

A.47. No sir.

The President then said :-

"Now as a result of my questions or the questions of the Prosecuting Officer, do you now wish to re-examine this witness Captain Wingate?"

Capt.Wingate. No I do not think so.

The President. Or you Captain Roberts?

Capt.Roberts. No sir.

The President. That is all Sgt.Dagenais. Your next witness.

Capt.Roberts. Myself sir, in the capacity of Officer i/c Records.

Captain F.A. Roberts, Unit Pay Detachment, R.C.A.P.C. was duly sworn and said the following:-

Capt.Roberts. Sir, I produce the pass which was granted to the accused from 0800 hours 14 July 41 to 0800 hours 21st July 41, with permission to proceed to London in civilian clothes.

President: Marked Exhibit "B", initialled by myself.

Capt.Roberts. I also produce Army Form B.115 which is a record of the Declaration of a Court of Inquiry which shows certain deficiencies of Kit which have since been amended by the Charge Sheet.

President: Marked "Exhibit C" (initialled by myself).

Capt.Roberts. I also produce Army Form B.252 which is the Documentary Evidence of the Canadian Military Police, of the accused's apprehension in London at 0030 hours 30th August.

President: Marked "Exhibit D".

Capt.Roberts. I also produce Form K.R.& O.(Can) 539 which was received from the Military Police in London setting forth cost of Apprehension of the accused and attached to it is a memorandum dealing with the refund of the unused portion of the ticket.

President: Marked Exhibit "E". - Captain Wingate, do you care to question Captain Roberts in any way?

The Defending Officer declines to cross-examine the second Witness.

President: Any other Witnesses?

Third Witness for the prosecution A.32092 Private Davis A.D. Unit Pay Detachment, R.C.A.P.C. having been duly sworn was asked the following questions by the Prosecuting Officer:-

Q.48. Would you tell the Court Pte.Davis what your capacity is in the Unit Pay Detachment.

A.48. I take charge of the Orderly Room documentations and have the custody of the Quartermasters Stores.

President: In other words you are Quartermaster, or are you Orderly Clerk as well?

Pte.Davis. I am Orderly Room clerk at the same time sir.

Q.49. Do you have any way of knowing whether or not the accused was due to report at 0800 hours on 21st July 41?

A.49. I do sir. I compile the Duty Roster. I have a Duty Roster behind me on the wall; I look over it to check up who the Orderly Officer is. If they wish to know whose turn it is on Guard through that medium I can tell whose turn it is to be there and who should be on.

Q.50. Was the accused due to be at that Guard Mount at 1800 hours on 21 Jul 41 according to that list that you checked?

A.50. He was sir.

Q.51. Would you see the stub of the pass which was issued to him?

A.51. I would sir because I would see it when the Orderly Stamp was put on it.

Q.52. Did you check the stub on the 21st Jul 41?

A.52. Yes sir. The moment we found that Pte.Towns had not returned at 0 o'clock in the Orderly Room we looked to see if an extention had been granted and as this had not been done, his pass stub showed that he was due in.

Q.53. The counterfoil showed he should have been in at 0800 hours on the 21st July?

A.53. Yes sir.

Q.54. As soon as he was found to be apparently absent what action did you take in regard to his clothing, equipment and regimental necessities?

A.54. I proceeded to his billet on the 23rd of the month - two days after he was reported as being absent.

Q.55. And what did you do then?

A.55. I went to the lady in charge of the billet and asked her to turn over to me Private Towns' kit. She gave me all she could find and I gave her a receipt. The articles were brought back into the office, listed and then locked in what is now used as the Quartermasters Stores, Room 15A, under lock and key.

Q.56. There is a key provided and every step was taken to safeguard these articles?

A.56. Yes sir.

Q.57. What happened to the articles after that?

A.57. The President did not like the question so it was changed to the following:-

Q.57. Did these articles pass from your hands before the accused was apprehended?

A.57. Yes sir, they did. QM.S. McBroom, Hastings & Prince Edward Company, No.1. Cdn. Holding Unit came up to get the kit on the 1st August 41. I turned it over to him and he gave me a receipt.

Q.58. How did the kit get back to the accused after he was apprehended.

A.58. When the accused was apprehended and brought here we sent for his kit. Q.M.S McBroom returned the kit to me personally here and I gave him a receipt for it in return.

Q.59. I see. Well now, did the accused after he was apprehended provide you with any information which enabled you to locate further articles of his equipment which might reduce the inventory listed at the Court of Inquiry?

A.59. Yes he did sir. He told me where I might find some of his kit. I was able to locate some of it there.

Capt.Roberts to the President. The value of the recovered articles is given as £1. 12s 3½d which reduces the deficiencies on the declaration of Court of Inquiry, sir, from £4. 10s 4½d to £2. 18s 2d.

The president questions this witness as follows:-

Q.60. Does this sum of £2. 18s 2d represent the new replacement value of these articles or does it represent the worn value?

A.60. The new replacement value sir.

The Charge Sheet Exhibit "H" was here produce for inspection.

Pte.Davis. Yes sir, that is a correct list of the articles now deficient.

The President: And after having checked the original articles and the articles you eventually recovered, these articles were still deficient.

The President: What is that document?
Q.61.
Pte.Davis.
A.61. Copy of the original 800 which is in possession of the Unit sir.

Q.62. When C.Q.M.S. McBroom came back with the accused's equipment did he have the original 800 in his possession?

A.62. He did sir.

Q.63. Did you at that time check the kit he returned to you with that 800?

A.63. I did sir.

Q.64. And those were the deficient articles according to the inventory you took at that time as compared with the 800 ?

A.64. Yes sir.

The Prosecuting Officer then asked Pte.Davis;-

Q.65. You identified the deficiencies on the Charge Sheet? What way have you of verifying the prices there? - Perhaps I should say it another way. Have you a vocabulary of prices of Ordnance Stores?

A.65. No sir.

Q.66 You have not. Have you any way of verifying these prices as they are given in the Charge Sheet.

A.66. Only by means of the 513, which is certified by Ordnance.

Q.67. Is that a 513?

A.67. Yes sir.

Q.68. Is that a 513 as well?

A.68. Yes sir.

Capt.Roberts. I submit this to the Court merely as a verification of the prices as listed on the Charge Sheet. These are original documents which I shall have to return to the Unit Pay Detachment, but if the officers care to examine them in the absence of a vocabulary of prices they may do so.

The Prosecuting officer then asked Pte.Davis;-

Q.69. Have you checked the prices of the deficient articles listed in the Charge Sheet with the vocabulary of prices?

A.69. I have sir.

The Defending Officer, Capt.L.H.Wingate was asked if he wished to cross-examine this witness, which he declined to do.

Capt.T.G.Breck cross-examined the third witness as follows:-

Q.70. You gave the landlady of the accused's billet a receipt for the articles?

A.70. Yes sir.

Q.71. Have you a copy of that?

A.71. She sent a copy of it to us but we returned it to her. It is in her possession.

Q.72. You turned the articles over to QM.S. McBroom and gave him a receipt. Have you a copy of that?

A.72. No, receipts which were taken in transaction between us were given in at the Summary of Evidence sir.

President: (to Defending officer)

Do you or your prisoner question at all the prices of the list of articles that are in the Charge Sheet?

Defending Officer. No sir, they quite agree.

President: You quite agree the prices as stated?

Defending Officer. Quite agree.

The President further cross-examined the third witness as follows:-

Q.73. Davis you are Orderly Room Clerk officer and it is your duty to keep a record then I presume of absentees.

A.73. Yes sir.

Q.74. Was the accused absent from the 21st July down to when?

A.74. Until he was brought in here under arrest around 2330 to 2345 hours on the 30th August sir.

Q.75. This man was not on duty from the 21st July until the 30th Aug?

A.75. No sir.

President: Any further Witnesses?

Capt.Roberts. The fourth witness I wish to call is the Provost Corps Sergeant sir; Sergeant Chester.

Fourth Witness for the prosecution B.76047, Sgt.Chester.H.W. Special Investigation Dept. Canadian Provost Corps having been duly sworn was asked the following questions by the Prosecuting Officer:-

Q.76. You are B.76047, Sgt.Chester.H.W.?

A.76. Yes sir.

Q.77. What were your duties in the Canadian Army on the 30th August 1941.

A.77. Special Investigation Department, Canadian Provost Corps.

Q.78. Do you recognise the accused C.4121 Private Towns.G.W ?

A.78. Yes sir.

Q.79. What did you do on the 30th August 1941 at 0030 hours?

A.79. I was on duty in company with S/Sgt. Ayre when the accused was handed over to us by civil police for questioning.

Q.80. Did they say where and why they had apprehended him?

A.80. We questioned him and he admitted.....

Q.81. Who questioned him?

A.81. S/Sgt.Ayre and myself questioned him.

Q.82. Where was this?

A.82. In the Coventry Street Corner House, London. We questioned him and he admitted that he was a Canadian Soldier and that he was absent without leave. He was dressed in civilian clothes. We placed him under arrest and told him that he would be charged with being Absent without Leave. We turned him over to the N.C.O. in charge of the Cell, sir, Canadian Provost Corps, H.Q.

Q.83. Did the accused at the time you apprehended him show you a pass granting him leave of absence from the Unit Pay Detachment, R.C.A.P.C. from 0800 hrs. on the 14th July to 0800 hours 21st July 41?

A.83. Yes sir.

Prosecuting Officer produces to the witness Exhibit "B".

Q.84. Do you recognise this as being the pass?

A.84. Yes sir, that is the pass.

Q.85. Did the accused at that time offer any explanation as to why he had not returned to duty?

A.85. No written statement was given sir, but he was cautioned that anything he might say would be taken down in writing.

Q.86. Do you remember the wording of the caution?

A.86. He was cautioned by S/Sgt.Ayre in my presence.

Q.87. What did S/Sgt.Ayre say to him?

A.87. He said "I must caution you that you do not have to say anything unless you wish to do so, but that anything you do say will be taken down in writing and might be used as evidence.

Q.88. When was that caution given?

A.88. Just before he was turned over to the N.C.O in charge of the Cells, Canadian Provost Corps H.Q.

Q.89. Did the accused say anything further having been given that caution.

A.89. He stated that he had intended to return the day following his arrest.

Q.90. That would have been the 31st August?

A.90. Yes sir. He then requested S/Sgt.Ayre to release him so that he could return on his own.

Q.91. Did you release him?

A.91. No sir.

Q.92. You turned him over to the P.C.O. in charge of the Detention Cells, Canadian Provost Corps, H.Q?

A.92. Yes sir.

Q.93. That is the last you saw of him until now?

A.93. Yes sir.

Capt.Roberts: That is all.

Defending Officer. When he was warned or cautioned was it taken down in writing?

Sgt.Chester. No sir.

Defending Officer. It is supposed to be taken down in writing?

Sgt.Chester. Not necessarily.

Capt.Wingate. (Defending Officer.) You are quite sure that Pte.Towns said that he intended to return the next day?

Sgt.Chester. Yes sir, positive.

Capt.A.E.Jackson. Why was not the accused charged with A.W.L. rather than desertion?

Sgt.Chester. Because he admitted he was Absent without leave.

Capt.A.E.Jackson. Why did you not tell him he would be charged with desertion?

Sgt.Chester. We cannot tell a man he would be charged with desertion. At the time of making arrest we are not aware if he has been away one day or 100 days. We cannot charge with Desertion. That is entirely up to his Commanding Officer sir.

The President: Any further witnesses.

Capt.Roberts. No sir.

The accused C.4121 Pte.Towns.G.W. No.1.Cdn.Infantry Holding Unit. att'd Unit Pay Detachment.R.C.A.P.C. having been duly sworn is addressed by the President:-

President: You have the right to make a statement or to give evidence under oath in writing or orally. (he then explained the procedure in either event.)

Q.94. Do you wish to give evidence yourself as a witness?

A.94. No sir. There is nothing I can give - only my Defending Officer.....

Q.95. You leave the matter to your Defending Officer?

A.95. Yes sir.

Q.96. Do you intend to call any other witnesses in your defence?

A.96. No sir.

Q.97. In other words, you are not going to call any witnesses or give any evidence yourself at all?

A.97. No sir.

Q.98. And you leave the matter of your defence to your Defending Officer?

A.98. Yes sir.

The President. It is only fair to you to say that it is much better for the guidance of the Court for you to give evidence under oath or to make a statement if you desire, or to make a clean breast of the whole affair, but if you do not want to you have no need to.

The accused asked whether he could speak to his Defending Officer first, and permission was granted.

.....

The Court adjourns for five minutes to allow the accused to confer with his Defending Officer in the matter of whether he should make a statement or give evidence under oath.

.....

The Court reconvened and the President then repeated the questions to the accused as follows:-

Q.99. Do you wish to give evidence yourself as a witness.

A.99. Yes sir.

Q.100. Do you intend to call any other witnesses in your defence?

A.100. No sir.

The Defending Council then asked the accused the following questions:-

Q.101. While you were absent did you intend to stay absent for ever?

A.101. No sir.

Q.102. Was it your intention to return?

A.102. Yes sir.

Q.103. On the 30th August you were apprehended in London. When did you intend to return?

A.103. That same day sir.

Q.104. At what time were you apprehended?

A.104. 0030 hours sir, 12-30.

Q.105. Is there a train leaving London that same day at that hour?

A.105. In the fore-noon sir.

Q.106. Why did you intend to return?

A.106. As I have a wife and three children in Canada, and no other means of support I intended to return.

Q.107. Did you make that statement to anybody else?

A.107. To the Canadian Provost Corps.

The Prosecuting Officer then addressed the accused as follows:-

Q.108. You made the statement that you intended to return on the same day?

A.108. Yes sir.

Q.109. You also stated that the reason you wished to return was due to the fact that you have a wife and three children in Canada.

A.109. Yes sir.

Q.110. Why didn't you think of that on the.....

This question was objected to and the question was withdrawn.

Q.111. Did you give any thought to returning between the 21st July and the 30th August?

A.111. Yes sir.

Q.112. Why did you not return?

A.112. I just kept going on sir, that is the reason sir. I had intentions of returning before then but I just kept going on and on and I didn't return, but I had every intention of coming back that day.

Q.113. What suddenly made up your mind?

A.113. I ran out of money sir.

.....

The President then addressed the accused as follows:-

Q.114. It was your intention to return? You had no intention of deserting His Majesties Army?

A.114. No sir, none whatever.

The President asked if there was to be any re-examination of the witness and Capt. T.G.Breck asked the following questions:-

Q.115. What prompted you to stay beyond the period of your pass in the first place?

A.115. Well sir, I had been having a lot of trouble at home and I just kept going on, that is all sir.

Q.116. Did you stay in London all the time?

A.116. Yes sir.

Q.117. Were you indulging in alcoholic stimulants?

A.117. Yes sir.

Q.118. Had you been disgruntled or unhappy in your service?

A.118. Not as far as the service is concerned sir.

The President further questioned the Prisoner as follows:-

Q.119. You infer you are having trouble at home?

A.119. Yes sir.

Q.120. And that you remained after the 21st July and were A.W.L. from then until you were apprehended by the Military Police?

A.120. Yes sir.

Q.121. And you were in civilian clothes?

A.121. Yes sir.

Q.122. And when you left the Unit on the 14th July, did you at that time..... what were your intentions?

A.122. I intended to come back on the Tuesday

Q.123. You went on leave in civilian clothes?

A.123. Yes sir.

Q.124. When you went on leave did you intend to come back at the expiration of your leave?

A.124. Absolutely.

Q.125. And then on the 21st July when your leave expired at 8 o'clock in the morning - you would have had to have left London sometime on the evening of the 20th July. What happened on that evening?

A.125. I was drunk sir.

Q.126. You were drunk?

A.126. Yes sir.

Q.127. You were A.W.L. the next morning, then another week expired. Why did you not come back to your duty then?

A.127. I just kept going on.

Q.128. Where did you get all the money to live for five weeks anyway?

A.128 There's ways and means of making money, not from theft or anything like that sir. I was gambling sir, horse racing, cards.

Q.129. With soldiers or civilians?

A.129. With civilians sir.

Q.130. Can you give us any good reason for staying away without leave?

A.130. Just sir that I have had a lot of trouble with my family at home, it kept preying on my mind and I kept drinking. I finally got a letter. Captain Wingate can show you the letter that leads up to what did it. I finally got the evidence I wanted as far as my troubles are at home sir.

Q.131. When did you get that letter - when you were away?- before you were away?

A.131. After I was away sir.

Q.132. Where do you come from?

A.132. Trenton, Ontario sir.

Q.133. What did you do for a living back home?

A.133. Paper mills sir.

Q.134. How old are you?

A.134. 30, sir.

Q.135. How old are your children?

A.135. One is five, the other is four, and the other is about a year - about two years now sir.

Q.136. Supposing you had been successful in making a lot of money gambling and so on, would you still have been away?

A.136. No sir, I intended to come back sir.

Q.137. In connection with this loss of equipment and clothing you pleaded "Not Guilty" to that charge but I believe you admit these things are short?

A.137. Yes sir.

Q.138. What is your defence to that?

A.138. Sir, a few of the articles were here when I was on guard. We used to bring brushes and things like that .. If our shoes got dusty we could clean them. My knife and lanyard were here and brushes, but they could not be found.

Q.139. You have not found them yet? You have lost them?

A.139. Yes sir.

Q.140. You have been neglectful of losing them?

A.140. Yes as far as that is concerned, yes sir.

Q.141. If you left your cap on a counter, you would lose it by neglect - neglect through leaving it there?

A.141. Yes sir.

Q.142. The same applies to these articles here. You were neglectful and therefore short of same.

A.143. Yes sir.

Q.144. When were these issued to you? These boots and boot brush, polish, comb, field dressing, gloves, knife lanyard - way back home in Canada?

A.144. Some of the articles were issued when we came over.

Q.145. When did you come over.

A.145. December 1939.

Q.146. You had the articles from December 39 to say February 41.

A.146. Different things I have lost before that sir but they were replaced.

Q.147. We will say you had these articles sometime here in June or July?

A.147. Yes sir.

Q.148. Would it be fair to you to say a third of the lifetime of these articles had gone?

A.148. Yes sir.

Q.149. A third worn out.

A.149. Yes sir.

Q.150. Worth 2/3rds of their value when you went A.W.L.?
A.150. Yes sir.

Q.151. That would be fair would it?

A.151. Yes sir.

Q.152. You presumably knew that you were detailed for the various picket duties here in this building for the month of July and you had seen your name posted up on the Duty Roster, and you also knew that on the 21st July you were to go on duty at 6 o'clock in the evening?

A.152. Yes sir.

Q.153. You knew someone else would have to take your place when you were A.W.L.?

A.153. Yes sir.

Q.154. When these officers apprehended you in Coventry Street, - Sgt.Chester and S/Sgt. Ayre, were they in uniform?

A.154. No sir, civilian clothes.

Q.155. I presume they were quite decent to you.

A.155. Yes sir, quite pleasant.

Captain A.E.Jackson questions the accused as follows:-

Q.156. Have you had an opportunity of checking up in your billet to see if this equipment is there?

A.156. Myself sir? No sir.

Q.157. In other words they may have been overlooked. Is it the habit of all the pickets to leave their stuff in a certain place?

A.157. No sir, we take all our equipment to our billet.

Q.158. I understood you to say some of the equipment was here.

A.158 Yes, sir, brushes - sometimes if we go on guard our shoes get a little bit dirty and we clean them here.

The President further questions the accused as follows:-

Q.159. Since your apprehension by the Military Police in London where have you been?

A.159. At the Middleton Camp.

Q.160. Under close arrest? Guard room?

A.160. Yes sir.

Q.161. And that is since the 30th August?

A.161. I was up at the Castle for a while, until they moved.

Defending Officer and Prosecuting officers were asked if they wished to ask the accused any further questions and they both replied in the negative. The President then addressed the Defending Officer saying:-

" Captain Wingate, would you like an adjournment in order to prepare what you want to say to the Court?

Defending Officer: I don't think there is anything I can say now.

President: It is your duty to sum up the good points of your client and then Captain Roberts replies to your statement. Any good points you can say on behalf of your client I think you should.

The Court was adjourned.

The Court re-convened.

Defending officer.
Capt.L.W.Wingate:

Mr.President and Members, my client has been on trial and the evidence in my opinion does not indicate that he intended to desert. I think that the troubles he has had at home coupled with his somewhat nervous temperament, made him do what he did. His past record seems to be fairly good as far as soldiering goes, and as I understand if he had any intentions of returning he would not be classed as a deserter. The evidence produced and the statement he made to the Provost Sergeant to the effect that it was his intention to return, also his own evidence in the Court substantiated that statement that he intended to return the next day. I would recommend that the Court claims clemency for him and I leave the case in your hands.

Prosecuting Officer.
Capt.F.A.Roberts.

Mr.President and gentlemen, the accused has been charged with desertion from His Majesties army, while on active service. Under M.M.I.Chapter 3, desertion is only such when the intention is proved. As far as the prosecution is concerned, I am prepared to admit that on the basis of the evidence that has been presented before the Court, there was no apparent intention to desert. There was unquestionably a period of absence without leave, and after having heard the Presidents' remarks in regard to the two cases of desertion and the testimony which the accused gave under oath that when he left the Unit Pay Detachment at 0800 hours 14th July, he intended to return when his pass expired, it would appear that the offence is one of absence without leave rather than desertion.
In regard to the second charge of deficiencies of kit, I do not wish to press for the recovery of the full value as stated there. I am prepared to accept the suggested figure of a reduction by one third which the accused has agreed is a fair valuation of the equipment up to the time he absented himself.
Just before I close I should like to bring up the point in cross-examining the accused, the prosecution asked a question which appeared to be brow-beating. It was suggested it was brow-beating. The President pointed out that it was the job of the Prosecution to bring out all the evidence in his favour as well as to his detriment, and the question was put frankly in an attempt to bring out evidence which only came to my attention this morning in regard to the domestic difficulties of the accused. I have personally read the document to which the accused made reference in his testimony, and it would seem that there was some justification for his actions, but I leave the case on the evidence which I have presented and it is for the Court to decide what should be done.

The President:..... The Court will now close to deliberate upon the merits and de-merits and to consider as to whether the accused is Guilty or Not Guilty of these charges. I would ask you to withdraw please.

.....

The President: - We have come to our decision which will be announced in Court. The Court is now re-open and I ask you, Mr.Prosecutor, have you any evidence produce as to the character and particulars of the ac

Prosecuting Officer. - Yes sir. I produce Army Form A.F.B.296 (Exhibit "L") and M.F.M.6. (Exhibit "M")

President: - Is the accused the person named in the statement which you have heard read?

Prosecutor. - Yes sir.

President: - And have you compared the contents of the statement with the regimental books?

Prosecutor: - Yes sir.

President: - Are they true extracts?

Prosecutor: - No sir.

President: - Why is not this M.F.M.6 true?

Prosecutor: - Because I can produce to you extracts from Part II Orders re the accused and they do not correspond with the entries in the Conduct Sheets.

President: - These extracts that you have now produced in your capacity as officer in charge Part II Orders are signed by you and you have personally gone through Part II Orders and made extracts from these Part II Orders?

Prosecutor: - Yes sir.

The President asked the Defending Officer whether he wished to cross-examine the Prosecuting Officer, and he declined to do so. The President then asked him if he wished to address the Court in the matter of sentence.

Defending Officer: No sir, I do not.

R.W. Lent (Major)
President.

EXHIBITS.

"A" Picket Duty Roster.
"B" Leave Pass
"C" Declaration of Court Enquiry.
"D" AFB.252 - Military Police,London.
"E" Apprehension Expense Account. (£3. 16s 1d).
"F" M.F.C.000.
"G" Extract Part II Orders re convictions.
"H" Charge Sheet.
"I" Certificate of Evidence.
"J" Summary of ~~Evidence~~. Witness
"K" Summary of Convictions.
"L" A.F.B.296.
"M" M.F.M.6.
"N" Application for Court Martial.

PIQUET DUTY - ROYAL KINGS ARMS HOTEL, LANCASTER.

Date.	NIGHTS.				DAYS.
1 Jul 41.	Pte.	Sanders, H.W.	Pte.	Towns, G.	Pte. Clark, J.H.
2 " "	Pte.	Towns, G.	"	Duke, T.E.	
3 " "	"	Duke, T.E.	"	Sanders, H.W.	
4 " "	"	Sanders, H. W.	"	Towns, G.	
5 " "	"	Towns, G.	"	Duke, T.E.	
6 " "	"	Duke, T.E.	"	Sanders, H.W.	
7 Jul 41.	Pte.	Sanders, H.W.	Pte.	Clark, J.H.	Pte. Towns, G.
8 " "	"	Clark, J.H.	"	Duke, T.E.	
9 " "	"	Duke, T.E.	"	Sanders, H.W.	
10 " "	"	Sanders, H.W.	"	Clark, J.H.	
11 " "	"	Clark, J.H.	"	Duke, T.E.	
12 " "	"	Duke, T.E.	"	Sanders, H.W.	
13 " "	"	Sanders, H.W.	"	Clark, J.H.	
14 Jul 41.	Pte.	Clark, J.H.	Pte.	Towns, G.	Pte. Duke, T.E.
15 " "	"	Towns, G.	"	Sanders, H.W.	
16 " "	"	Sanders, H.W.	"	Clark, J.H.	
17 " "	"	Clark, J.H.	"	Towns, G.	
18 " "	"	Towns, G.	"	Sanders, H.W.	
19 " "	"	Sanders, H.W.	"	Clark, J.H.	
20 " "	"	Clark, J.H.	"	Towns, G.	
21 Jul 41.	Pte.	Towns, G.	Pte.	Duke, T.E.	Pte. Sanders, H.W.
22 " "	"	Duke, T.E.	"	Clark, J.H.	
23 " "	"	Clark, J.H.	"	Towns, G.	
24 " "	"	Towns, G.	"	Duke, T.E.	
25 " "	"	Duke. T.E.	"	Clark, J.H.	
26 " "	"	Clark, J.H.	"	Towns, G.	
27 " "	"	Towns, G.	"	Duke, T.E.	
28 Jul 41.	Pte.	Duke, T.E.	Pte.	Sanders, H.W.	Pte. Clark, J.H.
29 " "	"	Sanders, H.W.	"	Towns, G.	
30 " "	"	Towns, G.	"	Duke, T.E.	
31 " "	"	Duke, T.E.	"	Sanders, H.W.	

W.H. Roberts
Captain,
for (H.J. Beard), Major,
Officer Commanding Unit Pay Detachment,
R.C.A.P.C. (Oversess).

Distribution:

Guard Room..... 1 copy
Off. Proc. File..... 1 copy
Orderly Room..... 1 copy
Major Beard..... 1 copy
S.M. Sabine, W.T..... 1 copy

Exhibit "B"
Major
President

To whom [illegible]

[illegible] Army Reserve is ordered every soldier on pay [illegible] to his unit without waiting for instructions."

12 JUL 1941

No. [illegible] Regiment R.C.A.P.C. Attd.

R.C.A.P.C.

PASS

OVERSEAS

Army Form B2365
(In pads of 100)

No. C 4121 (Rank) Pte (Name) Towns G.

has permission to be absent from his †quarters/duty, from

0800 hrs 14 Jul 41 to 0800 hrs 21 July 41

for the purpose of proceeding to* London Eng.

(Station) Lancaster Lanes

(Date) 10 July 41

J. H. Roberts Capt
for Major Commanding
Unit Pay Det. RCAPC

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† *Delete whichever is not practicable.*

CROWN COPYRIGHT RESERVED

W. 2914 P.O. 350m. 10/40. D.P.W. 51-7555.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Lancaster, Lancs. on the 20th day of August 19 41, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.4121 Pte. Towns G.W. #1 Cdn. Inf. Hold. Unit.

DECLARATION.

The Court declare that C.4121 Pte. Towns G.W. No. 1 Cdn. Infantry Holding Unit, illegally absented himself without leave from the Royal King's Arms Hotel, Lancaster, Lancs. at 08.00 hrs. on 21st July 1941, and that he is still so absent.

On the 13th August 1941 he was deficient and he is still deficient of the following articles to the values as stated:-

Hastings and Prince Edward Company.

Kit deficiencies of C.4121 Pte. Towns, G.W.

	£	s.	d.
1 Battle Dress Blouse	1.	2.	6.
1 Pr. Boots ankle	1.	2.	6.
1 Brasses Button			2.
1 Brush Boot Black			6½
1 Brush Boot Polish		2.	1.
1 Shaving Brush		1.	2.
1 Brush Tooth			5.
1 Comb			2.
1 Dressing Field.		1.	1.
1 Pr. Gloves woollen		1.	11.
1 Knife Clasp & Lanyard		3.	5.
1 Razor safety			5½
1 Shirts flannel		10.	0.
3 Socks @ 1/11 per pair		5.	9.
1 Towels		1.	6.
1 Shorts Cell.		2.	2.
1 Vests Gymn.		1.	11.
1 Bags Ration.			2½
1 Capes A.G.		12.	6.
	£ 4.	10.	4½

Names of President and Members

Capt. M.M. Wyndham - President
Lieut. A.F. Leggatt - Member

Signature of Commanding Officer H.J. Beard, Major.
Unit Pay Detachment, R.C.A.F.C.

CERTIFIED TRUE COPY.

J.H. Roberts, Capt.

Signature of Officer having custody of the Original Record.

(13281) Wt.54315/1622 75,000 10/39 A.& E.W.Ltd. Gp.698
(13443) Wt.45725/760 225,000 1/40 Forms/B115/56

CHARGE

Army Form B.252
See King's Regulations

R.C.A.P.C.

Regiment
Battery
Squadron
Troop or
Company

Pte. Army Pay Corps "D"

CHARGE against No. C-4121 Rank

Name TOWNS, G.

Place London Date of Offence 30th Aug. 41

OFFENCE WOAS- A.W.L. From ---------- until

apprehended by the Cdn. Prov. Corps. In

Coventry St. at about 0030 hrs. on the 30

Aug. 41

D.A.P.M.

CANADIAN MILITARY POLICE
LONDON AREA.

Names of Witnesses:—

S/Sgt. Ayre, G.L. Cdn. Prov. Corps.

Sgt. Chester, H. Cdn. Prov. Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

67394 W1 W5349/1166. 2,000,000 11/40 S. & H., Ltd. G667/47

P.T.O.

Statement of **EVIDENCE** in the case.

C-4121 Pte. TOWNS, G.
R.C.A.P.C.

Sir,

At London at about 0030hrs. in company with Sgt. Chester I was on duty in Coventry St. when I saw the a/m soldier. I stopped him and asked him for a pass, he produced a pass which had expired 0800 hrs. on 31 Jul 1941, he was A.W.L. I placed him under arrest and escorted him to No.6 Coy. Cdn. Prov. C. H/Qrs. where I handed him over to the NCO i/c of cells to be detained.

London
30 Aug. 41

S.L. Ayre
S/Sgt. Ayre, S.L. (SID)

Sir,
I have read over and corroborate the above statement.

London
30 Aug. 41

B-76047 Sgt. Chester, H.

REMARKS

The m/n has no complaints
Pte. GT

Ref. K.F.& P (Can) 539

"E" R.W.L.

Regt. No. C-4121

Rank: Private

Name TOWNS G.W.

Regt: Royal Can. Pay Corps.

Unit:

The following expenses were incurred in apprehending and returning the a/m soldier to his Unit from Lancaster

Date	PARTICULARS	AMOUNT		
2 Sept. 41	Escorts return fare from London to Lancaster	1.	15.	4.
	Prisoners single fare to London from			
*	Prisoners single fare from London to Lancaster	0.	17.	8.
	Escorts expenses for bed, meals, bus fares and meals for the prisoners.	1.	3.	1.
		3.	16.	1.

M. C. Byers Lt.
O.C. 1 Pay Coy.
C-A-P-C 1 Pay Coy.
C.A.P.C. Canadians
CANADIAN PROVOST CORPS

NOTE.

No reimbursement for this account is to be sent to our office from your goodself, as the amount has been paid from petty cash and charged to Public Funds.

If the accused is found guilty a stoppage of pay should be put through your units Part II Orders.

* See memorandum from Chief Treasury Officer, attached enclosed dated 17 Sept 41.

P.S.O./41/1

C.T. 1918

CANADIAN OVERSEAS TREASURY OFFICE 02.04.11.
PT/C/4121.

MEMORANDUM TO: Officer i/c Unit Pay Detachment,
R.C.A.P.C.

SUBJECT: C. 4121 Pte. Towns G.W.

With reference to your memo. PT/C/4121 (Pay 2b) dated 8th. instant to the address of A.Q.M.G. (S. & T.) C.M.H.Q. relative to the unused portion of the above mentioned soldier's privilege leave ticket, kindly be advised that no refund can be authorised in the pay account of this soldier as he did not pay for the ticket.

Accordingly, the refund when obtained will be credited to public funds.

It is for the Court Martial to decide whether or not he shall be charged for his journey London to Lancaster and they can of course take into consideration the fact that he had in his possession a ticket which was valid for the journey.

N.E. Beach,
for Chief Treasury Officer.

Lancaster.
17.9.1941.

M.F.C. 800
W.D. 1273 30-1943

Regtl. No. C4121 Rank Pte Name Towns G.W. "F" Rwk

INDIVIDUAL'S CLOTHING AND EQUIPMENT STATEMENT

Date of Attestation

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Anklets, web, prs.	1	26/2/41							
Badges, cap	1	26/2/41							
" collar, prs.									
" shoulder, prs.									
Bags, Kit Universal	1	26/2/41							
Battle Dress—									
Blouses, serge	2	26/2/41							
Trousers, serge, prs.	2	26/2/41							
Bonnets, Tam O'Shanter									
Boots, ankle, prs.	1	26/2/41		1	3/3/41				
" " left, prs.									
Boots, lumberman's, rubber—prs.									
Insoles, prs.									
Braces, prs.	1	26/2/41							
Brasses, button	1	26/2/41							
Breeches, B.C., or Trousers, S.D. prs.									
Brushes, boot, blacking	1	26/2/41							
" boot, polishing	1	26/2/41							
" button									
" cloth									
" shaving	1	26/2/41							
" tooth	1	26/2/41							
Cap, comforter	1	26/2/41							
" field service	1	26/2/41							
" forage, drab									
" winter, Melton cloth									
Cloak or Greatcoat, drab	1	26/2/41							
Cloth, hair	1	26/2/41							
Discs, identity, with cord	1	26/2/41							
Drawers, woollen, prs.									

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Dressings, first field	1	26/2/41							
Forks	1	26/2/41							
Gloves, woollen, khaki, prs.	1	26/2/41							
Holdalls	1	26/2/41							
Housewives		26/2/41							
Jackets or Doublets, S.D.									
Jacket, sweater									
Knife, clasp, and lanyard	1	26/2/41							
" table	1	26/2/41							
Mitts prs.									
Overalls—									
Blouses, denim									
Trousers, denim, prs.									
Overshoes or Rubbers, prs.									
Pantaloons or Trousers, service, prs.									
Razors	1	26/2/41							
Shirts, flannel, khaki				2	29/4/41				
" service									
" woollen									
Shoes, canvas, prs.	1	26/2/41							
Socks, prs.	3	26/2/41							
Spoon, table	1	26/2/41							
Towels, hand	1	26/2/41							
Drawers Cell 2					21/4/41				
Vests P.T. 1					21/4/41				
Vest P.T. 1					21/4/41				

Certified True Copy of M.F.C. 800
for C-4121 Pte. Towns, G.W.

[signature] Capt.
No. 1 Con. Inf. Holding Unit, C.A. (O)

Free issues only will be accounted for on this form

Signature of Soldier Signature of Quartermaster

Unit

No. 04121 Rank Pte Name Towns G. W.

From	to	Date	Transferred or Attached
From	to	Date	
From	to	Date	
From	to	Date	
From	to	Date	

EQUIPMENT (a)		Date of Issue	Date of Issue	Date of Issue	Date of Issue
Attachments, braces					
	1	26/2/41			
Bags, ration					
Bandoliers			27/2/41		
Belts, waist	1				
Bottles, water	1	26/2/41	27/2/41		
Braces	2				
Carriers, cartridge					
waterbottle	1	26/2/41			
Cases, pistol					
Covers, mess tin			27/2/41		
bayonet	1				
	1	26/2/41			
steel	1	26/2/41			
entrenching, pistol					
	1	26/2/41			
other ammunition	2		27/2/41		
rifle	1				
sack, pr's					
shoulder	2	26/2/41			
web, supporting	2	26/2/41			
	1	26/2/41			

ARMS AND MISCELLANEOUS (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue
~~R No 244~~		28/2/41		
Bayonets and Scabbards		28/2/41		
Bottles, oil				
Pistol		28/2/41		
Pullthroughs		28/2/41		
~~R.R. 88275~~				
Swords and Scabbards				
Cape Anti Gas	26/2/41			
Detectors a Gas		27/2/41		
Wallets Gas		27/2/41		
Blankets 1		25/2/41		
Sheets, ground 1	26/2/41			
Res Haversack 1	26/2/41			
Tracpure 1	26/2/41			
Container 1	26/2/41			
Outfit AD 1	26/2/41			
Eyeshields 6	26/2/41			
Ointment 2	26/2/41			
Amm .38 Cal Rds 6				

Signature of Soldier

Signature of Soldier

Signature of Soldier

Signature of Soldier

Signature of Soldier

Signature of Soldier

Signature of Soldier

Signature of Soldier

On return of an article the Q.M. will initial in the date column opposite the article returned and line through in red ink

ing washer unless authorised by the

"9"

EXTRACT FROM PART II ORDERS

D.O. 93 HASTINGS & PRINCE EDWARD REGT. d/ 3 Apr 40.

5. PUNISHMENTS

C.4121 A/Cpl. Towns G.W.	"A"	Reverted to the rank of Pte. and forfeits 1 days pay under Fin. Regs. for CASF. Para 149, for being A.W.L. from duty as C.O.S. from 0800 hrs. to 2100 hrs. 31-3-40.

Certified true extract.

F.M. Roberts
Capt.
R.C.A.P.C.
Officer having custody of Part II Orders.

D.O. 118 NO. 1 CANADIAN INFANTRY HOLDING UNIT d/ 4 Sep 40.

(4) REVERSIONS

C- 4121 Sgt. Towns G.W. Reverts to the Permanent Grade at his own request, effective 30 -8-40.

(12) PUNISHMENTS

C. 4121 Pte. Towns G.W. Absent without leave from 0800 hrs. 30-8-40 to 1330 hrs. 3-9-40. A.A. Sec 40. Forfeits 4 days pay.

Certified true extract

J.H. Roberts
Capt. R.C.H.P.C.

Officer having custody of Part II Orders

Certified true extract

J.A. Roberts
Capt. R.C.A.P.C.
Officer having custody of Part II Orders

EXTRACT FROM PART II ORDERS

D.O. 14 7th CORPS SIGNALS d/ 11 OCT 40.

7. PUNISHMENTS

C4121 Pte. Towns G.W. # 1 Inf. Hold. Unit
A.A. Sec 15(1) On 4 Oct 40 awarded forfeiture of 20 days pay (FR&I 149(1)(e) for A.W.L. from 2300 hrs. 30 Sep 40 to 1100 hrs. 3 Oct 40 (absent 2½ days) and forfeits 3 days pay (FR&I 149(1)(a)). Total forfeiture 23 days pay.

EXTRACTS FROM PART II ORDERS

D.O. 15 7th CORPS SIGNALS d/ 18 OCT 40.

12. PUNISHMENTS

C4121 Pte. Towns G.W. # 1 Inf. Hold. Unit (att.) (A.A. 15(1) & (2)) On 14 Oct 40 awarded forfeiture of 7 days pay (FR&I 149(1)(e)) and forfeits 3 days pay for (1) failing to appear at a place of parade appointed by his Commanding Officer (2) A.W.L. from 0630 hrs. 11 Oct 40 to 1500 hrs. 13 Oct 40 (absent 2 days 8½ hrs.)(FR&I 149(1)(a)). Total forfeiture 10 days pay.

D.O. 9 (7th) CANADIAN CORPS SIGNALS d/14 Feb 41.

13. AMENDMENTS

Part II Order No. 15 dated 18 Oct 40 sub para 12 insofar as it refers to C4121 Pte. Towns G.W. is amended as follows, delete "total forfeiture 10 days pay" and add "pay to 20 Oct 40 already forfeited (see Part II Order No. 14 dated 11 Oct 40 sub para. 7) therefore forfeiture of 7 days pay is ineffective. (Total forfeiture 3 days pay.)".

Certified true extract

J.H. Roberts Capt R.C.A.P.C.
Officer having custody of Part II Orders

D.O. 17 7th CORPS SIGNALS d/ 31 OCT 40.

12. PUNISHMENTS

C4121 Pte. Towns G.W. # 1 Inf. Hold. Unit
A.A. 15(1). On 26 Oct 40 awarded forfeiture of 3 days pay for A.W.L. from 2230 hrs. 24 Oct 40 to 0850 hrs. 25 Oct 40 (absent 10 hrs. 20 mins),(FR&I 149(1)(e)), and forfeits 1 days pay (FR&I 149(1)(a). Total forfeiture 4 days pay.

Certified true extract

J.H. Roberts
Capt. R.C.H.P.C.
Officer Having custody
of Part II Orders.

EXTRACTS FROM PART II ORDERS

Certified true extract
F.H. Roberts
Capt R.C.H.A.C.
Officer having
Custody of Part II
Orders

D.O. 25 7th CORPS SIGNALS d/ 6 Dec 40.

7. PUNISHMENTS

C4121 Pte. Towns G.W.
(1)(A.A. 15(1)) On 25 Nov 40 (#1 Inf. Hold. Unit).
forfeits 23 days pay (FR&I 149(1)(b) for A.W.L. from 2230 hrs.
1 Nov 40 to 1600 hrs. 24 Nov 40 (absent 22 days 17½ hrs.) and
forfeits 23 days pay (FR&I 149(1)(a)). Total forfeiture
46 days pay.
(2) (AA 24(2)) On 26 Nov 40 placed under stoppage of pay of
£ 1-6-6 for losing by neglect his respirator A.G. and helmet
steel (FR&I 158(2)).

EXTRACT FROM PART II ORDERS

D.O. 9 CANADIAN CORPS SIGNALS d/ 14 Feb 41

XXXX

13. AMENDMENTS

Part II Order No. 17 dated 31 Oct 40 sub para. 12 insofar as it refers to C4121 Pte. Towns G.W. is amended as follows , delete "total forfeiture 4 days pay" and add " pay to 26 Oct 40 already forfeited as continuity of sentence imposed in Part II Order No. 14 dated 11 Oct 40 sub para. 7 is broken by A.W.L. therefore he forfeits 1 days pay (FR&I 149 (1)(a)) and 1 days pay FR&I 149(1)(c). Total forfeiture 2 days pay."

D.O. 3 CANADIAN CORPS SIGNALS d/ 10 Jan 41

13. PUNISHMENTS

C4121 Pte. Towns G. [redacted] (att. 1 Inf. Hold. Unit)
On 24 Dec 40 awarded 14 days C.B. and forfeits 1 days pay for A.W.L. from 2359 hrs. 22 Dec 40 to 2300 hrs. 23 Dec 40 (absent 23 hrs. 1 min.) FR&I 149(1)(a).

Certified true extract

J.H. Roberts
Capt. R.C.A.F.C.
Offcr. having custody
of Part II Orders.

EXTRACT FROM PART II ORDERS

D.O. 96 NO. 1 CANADIAN INFANTRY HOLDING UNIT d/ 29 APR 41.

20. PUNISHMENTS

C. 4121 Pte. TOWNS G.W. (H.Q.) A.A. Sec 15(1).
was on 12 Apr 41 awarded 12 days detention for
W.O.A.S. absent without leave from 1600 hrs.
5 Apr 41 to 1900 hrs. 10 Apr 41 (absent 5 days,
3 hrs.). Forfeits 6 days pay under FR&I 149 (1)(a).
Forfeits 12 days pay under FR&I 149(1)(b).
Total forfeiture 18 days pay.

Certified true extract
J.A. Roberts
Capt R.C.A.P.C.
Officer having custody
of Part II Orders

EXTRACT FROM PART II ORDERS

D.O. 23 UNIT PAY DETACHMENT, R.C.A.P.C. D/ 16 May 41.

7. PUNISHMENTS.

C4121 Pte. Towns, G.W.	Awarded 1 day's forfeiture of pay, under 149A and 150B, PR&I. for Cdn. Army (O/S) for absence without leave from 1800 hrs. 10 May 41 to 1815 hrs. 10 May 41, (absent 15 minutes) for failure to appear at a place of parade appointed by his Commanding Officer, namely picquet parade at 1800 hrs. thereby rendering it necessary to detail another man for guard duty. A.A. Sec 15(2) Date of award 12 May 41.

Certified true extract

J.H. Roberts
Capt R.C.A.P.C.
Officer having custody
of Part II Orders

"J"
Rwh

Medical Certificate. (K.R.(Can) 557)

I certify that I have this morning examined No C 4121 Pte Jones, G
of No 1 Can Sup. Hold Unit and in my opinion he is fit to
~~unfit~~
undergo trial by Court Martial.

Station Lancaster Lines Medical Officer

Date 19 Sept 41.

"K"

Convictions

Summary of ~~Offences~~
since enlistment
extracted from Part 2 Orders and
verified through the pay account

No. C.4121 Pte. G.W. Towns.

H. & P.E. Regt.	D.O. 93 d/3 Apr 40	A.W.L. from duty 13 hrs.
No. 1 Cdn. Inf. H.U.	D.O.118(12)d/4 Sep 40	A.W.L. 4 days 5½ hrs.
7th Corps Signals	D.O. 14 d/11 Oct 40	A.W.L. 2½ days
do.	D.O. 15 d/18 Oct 40	A.W.L. 2 days 8½ hrs.
do.	D.O. 17 d/31 Oct 40	A.W.L. 10 hrs 20 min.
do.	D.O. 25 d/ 6 Dec 40	A.W.L. 23 days
do.	D.O. 3 d/10 Jan 41	A.W.L. 23 hrs 1 min.
No.1 Cdn. Inf.H.U.	D.O. 96 d/29 Apr 41	A.W.L. 5 days 3 hrs.
Unit Pay Det.	D.O. 23 d/16 May 41	A.W.L. from duty 15 min.

"L"
Rank

ARMY FORM B.296.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED, NO. C 4121 PTE. G.W. TOWNS, NO.1 CDN INF. HOLDING UNIT, ATTACHED TO UNIT PAY DETACHMENT, R.C.A.P.C.

THE FOLLOWING IS A FAIR AND TRUE SUMMARY OF THE ENTRIES IN THE CONDUCT SHEET M.F.M.6 OF THE ACCUSED

WITHIN THE LAST 12 MONTHS
For absence without leave - once.
For absence from Picquet Parade - once.

SINCE ENLISTMENT.
For absence without leave - 3 Times
For absence from Picquet Parade - once.

NUMBER OF INSTANCES OF GALLANTRY OR DISTINGUISHED CONDUCT - NIL.

THE ACCUSED IS NOT UNDER SENTENCE AT THE PRESENT TIME.

THE ACCUSED HAS BEEN IN CONFINEMENT AWAITING TRIAL ON THE PRESENT CHARGES FOR 8 DAYS ALL IN MILITARY CUSTODY.

THE ACCUSED HAS NOT PREVIOUSLY BEEN TRIED BY COURT MARTIAL.

I CERTIFY THAT THE FOREGOING SCHEDULE OF CONVICTIONS IS A TRUE EXTRACT FROM THE CONDUCT SHEET M.F.M.6 OF THE ACCUSED.

Heard

(H.J. Heard), Major.
Commanding Unit Pay Det., R.C.A.P.C.

Lancaster,
8 Sep 41.

NOT ORIGINAL

No. C4121 Name TOWNS G.W. Sqn., Battery, or Company HQ & S. Coy. Corps HQ 1 CDN INF HOLD UNIT Date of Enlistment G.C. Badges Service or Proficiency Pay

M.F.M. 6
A.F.B. 122
Am'd. — 6-39 (1793)
H.Q. 172-45-12

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Camp	2/8/40	Sgt		absent from Sqn Parade at Bn Orderly room at 1230 hrs.	Sgt. Wilks	Dismissed	5/8/40	Maj. Mowat	
Bordon Camp	28/8/40	Pte		Absent without leave from 0800 BD 30/8/40 to 1330 hrs 3/9/40	Det Warwicke	4 days Pay stopped.	4/9/40	Company Off	
Aldershot	10/7/41	L/Cpl	—	A.W.L. from 1900 hours 5.7.41 to 1400 hrs 10.7.41	Sgt Woodard	12 days Extra Duties	12.7.41	Lt-Col. Slack	Forfeits 6 days pay for 3 days A.W.L. (1 day = 2 days pay) Forfeits 2 days pay for 1 day absence from Parade
				A.A. Sec 15/1				D.I.	18 days pay

P.T.O

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
LANCASTER	10/5/41	PTE	NIL	WHILST ON ACTIVE SERVICE FAILED TO APPEAR AT PLACE OF PARADE APPOINTED BY HIS C.O. NAMELY PICQUET PARADE AT 1200 hrs Royal KINGS ARMS HOTEL. HAVING BEEN DULY WARNED BY ORDER, THEREBY RENDERING IT NECESSARY TO DETAIL ANOTHER MAN AS SUCH (2)	MAJOR H.J. BEARD BQMS SGT ALEXANDER J.S.	TO FORFEIT 1 DAYS PAY ARTICLE 14 9(A) " 15 (A) FBI. CON Army Council	12 May 41	H Beard Major	

"N" Rwk

Unit Pay Detachment, ARMY FORM B 116.
Royal Canadian Army Pay Corps REGIMENT.
STATION Lancaster, Lancs Date 8 September 1941

Application for a Field General *Court-Martial.*

SIR,

I have the honour to submit two charges against No. C 4121
Pte G.W. Towns, No 1 Cdn Infantry Holding Unit, and
of the Detachment under my command, and request you will obtain the sanction
of the Convening Officer C.M.F.G. that a Field General Court-Martial may be
assembled for his trial at Lancaster.

The Case was investigated by (a) (i) (ii) Major R. Beard
(iii) Major R. Beard

A Court of Inquiry was held on (b) 30 August 1941 (date)
at Lancaster, Lancs (Station).

President	Capt. R.M. Wyndham	Ranks, Names and Corps.
Members	Lieut A.F. Leggatt	
	Unit Pay Det., R.C.A.P.C.	

The accused is now at Middleton near Lancaster. His General Character is (c) fair
I enclose the following documents (d):—

1. One Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and one copy.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. ~~List of Exhibits (g).~~ List of Exhibits.
6. ~~Correspondence~~ (g).
7. Statement as to character (A.F.B. 296) and regimental and company, etc., conduct sheets of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (h) [R.P. 14 (B)].

List of officers available to act as members

Capt. F.A. Roberts
Unit Pay Det. R.C.A.P.C. Lancaster
is appointed prosecutor.

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer R Beard Major
Comdg Unit Pay Det.
R.C.A.P.C.

To D.A.G.
C.M.F.G.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. C 4121 Pte G.W. Towns, No 1 Cdn Infy Regiment
is fit to undergo trial by Court-Martial.

Signature of the Medical Officer W Brooke Major R.A.M.C.

(a) Here insert name of :—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges; otherwise to be struck out [R.P. 19 (B) (iii)].
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 46 (8) the fact should be recorded at the top of this form.

(11307) W1.23633/318 20,000 8/39 A.& E.W.Ltd. Gp.678
(134...) W1.4572/6/41 120,000 1/40 " " Forms/3116/18

"J" Pte

Summary of Evidence,
in the case of C 41321 Pte G. W. Towns, No 1 Can. Infantry Holding Unit, attached to the Unit Pay Detachment, R.C.A.P.C. (overseas) taken down by Major H. Beard R.C.A.P.C. at the Royal Kings Arms Hotel, Lancaster on the Eighth day of September 1941 in the presence and hearing of the accused.

First witness for the Prosecution.
B 5612 Sergt. C.J.Th. Bagenais R.C.A.P.C.

B 5612 Sgt. C.J.Th. Bagenais, Unit Pay Det, R.C.A.P.C. having been sworn, states, On 31 July 1941 I was Orderly N.C.O. of the Unit Pay Detachment, R.C.A.P.C. at Lancaster.

The accused whom I recognise as C 41321 Pte G.W. Towns, No 1 Can. Infantry Holding Unit, a Guard at the Royal Kings Arms Hotel, Lancaster was granted leave of absence from 0800 hrs 14 July 1941 to 0800 hrs 31 July 1941 with permission to proceed to London, England, in plain clothes.

The accused did not report for duty at 0800 hrs on 31 July 1941 at which hour his leave expired.

I mounted the Guard at the Royal Kings Arms Hotel at 1800 hrs on 31 July 1941. The accused was absent from Guard mounting parade which it was his duty to attend.

The accused had been warned for this duty by roster, a copy of which was posted in the Guard Room on 30 June 1941. I reported him absent without leave to the Orderly

Evidence of B 5612 Sergt. O.J.M. ~~Dagenais~~
Dagenais Continued

Officer Capt. W.S. Cook.
I did not see the accused from 14 July 1941 until I saw him in arrest at Lancaster on 3 Sept. 1941 when he was dressed in plain clothes.

The accused declines to cross examine this witness

O.J.M. Dagenais Sgt.
B 5612

8 Sept 1941

Second witness for the Prosecution. Capt. F.A. Roberts, R.C.A.P.C. (documentary)

Captain F.A. Roberts, R.C.A.P.C. having been Sworn states,-

I am Officer in charge Regimental Records of the Mint Pay Detachment, R.C.A.P.C.

I produce the original pass granting the accused No C 4131 Pte G.W. Towns leave of absence from 0800 hrs 14 July 1941 to 0800 hrs 21 July 1941 with permission to proceed to London, England in plain clothes during the period stated.

I also produce A.F.B. 115, Record of the declaration of a Court of Inquiry held under Sec 77 of the Army Act on the illegal absence and deficiencies of Equipment, Clothing and Regimental Necessaries of C 4131 Pte G.W. Towns. This form is a true copy of the entry in A.B. 161 and is certified by me.

I also produce A.F.B. 252 being documentary evidence of S/Sgt. T.H. Ayre and Sgt. H. Chester, London Provost Corps of the apprehension in London of the accused C 4131 Pte G.W. Towns on 30 August 1941. The documentary evidence is read to the accused.

The accused declines to cross examine this witness.

8 Sept. 1941

F.A. Roberts
Capt.
R.C.A.P.C.

Third witness for the prosecution A.33092 Pte. A.D. Davis, R.C.A.P.C.

A 33092 Pte. A.D. Davis, Unit Pay Det., R.C.A.P.C. having been sworn, states, I am in charge of stores at the Unit Pay Det, R.C.A.P.C., Lancaster. On 31 July 1941 the Orderly N.C.O. reported to me that the accused C 4131 Pte G.W. Downs had not reported for duty on the Expiration of his leave on 31 July 1941. I proceeded to accused's billet on 3rd August 1941 and brought away all the articles of Equipment, Clothing and Regimental Necessaries belonging to the accused that could be found and locked them in the store room at the Royal Kings arms Hotel. I subsequently turned the articles over to C.Q.M.S. McBroom of 401 Cdn., Inf. Holding Unit who took them to the Holding Unit.

Q. Had you at that time any means of ascertaining what articles on charge to the accused were missing?

A. No Sir - the accused was only attached to the Unit Pay Det. and his M.F.C. 800 was kept with his documents at 401 Cdn, Inf, Holding Unit.

Q. By what means did you ascertain that the accused was deficient of articles of his Equipment, Clothing and Regimental Necessaries.

A. Only from the list of deficiencies received from the Holding Unit

Evidence of A 32092 Pte A.D. Davis
Continued

after the articles found in his billet had been returned to the Holding unit. I produced the list of deficiencies amounting to £4-10-4½ before the Court of Inquiry.

Q Since that list was produced before the Court of Inquiry have you recovered any of the articles then shown as deficient

A. Yes Sir. After the accused had been apprehended he furnished information which enabled me to recover articles to the value of £1-12-2½ which reduced the deficiencies to £2. 18. 2.

Q. Does the amount of £2. 18. 2 represent the full value of the articles or the unexpired value.

A. The full value Sir.

The accused declines to Cross Examine this witness.

8 Sept 1941

A. D. Davis pte
A 32092

Fourth witness for the prosecution:
S/Sgt. G. R. Ayre
Edn. Provost Corps
or
Sgt. H. Chester,
Edn Provost Corps

witness not yet available.
Documentary evidence of apprehension produced by second witness for the prosecution.

Beard Major
R.C.A.P.C.

The accused does not wish to call any witness in his defence.

The accused after having been warned that any statement he may make may be used against him by the prosecution made the following statement.

"I had no intention of deserting from His Majestys service as I have a wife and three children in Canada."

The accused after making this statement reserves his defence.

Rules of Procedure 4 (c)(d)(e)(f)(g) and (h) have been complied with.

Beard Major
R.L.A.P.C.

Lancaster,
8 September 1941

Officer taking summary of evidence

AK 126

é. Towns G.W.

e C-196 for 128 case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C4121 Pte George Washington TOWNS 1 Cdn Conv Depot.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ "IW" ~~beginning on (dos)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which N/K days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

TO BEIMPRISONED WITH HARD LABOUR FOR ONE YEAR AND TO BE DISCHARGED WITH IGNOMINY FROM HIS MAJESTY'S SERVICE.

(Sgd) ..... Judge-Advocate, if any. 1 DEC 44 Date awarded. (Sgd) "I.R.F. WILSON" Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I confirm the finding and sentence of the court but remit the discharge with ignominy from His Majesty's Service.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) "TGG"

(1. AA 57A. Delete if not used.)

Date 2 DEC 44 (Sgd) "T.G. Gibson" Brig COMMANDER Commanding 1 Cdn Base Rft Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C4121 Pte TOWNS G W	20 DEC 44	"N.S. BERGMAN" Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (D.A. Qmr) Capt CDN BASE RFT GP BRAAI

4K-126

FIELD GENERAL COURT-MARTIAL

CF A96 (To be used for AFA31) 40-7 P No 3/1000 (4/38)

4/38B

Convened by Order of T.G. Gibson Comdt 1 CBR Gp dated 27 NOV 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 4121	Pte		George Washington	TOWNS	1 Cdn Conv Depot

PROCEEDINGS REVIEWED
27 DEC 44 W Taylor Major
DJA
Cdn Sec CMHQ & Eth AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 1 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "instrs". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~XX~~ attached thereto.(1) "IW" The Court is satisfied that it is properly convened and constituted(2), accused is ~~XX~~ (K) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences. "IW"

A4. The Prosecutor produces a Medical Certificate that accused is (~~XX~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~XX~~ Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to "IW" as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Maj	I.R.F. WILSON (CIC)	2 Cdn Reallee Centre
Member	Capt	A.H. CALDICOTT (RCEME)	1 Cdn Conv Depot
Member	Lieut	G.R. KENNEDY (RCA)	1 Cdn Conv Depot
Judge-Advocate			
Prosecutor	Lieut	D.W. GREEN (RCA)	1 Cdn Conv Depot
Defending Offr	Capt	C.A. GORDON (CIC)	1 Cdn Conv Depot.

Court is adjourned at 1020 hrs Court reopened at 1100 hrs

Questions by President : Is the Prosecutor a lawyer ! Ans NO Is the Defending Offr a lawyer ! Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See Dr p 3.)

A8. The accused before arraignment make(s) (no) ~~XX~~ plea "IW"

.....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 ranks and name of the accused making the plea.)

A9. The accused is (~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) "IW" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on "IW" charge(s). The accused has (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge to which the plea of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1) "IW"

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (C).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras B1-to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3. "IW"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(1. If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement of Particulars as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3) "IW"

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes by my defend offr. "IW" (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

"I"

The accused, C.4121 Private George Washington TOWNS, Hastings and Prince Edward Regiment, presently a convalescent at 1 Canadain Convalescent Depot, a soldier of the Canadian Army Overseas is charged with-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy absented himself without leave from 1200 hours 28 August 1944 until surrendering himself to the Regimental Police at No. 11 British Convalescent Depot at approximately 0830 hours 20 November 1944.

In the Field
24 Nov 44

"C.E. Corrigan" Lt-col., RCAMC
(C.E. CORRIGAN)
Commanding Officer
1 Cdn Convalescent Depot.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
In Italy
27 Nov 44

"T.G. Gibson"
(T.G. Gibson) Brig.
Comd 1 C dn Base Rft Gp
Cdn Army - CMF

"TW"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
C.4121	Pte		George Washington	TOWNS	1 Cdn Conv Depot.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) "I do"

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	I.N.F. WILSON (CIC)	2 Cdn Reallocn Centre

MEMBERS.

Capt or Lieut to be detailed by the OC 1 Cdn Conv Depot

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 1 Cdn Conv Depot.		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 1 Cdn Conv Depot.		

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

"T.G. GIBSON"
(T.G. GIBSON) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 27 Nov 44

Commanding ~~1~~ Cdn Base Rft Gp, C dn Army - CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/3BA CPA96 (In lieu of AFA3) 40/P & S/1697 (4w31)

(*See overleaf for oaths and notes for use on trial.*)

No. 1 CANADIAN CONVALESCENT DEPOWT C.M.F. "IW"

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined regtl No C.4121

Rank Pte Name TOWNS G W Unit H & P E

and that he is in a fit state of health to undergo

trial by court martial.

Date 1 DEC 44 "H.A. ??????" Capt
Signature of Medical Officer.

"IW"

STATEMENT OF CHARACTER OF G.W. TOWNS: C.4121
Maj. A.J. McTEER (Calg Highrs) 1 Cdn Conv Depot duly sworn states:.

I first met the accused -- at "B" Div 1 Cdn Con Depot in Jan 1944 At that time I was Captain duty officer at put TOWNS was one of our coy clerks. He was a convalescent at that time and voluntarily offered his services for this duty. He carried out his duties in an efficient and satisfactory manner: He was very reliable and we had no trouble with him at any time.

No cross - examination:

RP 83(B) Complied with

Given by Maj A.J. McTEER
(1 DEC 1944)

"IW" XixZx

PLEA PLEA IN MITIGATION OF SENTENCE OF
C.4121 Pte TOWNS George Washington

Here Gentlemen we have a man who has committed a crime of A.W.L. I can hear all of saying, This is a crime which is all too common, There is too much of it. Let us not be too hasty. Bear with me please until we consider this mans xase, perhaps in this case there is a reason, or some extenuation facts.

This man is a real soldier, one of the original, 1st Division men, a member of the Hastings & Price Edward Regt. He enlisted 2 Sept 44 and arrived overseas the following December. He was with his Reg't when they landed in France in 1940 and he made the invasionof not only Sicily but of Italy and continued with them, xx fighting in every action that they fought until the crossing of the Moro River. During this action when the fighting was at its height. Pte TOWNS, with several members of his section which he was leading, plunged over a cliff, which they could not see because of the darkness of the night. One of these men was killed, another broke his back, another broke his leg very badly. Pte Towns washinself badly injured, having received in this sixty foot(60') fall several cracked ribs, a broken jow and lost all his teeth. He was evacuated to the hospital where he spent eighteen days (18) and where a silver plate was put in his jaw. From the hospital he was sent to #1 Cdn Convalescent Depot. In June he returned to the hospital, with pneumonia, pluresy & dysentry. When well he was returned to # 1 Cdn Con Dep.

at the Convalescent Depot he worked conscientiously and steadily. until such time as he went A.W.L. as Maj. McTEER has testified.

True Pte TOWNS has some charges on his F.F.M. 6 all of them absences, but what soldier during those four long years in England did not go absent. These men joined the Army to fight, not to cool their heels in England. Please notice Gentlemen, that for a long time there has not been an entry on his F.M. 6.

This obviously is the mark of a good soldier. There must have been some reason for this man to go AWL for 83 days especially when he had a good job under pleasant and confortable surroundings. Let me point out to you, What I think is sufficient cause for any of us to lose our reason.

Pte TOWNS has a worry that preyed upon his mind. A worry thank heavens, that, very few of us will ever have. He was happily married when he left his wife and three children, to come overseas and fight. He had not been gone long, when another man, a villian with no scruples, came upon the scene that he had left, alienated his wifes affections and in due course she had a child by him. Naturally he was engaged and had divorce proceedings instituted. This Gentlemen I say was good reason for his absences in England For some reason the divorce did not come through, though there were sufficient grounds. His wife's unfaithfulness did not stop here, since that time, she has had another child by this

---

MAN?, AND THEN SOLD Everything that Pte TOWNS and she had gotten together and went to another town with this man where they now live, leaving Pte Towns' children flat. The children were picked up by the Children's Aid Society and placed in care of Pte Towns mother, who is seventy (70) years old and who is neither in condition or position to care for them. Place yourself in this man's position Gentlemen, Is this not sufficient reason to drive you mad? Would you not be apt to run away from all your responsibilities & and try to forget? Overseas trying to become fit to fight again! ! ! I say Gentlemen that this man should have been home long ago on compassionate grounds. He made application for compassionate leave, but it was refused in May. Had this leave been granted this crime would never have been committed.

Gentlemen I leave this man to your consideration, please give these facts that I have mentioned your deepest thought.

In closing please let one point out that Pte Towns was not apprehended, He gave himself up voluntarily when he realized his mistake. The further mark of a good soldier.

Exhibit "A" "IV"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C.4121 Private George Washington TOWNS, Hastings and Prince Edward Regiment, presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for the Prosecution — Capt. J. McConvey, Adjt., 1 Canadian Convalescent Depot having been duly sworn states as follows:-

I produce a record of the Declaration of a Court of Inquiry which investigated the illegal absence of the accused Pte Towns, G.W., whom I recognize. The Declaration shows that the accused absented himself without leave 1200 hours 28 August 44 and was still so absent at 0900 hours 21 September 44. (Certified true copy of Declaration admitted in evidence and marked Exhibit "A")

The accused declines to question the witness.

"J. McConvey"

SECOND WITNESS for the Prosecution — Sgt. Gamman, S., 3 Bn Welsh Guards,

Question to the accused - " Do you desire the attendance of Sgt. Gamman at this taking of the Summary of Evidence for the purpose of cross-examination?".

Answer by Pte TOWNS - "I have read over and understand the signed statement of Sgt. Gamman and wish to reserve cross-examination until trial "

"G.W. TOWNS"

I certify that owing to the exigencies of the service the personal appearance of the second witness was not necessary or readily procurable at this taking of the Summary of Evidence. A statement purporting to have been signed by the said witness was read over to the accused soldier who appeared to readily understand its contents.

The statement is attached hereto as Exhibit "B" and forms part of this Summary of Evidence. The accused stated that he did not demand the personal appearance of the said witness for the purpose of cross-examination.

"N.S. BERGMAN" Capt
(N.S. Bergman)
Officer detailed to take
Summary of Evidence.

"IW"

The accused was asked, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but, whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defence.

Taken down by me in the presence of the accused this 24th day of November 1944. I hereby certify that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

"N.S. Bergman" Capt.
(N.S. BERGMAN)
Officer detailed to take
Summary of Evidence.

Exhibit "A" "NSB" "IW"

In Lieut of Army Form B115

Record of the Declaration of a Court of Inquiry on the Illegal Absence.

of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at

1 Cdn Convalescent Dppot on the 21st day of September 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and defieiency, if any in the Arms, Ammunition, Equipments, Instruments, Regimenatl Necessaries, or clothing of No. C.4121 Pte Towns, G.W. H&PB RegT.

DECLARATION

The court Declare,

(1) that C.4121 Pte Towns, G.W. went absent at 1200 hrs 28 Aug 44 and was still illegally absent at 0900 hrs 21 Sep 44.

(2) that C. 4121 Pte Towns, G.W. [illegible] clothing and regtl. necessaries to the value of :-

No.	Articlesx	Vocabulary Price	Depreciated Price
3	Blankets G.S.	9.21	6.91
1	Net, mosquito	8.49	6.37
1	Plate, steel	.15	.12
1	Basin	.15	.12
1	knife, table	.15	.12
1	Spoon, N.S.	.07	.06
1	Fork	.07	.06
	Totals	$18.29	$13.76

Names of President and Members

PRESIDENT	Capt. R.P.	Neil	CIC 1 Cdn L.A.A. Bn.	
MEMBERS	Lieut. W.T.	Pentland	CIC	48 Highrs of C.
	Lieut. F.J.	McNeil	CIC	C.B. Highrs.

Signature of Commanding Officer A.A. Overholt, Lt-col.
Commanding Officer
1 C d n Conv Depot.

CERTIFIED TRUE COPY

"J. McConvey" Capt & Adjutant, for
O.C. No.1 CONVALESCENT DEPOT C.A.S.F.
Signature of Officer having custody of the Original Record.

Exhibit "B" "IW" "NSB"

EVIDENCE

Sir,

I was on duty in the Guard Room of No. 11 Convalescent Depot on the 20th Nov 44.

At 0830 hours, No. C.4121 L/Cpl. Towns G.W. reported to me stating that he was an absentee. I obtained his particulars from his A.B. 64 Part 1 and placed him in close arrest.

He was clean, sober, and properly dressed.

"S. GAGNON" Sgt.
3rd B n Welsh Guards.
No. 11 Convalescent Depot.

.....

CHARGE Army Form B [redacted]

Hastings & Prince Edward Regiment

Battery
Squadron
Troop or Company.

CHARGE against No . C.4121 Rank L/Cpl.

Name TOWNS G.W.

Place TRANI Date of Offence 20/11/44

OFFENCE W.O.A.S. Absent from his unit until surrendering himself to the Guard Room No. 11 British Convalescent Depot at 0830 hours 20th Nov 44.

Names of witnesses
S. Gagnon, Sgt. (Documentary)

S
S
P
A
B
A

Adjutant P.T.O.

Exhibit "B" "TW"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.4121	Pte	TOWNS G W	H & P.E. Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. AA Sec 15(1) ..... 8 ..... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet 10 APR 41

Date of last entry in Field Conduct Sheet 20 Nov 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for .....~~ "JMcC"

~~beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 12 days in military custody, *i.e.*, Nil days in open arrest, 12 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 34 yrs

"JMCC" 6. The date of his ~~attestation calling up for military service~~ is 4 SEP 39

"JMcC" ~~7. The service which the accused is allowed to reckon is .....~~

†State the military decorations (if any) held by accused. "JMCC" 8. The accused is in possession of† 1939 - 43 Star and C.V.S. and CLASP

"J McC" 9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 65900/1602 20,000 3/44 51-4751. Forms/B.296/War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 27 Jan 42	AA Sec 15(1) AWL from 0735 hours 9 Dec 41 until 1400 hours 4 Jan 42.	120 days Detention	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this First day of December 1944.

"J McCONVEY" CAPT.

Exhibit "C"

No C4121 Name TOWNS G W | Sqn, Battery or Company | Corps CIC | Date of enlistment 4/9/39 | "IW" GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (8458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Whitley	10/4/41	Pte		AWL 1600 hrs 1/4/41 - 1900, 10/4/41 AA 15(1)	Sgt. Woodward	12 days detn	12/4/41	Lt - Col. Black.	Forfs 6 days pay, 12 days FRI
Lancaster	21/7-41	Pte		AWL 0800, 21/7/41 - 0030, 30/8/41	Capt Roberts Sgt. Dagenais	120 days detn	19/9/41	FGCM	Forfs, 40 days " 120 dys pay
Eng.		Pte		On 4/9/41 a/m soldier completed 2 years service in accordance RO 71 Overseas C.A.A.F. Previous sheet destroyed 4/9/41 -No entries except ones carried forward.					Forfs 27 days
Field	9/12/41	Pte		AWL 0735, 9/12/41- 1440, 4/1/42, AA15(1)		120 days detn	27/1/42	FGCM.	" 120 days pa Forfs 22 dys
~~Kinloss~~	~~8/12/41~~	Pte							days pay
Whitley	10/4/42	Pte		AWL 2359, 29/3/42 - 2330 16/4/42, AA 15(1)	CQMS Hedges	28 days pay	16/4/42	Lt-Col?	
Field	30/8/42	Pte		AWL 2300 30/8/42-1100 7/9/42	Cpl. Nolan	14 days pay	8/9/42	Lt-Col Graham	22 days
Field	20/9/42	Pte		AWL 2300, 20/9/42 0700, 28/9/42 Certified true copy from Regimental books in my custody.	Sgt Gray	21 dys F.P.	28/9/42 "J.McConvey"	Maj Sutcliffe	7 days pay 29

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/10/42	Pte		AWL 1900 hrs 17/10/42-0950 hrs 27/10/42 AA 15(1)	Sgt. Huycke	21 days F.P. 28 days F.P.	27/10/42 12-43	Maj. Sutcliffe Forfs 32	days pay
Field	10/12/43	Pte		WOAS AWL 11 DAYS					
Field	20/11/43	L/Cpl.		WOAS AWL 7 days AA 15(1) (19 hrs)	Cpl Faulkner Cpl Christie	reverted to Pte	5 Dec 43	Maj Kennedy	Forfs 8 days pay

CERTIFIED TRUE COPY FROM REGIMENTAL BOOKS IN MY CUSTOYD

"J. McConvey" Capt & Adjutant, for
O/C. No 1 Convalescent Depot CASF

4K 127.

Plē. Towns G.W.

See C-196 for 1st case
" 4K-126 " 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C4121 PTE TOWNS GW 1 CDN CONV. DEPOT

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Sentence: At present under~~ Sentence of imprisonment with hard labour ... beginning on (date) 1 Dec 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting trial: a total of ... days, of which ... days were spent in hospital.~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for six months.

(Sgd) ... Judge-Advocate, if any. 16 Dec 44 Date awarded. (Sgd) J.G. Rowlatt major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1)

(1. AA 57A. Delete if not used.)

Date 16 Dec 44 (Sgd) A.A. Cantron Brig. Commanding 1 CDN BASE RET GROUP Confirming Officer. COMMANDER

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C4121 Pte Towns G W	21 Dec 44	H.H. Burgess Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AT CMHQ IN AB 160 ; 41K-127
RECEIVED A.J.A.G. BRANCH C.M.H.Q.
PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
PROCEEDINGS REVIEWED

FIELD GENERAL COURT-MARTIAL

CPA96 (To Hdq of AFAS) 40/P & D/16808 (40000) 4/38B

Convened by Order of BRIG. J. G. GIBSON Cond 1 CDN BASE RET GP dated 11 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4121	PTE	GEORGE WASHINGTON	TOWNS	1 CDN CONV DEPOT

PROCEEDINGS OF TRIAL.

Held in the Fd th (country) ITALY on (date (1)) 14 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-86

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ... as interpreter? Ans ...

The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J.G. ROWLATT	2 BN 1 CBRD
Member	LIEUT	F. PHILION	2 CDN REALLOCN CENTRE
Member	LIEUT	G.L. DREW	1 CDN CONV DEPOT
Judge-Advocate			
Prosecutor	CAPT	H.R. YOUNG	1 CDN CONV DEPOT
Defending Offr	LIEUT	G.K. DRYNAN	1 CDN CONV DEPOT

Questions by President: Is the Prosecutor a lawyer? Ans YES Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M70

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 144 Instrs (2).

3. *As to responsibility of President to accused see RP 38, 80(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (~~so~~) so informed, ~~and he (they) change(s) his (their) plea(s) on ..... charge(s).~~ Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~ies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes I should like my defending officer .....(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 109, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C.4121 Private George Washington Towns, Hastings and Prince Edward Regiment, presently a convalescent at 1 Canadian Convalescent Depot a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, whilst in arrest, absented himself without leave from 2315 hours 2 December 1944 until apprehended by the Regimental Police of 1 Canadian Convalescent Depot at approximately 0010 hours 3 December 1944.

In the Field
7 Dec 44.

Lt-Col., RCAMC
C.E. CORRIGAN
Commanding officer
1 Cdn Convalescent Depot.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
11 Dec 44

(T. G. GIBSON) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army-CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4121	Pte		George Washington	TOWNS	1 Cdn Conv Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 11 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~b. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J G ROWLATT	(CIC)	2 Bn 1 CBRD

MEMBERS.

Capt or Lieut to be detailed b y the OC 2 Cdn Reallocation Centre

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed	by the OC 1 Cdn Conv Depot	

~~WAVERING MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed	by the OC 1 Cdn Conv Depot	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*)

Date 11 Dec 44

(*Signed personally. RP 105 fn 2.*)

(T. G. GIBSON)

Brigadier (*Rank.*)

Commanding 1 Cdn Base Rft Gp-CMY

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined Regtl No C4121

Rank Pte Name Towns GW Unit H+PE

and that he is in a fit state of health to undergo trial by Court Martial.

Date 14 Dec 41

H. J. Klein, Capt.
Signature of Medical Officer

Sir, we were drinking on the night of Dec 2 in the guard room and about 2 1/2 we went in the other room to have another drink and found the window open. And so we thought it would be a task to go down town for a couple of hours knowing there would be no other check up that night. We made down our beds and didn't take any kit with us. We intended to be back in a couple of hours.

RP 88 complied with.

E 3

E 4.

The accused has served with his unit in France, Sicily and Italy. He states that he has been about three times a sergeant and ~~sometimes~~ times a corporal. While in England he was in a good deal of trouble but states that this was due largely to marital troubles which have now cleared up.

Although he did break arrest while under confinement and awaiting promulgation of his sentence by a prior F.G.C.M. he had no intention of doing more than spending a few hours in town. Of the situation at the guard room was indeed a tacit invitation to go on a lark.

He did not choose a F.G.C.M. and it is submitted that he should not be penalized merely because his Commanding Officer refused jurisdiction in this case, and that he should receive no heavier sentence than his C.O. could have awarded.

SUMMARY OF EVIDENCE Exhibit "A" J.B.

Summary of Evidence in the case of C.4121 Private George Washington Towns, Hastings and Prince Edward Regiment, presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for the Prosecution

K.2434 Sgt Bell, J., 12 Canadian Armoured Regiment, 1 Canadian Convalescent Depot, having been duly sworn states as follows:-

I am employed at 1 Canadian Convalescent Depot as Sergeant in charge of the Guardroom and Regimental Police and as such I have custody of the soldiers in arrest at the Guardroom 1 Canadian Convalescent Depot. At 1800 hours daily the soldiers in custody in the Guardroom are turned over to the special Convalescent Guard. I make a regular check every evening of the Guardroom and I visited the Guardroom at approximately 2300 hours to make a check up. At approximately 2315 hours, 2 Dec 44, I checked up on the soldiers in custody in the cells and I found that Pte Towns, the accused, whom I recognize had escaped. I then gave certain instructions which were carried out.

The accused declines to question this witness.

J.Bell

SECOND WITNESS for the Prosecution

H.2314 Cpl Chamberlain, L.G., Royal Canadian Corps Signals, 1 Canadian Convalescent Depot, having been duly sworn states as follows:-

As a result of certain instructions I received from Sgt Bell I went out in a vehicle from 1 Canadian Convalescent Depot and searched for the accused, Pte Towns, whom I recognize. At approximately 0010 hours, 3 Dec 44, I saw the accused, Pte Towns, on the road going into Salerno just/North end of the town of Pasatena. I took him into custody and escorted him to the Town Guard Room, Salerno. He was placed in the cells at the Town Guard Room and a body receipt was obtained.

The accused declines to question this witness.

L G Chamberlain

THIRD WITNESS for the Prosecution

B.15714 Sgt Morswood, J.M., Toronto Scottish Regiment, presently a convalescent at 1 Canadian Convalescent Depot, having been duly sworn states as follows:-

I was Sgt of the Guard at 1 Canadian Convalescent Depot on 2 December 44 and I took over my duties as such at 1800 hours on that day. The accused, Pte Towns, whom I recognize was one of the soldiers in custody awaiting promulgation of sentence of his trial by FGCM. I personally checked the soldiers in custody at approximately 1900 hours and Pte Towns was in custody then.

THIRD WITNESS for the Prosecution cont.

SUMMARY OF EVIDENCE

At approximately 2300 hours Sgt Bell visited the Guardroom and at approximately 2315 hours he went in to the cells to check on the soldiers in custody and as a result of certain information which he gave me I personally checked the soldiers and found Pte Towns missing.

The accused declines to question this witness.

J Morewood

The accused was asked, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but, whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defence.

Taken down by me in the presence of the accused this 7th day of December 1944. I hereby certify that R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

N.S. Bergman Capt.
(N.S. BERGMAN)
Officer detailed to take
Summary of Evidence.

Ex Exhibit B

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment (or as the case may be)
C.H121	Pte	TOWNS, G.W.	HASTINGS & PRINCE EDWARD.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. SEC. 15(1) ..... 8 times.
For ..... times.
For ..... times.
For ..... times.

Date of first entry in Field Conduct Sheet ..... 10 Apr 41

Date of last entry in Field Conduct Sheet ..... 30 NOV 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~ Nil

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 9 days in military custody, *i.e.*, Nil days in open arrest, 9 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 YRS 322 days

6. The date of his ~~attestation / calling up for military service~~ is 3 SEP 39 (sd)

7. The service which the accused is allowed to reckon is .....

†State the military decorations (if any) held by accused.

8. The accused is in possession of† 1939-45 STAR AND C.V.S.M AND CLASP (sd)

9. ~~(If the accused is a warrant officer or N.C.O.).~~ The accused has served continuously, ~~without reduction~~, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

D.P.&S. U.D.F. M.E.—4148/44—4,000—217/UDF/5

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
F.G.C.M.	FIELD 27 JAN 42	A.A. SEC. 15(1) AWL from 0735 hrs 9 DEC 41 UNTIL 1400 HOURS 4 JAN 42	120 days DETENTION	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this FOURTEENTH day of DECEMBER 1942

[illegible]

No C.4121 Name TOWNS G.W. | Sqn, Battery, or Company | Corps C I C | Date of enlistment 1/9/39 | GC Badges | Service or Proficiency Pay | Character C

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc

MFM 6 (AFB 122) 40/P&S/136 (3486)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Whitley	10/4/41	Pte		AWL 1600hrs 1/4/41 - 1900,10/4/41 AA15 (1)	Sgt Woodward Capt Roberts	12 days detn	12/4/41	Lt-Col Black	Forfs 6 days pay,12 days FRI
Lancaster	21/7/41	Pte		AWL 0800,21/7/41-0030,30/8/41	Sgt Dagenais	120 days detn	19/9/41	FGCM	Forfs,40days " 120days pay
Eng.		Pte		on 4/9/41 a/m soldier completed Previous sheet destroyed 4/9/41	2 years service in accordance RO 71 Overseas - No entries except ones carried forward.				C.A.A.F. Forfs 27days
Field	9/12/41	Pte		AWL 0735, 9/12/41 - 1440,4/1/42	AA15(1)	120 days detn	27/1/42	FGCM	" 120dayspay forfs 22
Whitley	10/4/42	Pte		AWL 2359,29/3/42-2330,16/4/42, AA15(1) CCMS	Hedges	28 days pay	16/4/42	Lt-Col ?	days pay
Field	30/8/42	Pte		AWL 2300,30/8/42-1100,7/9/42	Cpl Nolan	14 days pay	8/9/42	Lt-Col Graham	F.22days-
Field	20/9/42	Pte		AWL 2300,20/9/42-0700,28/9/42	Sgt Grey	21 days F.P.	28/9/42	Maj Sutcliffe	29days pay

Certified true copy from Regimental books in my custody

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17/10/42	Pte		AWL 1900hrs,17/10/42-0950hrs 27/10/42 AA 15(1)	Sgt Rhycke	21 days F.P. 28 days F.P.	27/10/42 12-43	Maj. Sutcliffe	Forfs32days pay
Field	10/2/43	Pte		WOA3 AWL 11 days	Cpl Faulkner	reverted to	5 Dec 43	Maj Kennedy	Forfs 8days pay
Field	20/11/43	L/Cpl		WOA3 AWL 7days 19hrs AA15(1)	Cpl Christie	Pte			

Certified true copy from Regimental books in my custody

Capt. & Adjutant, 7th
R.A.S.C.

Jeh

G. W. Towns.

I hereby acknowledge receipt, free of charge, of one copy of the charge sheet and one copy of the Summary of Evidence relating to my trial.

G. W. Towns.

I request that an officer be appointed to represent me at my trial. I request the services of _____ if he is available.

G. W. Towns.

_____.

2988.

Pte Towns. g w

O. H. M. S.

M. F. B. 270

MBDM 12-40 (8903-69-70)

H.Q. 1772-80-67

C-4121 Pte. Towns, G.W.
1 Cdn Div Inf Reinf Unit

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 23rd day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[illegible]
*(1. [illegible])
*(2. [illegible])
*(3. [illegible] service)

[illegible]

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	J.G.A.D. de Grandpre	No.1 Cdn Arm'd Corps R.U.

Members.

Rank.	Name.	Regiment.
Captain	J. Brown	2 Cdn Div Inf Reinf Unit
Lieutenant	W.S. Hamilton	No.1 Cdn Sigs Reinf Unit
Lieutenant	H.G. Mackenzie	2 Cdn Div Inf Reinf Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C-4121 PTE. TOWNS, G.W. 1 Cdn Div Inf Reinf Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty 90 days detention The Court refers the confirming Officer to the address of the Defence inmitigation of sentence and recommends the maximum possible remission of sentence	Confirmed J.M. Whelan Brig.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J.M. Whelan Brigadier (Signed) G.W. de Grandpré Major
Commanding Cdn Reinforcement Units. No 1 Cdn Div Inf Reinf Unit
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of January, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 27th day of January 1942.
G.W. de Grandpré Major.
President of the Court Martial.

C. Certificate in case of death sentences

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 6th day of February 1942.
J.M. Whelan Brigadier.
Confirming Officer.

Promulgated and extracts taken in the case of C-4121 Pte. Towns, G. W. (H&Pa.)

(*a*) (Dated) 7-2-42 (Signed) L.W.W. Black Lt. Col.
D.O. 3c d/9Feb 42 (L.W.W. Black) A/Commander
No. 1 Cdn. Div. Inf. Reinf. Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(31729) Wt. 40115—895 2000 m 3/40 P. St. C. Co.

B

CHARGE-SHEET

The accused, No. C-4121 Pte. TOWNS, G.W. (The Hastings and Prince Edward Regiment), on the strength of 1st Canadian Division Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas), is charged with:-

1st Charge
Sec. 15(1)
Army Act

When on active service, absenting himself without leave--

in that he

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 2400 hours, 9th December 1941, until apprehended by the Military Police in London at 1440 hours, 4th January 1942.

L.W.W. Slack

.....
L.W.W. Slack, Lt-Col., A/Cmdr.
1st Cdn. Div. Inf. Reinf. Unit

Dated at Algonquin Camp,
Witley, Surrey, this 19th
day of January, A.D.1942.

To be tried by Field General Court Martial

F.H. Phelan

(F.H. Phelan)Brigadier
Commanding Cdn Reinforcement Units

Farnborough, Hants
This 23rd day of Jan 42.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL

Held at Algonquin Camp, Witley, Surrey, on the 27th day of January 1942.

President

Major J.G.A.D. de Grandpre, No 1 Cdn Armd Corps R.U.

Members

Capt. J. Brown, No 2 Cdn Div Inf Reinf Unit
Lieut. W.S. Hamilton, No 1 Cdn Sigs Reinf Unit
Lieut. H.G. Mackenzie, No 2 Cdn Div Inf R.U.

Trial of: C-4121 Pte. TOWNS, G.W.,
(Hast. & P.E.R.),
No 1 Cdn Div Inf Reinf Unit.

The order convening the Court, the charge-sheet, and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor - Lieut. J.R. Turner, Edm. Regt.

Defending Officer - Lieut. W.G. McLean, H.& P.E.R.

At 1520 hours, the trial commences.

The order convening the Court is read and is marked A signed by the president and attached to the proceedings.

The names of the president and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

President: Do you object to be tried by me as president, or by any of the officers whose names you have heard read over?
Accused: No, sir.

The President and Members of the Court are duly sworn.

The following officers under instruction are duly sworn: Lieut. K.L. Leon (Edmonton Regt)
Lieut. J.D. Colson (1st. Black Watch)
Lieut. T.L. Taylor (Royal Regt. of Can)
Lieut. T.G. McLaren(48th. Highrs. of Can)
Lieut. C.L. Dow (Carlton York Regt)

The shorthand writer is duly sworn.

President: Do you object to Sgt. Spidle as shorthand writer?
Accused: No, sir.

The charge-sheet is signed by the president, marked B[illegible], and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

President: Do you plead guilty or not guilty?
Accused: Guilty, sir.

President: Did you elect to be tried by court-martial or did your commanding officer remand you for trial?
Accused: By the C.O., sir.

The provisions of Rule of Procedure 35(B) are complied with.

President: Do you wish to make any statement in mitigation of punishment?

The Defending Officer, in mitigation of punishment, says:

"This case, Mr. President, is a very unusual A.W.L. case. In dealing with it, the Court has a most serious responsibility. The plea of guilty by Pte. George Washington Towns leaves the accused at the Court's mercy. He now stands with his face to a stone wall of precedence which is built up of a generally accepted view that a man who is guilty must be punished.

"Any hope of mercy must pierce that stone wall of precedence.

"The Canadian Army Overseas is a body of men who would willingly give their lives for the sanctity of their homes and, regardless of class or creed, the main basic reason for his being here is to protect our homes.

"The accused enlisted in the Canadian Army on September 2nd, 1939. His service in the Royal Canadian Navy during the years 1928 to 1935 vouches for his sincerity of purpose and proves he was conscious of the necessity for preparedness in Canadian homes.

"Six years ago Pte. Towns married a very sweet and lovely girl. Together they established a home in the town of Trenton, Ontario, Canada. It is only one of the many homes that is the very heart-beat of the Canadian Army Overseas. Only so long as these heart-beats are in tune can we maintain our force in England and carry on to ultimate victory.

"To this happy couple, two sweet and delightful kiddies were borne. Donna is now 4½ years old; Gail is only 3. But building a home is not all that it is cracked up to be. The war came along. Towns enlisted. A third child was on its way. Towns left Canada and Wannda was borne in December 1940. He has never seen Wannda. It is pretty tough circumstances to have a kid you have never seen and to be over here serving.

"In spite of his sacrifices, Towns is every bit a soldier. He came over here with fixed purpose to

fight for his home. His letters to home were of love and full of hope. He was proud to be in England. He became a qualified P.T. instructor; a disciplinarian; a soldier in every sense of the word. He was defending a home--a wife and three kiddies.

"Now, what is the reaction on the mind of an individual leading such a full life, content with his lot and happy with the satisfaction he is healthy and strong so that when the time comes he can defend that home physically, you the Court can well understand.

"Alice Towns, the accused's wife, could not stand the separation from her husband. A letter dated June 1941 from his mother informed him that his wife gave birth to another child--a child that is not his own. It was a terrific blow. It broke Towns heart. Like a wounded animal he crawled in a hole to lick his wounds. On some occasions time is a great healer. Towns got hold of himself, looked the facts in the face, forgave his wife, served a term for being A.W.L. while he was licking his wounds.

"Now, before his term expired, Towns received a second letter informing him that his wife was due for a second child that was not his own.

"These letters are now in Ottawa, having been used for the purpose of investigation by the R.C.A.P.C. This information in regard to the two children borne to Town's wife has been confirmed. I have a letter of confirmation from the Department of National Defence Dependents' Allowance Board.

"While suffering from a period of mental extraction, Pte. Towns absented himself without leave. He had asked for leave in order to square himself around, but was refused.

"Now, with a fair break, Towns who is proving himself a capable soldier can be made of value to our Army.

"Thursday night here in this camp, junior officers are being called upon to attend a lecture to hear their duties towards their men, and we all more or less have an idea of what we will hear. We will be told that it is our duty to know the innermost workings of the mind of each and every man under our command, and that we are to--that we should be able to--fathom out family troubles and help our men over any periods of trouble.

"It is our responsibility to make x soldiers; not break them.

"Towns has already served for being A.W.L. owing to the fact of the first child borne. Now he is again facing possivly another sentence for being A.W.L. because of a second child--the same circumstances.

"Right now the making or breaking rests in your hands.

"He is a man who has suffered untold agony. He is not responsible for the guilt he has admitted. The accused has been misunderstood by his superior officers and now must he suffer for their misguidance during a critical period of his service? Is our democratic army so constituted that Towns must further suffer for misunderstanding and for misguidance?

"If it is so constituted, I myself want no part of it.

"I would like Pte. Towns, if you let him, show his hands to the Court.

(On his hands, the following names are tattooed: Left hand - Alice Towns, Canada; Right hand - Wannda Lee, Donna, Gail, Canada.)

"I show you that to show the love this man had for his family. There is no question about it in my mind that he is not responsible for his act of being absent without leave for some 26 days. We are all more or less under mental stress due to the fact that we are away from our homes, but we, especially officers, have more means than the private, more avenues in which to direct our thoughts in order to overcome periods of distress.

"This is the time when military justice stands a test. I ask the Court when considering its sentence to be extremely lenient: if not throw the case out. Give the man a chance.

"Today (thanks to Capt. Daniels, Padre of camp) this soldier is now being straightened around. Proceedings are under way for divorce. He has got his family, that is, his own children, under the control of his mother, and his mental attitude is entirely different. Another period of detention may send this man downhill and we got to keep everybody uphill.

The Court is closed for consideration of the finding.

President: Have you any evidence to produce as to character and particulars of service of the accused?

Lieut. J.R. Turner, Edmonton Regiment, having been duly sworn, states:

I produce:

Certificate in accordance with the Army Act Section 163(1)(jj), signed by Capt. Goad;
Certified copy of a route letter, certified by MajorHJ Beard;
Statement by L/Cpl. Dolan, dated 4th January 1942 at London;

Statement of Capt. Roberts, Unit Pay Detachment: and of Pte. Davies, Unit Pay Detachment:
Statement as to character and particulars of service of the accused.

(Statement as to character is read.)

I hereby certify that the foregoing statement is a true extract from the regimental books.

President: The accused is the person named in the various statements you hand to me now?

Lieut. Turner: He is.

President: Do you wish to address the Court?
Accused: No, sir.

The Court is closed for the consideration of the sentence.

SUMMARY OF EVIDENCE

In the case of C-4121 Pte. TOWNS, G.W. (H.& P.E.R.)

(By direction of the Commanding Officer, this summary is taken on Oath.)

1st Witness

Lieut. M. McPHERSON, Asst. Records Officer, 1st Cdn. Div. Inf. Reinf. Unit, having been duly sworn, states:

I am Assistant Records Officer of 1st Canadian Division Infantry Reinforcement Unit, and I produce the following document in evidence:

Certificate in accordance with the Army Act Section 163 (1) (jj), with respect to C-4121 Pte. Towns, G.W., signed by Capt. V.H. Goad.

This document refers to the accused, C-4121 Pte. Towns, G.W., whom I now recognize.

M. McPherson Lieut.

(The accused declines to cross-examine this witness)

2nd Witness

Capt. F.A. ROBERTS, A/Adjt., Unit Pay Detachment, R.C.A.P.C., states:

Further to this office letter file ref. PT/C/4121 (Pay 2) dated 15 Jan 42, in connection with the marginally named soldier (C.4121 Pte. Towns, G.W.), I wish to state that I personally handed the Route Letter to Pte. Towns on the 8th Dec 41. Certified copy of the Route letter referred to was passed to you in this office letter of 15 Jan 42.

I also personally handed to Pte. Towns Transport Warrant No. 514347 on the 8th Dec 41, and this warrant covered a single journey from Lancaster to Witley.

In addition to personally handing the aforementioned documents to Pte. Towns in the presence of my Orderly Room Clerk, A.32092, Pte. Davis, A.D., I also verbally instructed Pte. Towns that he was to report to the Officer Commanding No.1 Cdn. Infantry Holding Unit by the first available train leaving Lancaster.

A signed Certificate by Pte. Davis A.D. is also given at the foot of this letter.

17 Jan 42.

(Sgd) F.A. Roberts Capt.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

J.L. Turner Lieut.
Officer taking Summary.

3rd Witness

A-32092 Pte. DAVIS, A.D., Unit Pay Detachment, R.C.A.P.C., states:

I, A.32092, Pte. Davis, A.D., was, on the 8th Dec. 1941, Orderly Room Clerk of the Unit Pay Detachment, RCAPC, and certify that in my presence C.4121, Pte. Towns, G.W., was personally handed by Capt. F.A. Roberts, a Route letter and Transport Warrant No. 514347 covering a single journey from Lancaster to Witley.

I further certify that I saw the afore-mentioned Route letter and it directed Pte. Towns to proceed by the first available train from Lancaster to Witley, and upon arrival there, Pte. Towns was directed to report to the Officer Commanding, No.1 Cdn. Inf. Holding Unit.

I further certify that, in my presence, Capt. F.A. Roberts verbally instructed Pte. Towns to report to the Officer Commanding No.1 Cdn. Inf. Holding Unit by the first available train leaving Lancaster on the 8th Dec. 41, and that these verbal directions were given to Pte. Towns at the same time that he was personally handed his Route Letter and the Transport Warrant.

17 Jan 42. (Sgd) A.D. Davis Pte. A.32092

A written statement of this witness' evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

J.R. Turner Lieut.
Officer taking Summary.

4th Witness

L/Cpl. C.K. DOLAN, Cdn. Provost Corps, states:

At London on the 4 Jan 42 at about 1440 hrs. I was on duty in Frith St., London, in company with L/Cpl. Hunt, where I saw the a/m soldier. I approached him and asked to see his pass. He could not produce one. He was A.W.L. I placed him under arrest and escorted him to No.6 Cdn. Prov. Coy. Hqns. where I turned him over to the N.C.O. i/c of cells to be detained.

London
4 Jan 42 (Sgd) C.K. Dolan L/Cpl.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

J.R. Turner Lieut.
Officer taking Summary.

5th Witness — L/Cpl. H.W. HUNT, M-11673, Cdn. Prov. Corps, states:

I have read over and corroborate the above statement (Statement of L/Cpl. C.K. Dolan).

London
4 Jan 42 (Sgd) H.W. Hunt L/Cpl.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

J.R. Turner Lieut.
Officer taking Summary.

6th Witness — Lieut. E.J. RIDER, Records Officer, 1st Cdn. Div. Inf. Reinf. Unit, having been duly sworn, states:

Pte. Towns had not reported to me by 2400 hours, 9th December 1941, nor did he report to me at any time between 9th December 1941 and the time of his apprehension, 4th January 1942.

E.J. Rider Lieut.

(The accused declines to cross-examine this witness)

1st Witness — Lieut. M. McPherson, Asst. Records Officer, 1st Cdn. Div. Inf. Reinf. Unit, is recalled and duly sworn.

Pte. Towns had not reported to me by 2400 hours, 9th December 1941, nor did he report to me at any time between 9th December 1941 and the time of his apprehension, 4th January 1942.

..... Lieut.

(The accused declines to cross-examine this witness)

The accused, having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rule of Procedure 4(c) (d) (e) (f) and (g) have been complied with.
Taken down by me in the presence and hearing of the accused this 21st day of January 1942 at Algonquin Camp, Witley, Surrey.

J.R. Turner Lieut.
Officer taking Summary.

COPY.

PT/C/4121.
(Pay 2b).

8 Dec 41.

ROUTE LETTER.

C.4121. Pte. Towns, G.W.
Att. Unit Pay Det., R.C.A.P.C. (Guard).

1. You will proceed by the first available train from Lancaster to Witley, and upon arrival there will report to the Officer Commanding No. 1. Cdn. Inf. Hold. Unit.

(signed) F.A. Roberts.
Captain.
for (H.J. Beard), Major.
Officer Commanding Unit Pay Detachment,
R.C.A.P.C. (Overseas).

Certified a true copy
H.J. Beard Major
Comd'g Unit Pay Det.
R.C.A.P.C.

CHARGE

Army Form B 252
(See King's Regulations)

H & P.E Regt. — Regiment

No 1 Cdn. Inf. Rein. Unit. — Battery / Squadron / Troop or Company

CHARGE against No. C-4121 Rank Pte.

Name Towns, G.W.

Place London, Date of Offence 4-Jan-42

OFFENCE W.O.A.S. Absent without leave from .....until apprehended by the Canadian Provost Corps. in Frith St, London, at about 1440 hrs. on the 4-Jan-42

CANADIAN MILITARY POLICE
LONDON AREA

Names of Witnesses:—

L/Cpl. Dolan Canadian Provost Corps

L/Cpl. Hunt, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

R1192 W1614240/1515 2,000,000 2-41 K & H, Ltd. G607/47

P.T.O.

Statement of **EVIDENCE** in the case of
C-4121 Pte. Towns, C.W.
No 1 P.R. Rein. Unit.

Sir;

At London on the 4-Jan-42 at about 1440 hrs. I was on duty in Fifth St, London in company with L/Cpl.Hunt, where I saw the a/m soldier. I approached him and asked to see his pass. He could not produce one. He was A.W.L. I placed him under arrest and escorted him to No 6 Cdn. Prov. Coy. Hqrs. where I turned him over to the N.C.O. i/c of cells to be detained.

London
4-Jan-42 ..... L/Cpl.
(Dolan

Sir;

I have read over and corroborate the above statement

London
4-Jan-42 ..... L/Cpl.
(M-11673 Hunt, H.W.)

REMARKS

As Corroborates Re

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED

No. C-4121 Pte. TOWNS, G.W. (Hastings & Prince Edward Regt)

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
Absenting himself without leave Sec.15(1)	once	2 times
Failing to appear at place of parade Sec.15(2)	once	once

Number of instances of gallantry or distinguished conduct: NIL

2. The accused is not under sentence at the present time.

3. The accused has not been previously convicted by a Court-Martial or a civil court.

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 27 days in military custody, making a total of 27 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 30 years.

6. The date of his attestation specified in his attestation paper is 4th September 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs. 91 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 91 dys service.

9. The accused is entitled to reckon 2 yrs 91 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

On 19th Sep 41 was sentenced to 120 days' detention and placed under stoppages of pay (a) £2.0.0 for loss of equipment and (b) £2.18.5 costs of apprehension, for W.O.A.S. absenting himself without leave from 0800 hours, 27th Jul 41, to 0030 hours, 30th Aug. 41 and Losing by neglect his equipment, clothing and regimental necessaries to value of £2.18.2.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Malah MacPherson

M. McPherson, Lieut.,
Assistant Records Officer,
1st Cdn. Div. Inf. Reinf. Unit

Algonquin Camp, Witley,
15th January 1942.

Tel: Embankment 3120

Quote No. PT/C/4121.
(Pay 2h)

CANADIAN MILITARY HEADQUARTERS

CHIEF PAYMASTER'S OFFICE,
GOVERNMENT BUILDING,
BROMYARD AVENUE,
ACTON, LONDON, W.3.

CANADA

17 Jan 42.

The Officer Commanding,
1st Cdn.Divisional Inf.Reinf.Unit.

C.4121. - Pte. Towns. G.W.
Att.Unit Pay Detachment.RCAPC. (Guard).

1. Further to this office letter file ref. PT/C/4121 (Pay 2) dated 15 Jan 42, in connection with the marginally named soldier, I wish to state that I personally handed the Route Letter to Pte. Towns on the 8th Dec 41. Certified copy of the Route letter referred to was passed to you in this office letter of 15 Jan 42.

2. I also personally handed to Pte.Towns Transport Warrant No.514347 on the 8th Dec 41, and this Warrant covered a single journey from Lancaster to Witley.

3. In addition to personally handing the afore-mentioned documents to Pte.Towns in the presence of my Orderly Room Clerk A.32092, Pte.Davis A.D., I also verbally instructed Pte.Towns that he was to report to the Officer Commanding No.1.Cdn.Infantry Holding Unit by the first available train leaving Lancaster.

4. A signed Certificate by Pte.Davis A.D. is also given at the foot of this letter.

JAN 1 [illegible]
JAN 1 0 1942
RECD. AT 1200
TO Regt AT
ANS. BY
B.F.
FILE C4121
NO. 1 CDN. INF. HOLDING UNIT

F.A. Roberts, Capt.
A/Adjt.
Unit Pay Detachment. RCAPC.

I, A.32092, Pte.Davis,A.D. was, on the 8th Dec.1941, Orderly Room Clerk of the Unit Pay Detachment.RCAPC. and certify that in my presence C.4121, Pte.Towns G.W. was personally handed by Capt.F.A.Roberts, a Route letter and Transport Warrant No.514347 covering a single journey from Lancaster to Witley.

I further certify that I saw the afore-mentioned Route letter and it directed Pte.Towns to proceed by the first available train from Lancaster to Witley, and upon arrival there, Pte.Towns was directed to report to the Officer Commanding, No.1.Cdn.Inf.Holding Unit.

I further certify that, in my presence, Capt.F.A.Roberts verbally instructed Pte.Towns to report to the Officer Commanding No.1.Cdn.Inf.Holding Unit by the first available train leaving Lancaster on the 8th Dec. 41, and that these verbal directions were given to Pte.Towns at the same time that he was personally handed his Route

contd/

S.M.H.Q. 1325
W.P. & S. 3/44

MFM 6
(A.F.B. 122)
500M—8-39—[703]
H.Q. 1772-45-18

No. 24121 Name TOWNS G.W. Sqn., Battery, or Company H.P.E. Corps No.1 C.I.H.U. Date of enlistment G.C. Badges Service or Proficiency Pay

Signature O.C. Company, etc. Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Camp	2/8/40	Sgt.		Absent from staff Parade at Pn. Orderly room at 2030 hrs.	Sgt. Webb	Dismissed	5/8/40	Lt. Young	
Bordon Camp	30/8 /40	Pte.		Absent without leave from 0800 hrs. 30/8/40 to 1330 hrs. 3/9/40	Sgt. Berwick	4 days pay stopped	4/9/40	Commanding Officer	
Witley	10/4/ 41	Pte.		A.W.L. from 1600 hrs. 5/4/41 until 1900 hrs. 10/4/41 A.A.1(1)	Sgt. Woodard	12 days detn.	12/4/41	Lt-Col Slack	Forfs 6 days pay FRI 149 (a) Forfs 12 days pay FRI 149 (b) Total forfs 18 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lancaster	10/5741	Pte.	Nil.	Whilst on active service failed to appear at place of parade appointed by His commanding officer namely Piquet parade at 1800 hrs. Royal Kings Arms Hotel. Having been duly warned by Orders. Thereby rendering it necessary to detail another man A.A. Sec. 15 (?).	Major Heard Sgt. Alexander, J.S.	To forf. 1 days pay Art. 41 149 (a) 150 (b) FRI Can. Army (Can.)	12 May	Lt. [illegible] Heard	

Certified true ctr
Mitch MacPherson Lieut

No. C4121 Name COWNS G.W. Sqn., Battery, or Company H.P.E. Corps No.1 C.W.W.U. Date of enlistment G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 10075—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lancaster	31/7/41	Pte.		A.W.L. 0800 hrs. 27 Jul.41 to 0030 hrs. 30 Aug.41 Losing by neglect his equipment, clothing and regimental necessaries to value of £2.18.2. Tried by F.S.C.M. at Lancaster 19 Sept. 41 sentenced to 120 days detention - Stoppages of pay (a) £2.0.0 for loss of equipment. (b) £2.18.5 cost of apprehension.	Sgt. Dugenais Cpt. Roberts Pte. Davis Sgt. Chester		19 Sep. 41	F.S.C.M.	(Installed - PAR ?)
Rule							F.S.C.M. proceedings sgd.		

Over

(P.T.O.)

Tel: SHEpherds Bush 3120

Quote No. PT/C/4121.
(Pay 2h)

CANADIAN MILITARY HEADQUARTERS

CANADA

CHIEF PAYMASTER'S OFFICE,
GOVERNMENT BUILDING,
BROMYARD AVENUE,
ACTON, LONDON, W.3

17 Jan 42.

The Officer Commanding,
1st Cdn.Divisional Inf.Reinf.Unit.

C.4121. - Pte. Towns. G.W.
Att.Unit Pay Detachment.RCAPC. (Guard).

1. Further to this office letter file ref. PT/C/4121 (Pay 2) dated 15 Jan 42, in connection with the marginally named soldier, I wish to state that I personally handed the Route Letter to Pte. Towns on the 8th Dec 41. Certified copy of the Route letter referred to was passed to you in this office letter of 15 Jan 42.

2. I also personally handed to Pte.Towns Transport Warrant No.514347 on the 8th Dec 41, and this Warrant covered a single journey from Lancaster to Witley.

3. In addition to personally handing the afore-mentioned documents to Pte.Towns in the presence of my Orderly Room Clerk A.32092, Pte.Davis A.D., I also verbally instructed Pte.Towns that he was to report to the Officer Commanding No.1.Cdn.Infantry Holding Unit by the first available train leaving Lancaster.

4. A signed Certificate by Pte.Davis A.D. is also given at the foot of this letter.

JAN 1 [illegible]
JAN 1 0 1942
RECD. AT 1200
TO Draft AT
ANS. BY
B.F.
FILE C4121
NO. 1 CDN. INF. HOLDING UNIT

F.A. Roberts, Capt.
A/Adjt.
Unit Pay Detachment. RCAPC.

I, A.32092, Pte.Davis,A.D. was, on the 8th Dec.1941, Orderly Room Clerk of the Unit Pay Detachment.RCAPC. and certify that in my presence C.4121, Pte.Towns G.W. was personally handed by Capt.F.A.Roberts, a Route letter and Transport Warrant No.514347 covering a single journey from Lancaster to Witley.

I further certify that I saw the afore-mentioned Route letter and it directed Pte.Towns to proceed by the first available train from Lancaster to Witley, and upon arrival there, Pte.Towns was directed to report to the Officer Commanding, No.1.Cdn.Inf.Holding Unit.

I further certify that, in my presence, Capt.F.A.Roberts verbally instructed Pte.Towns to report to the Officer Commanding No.1.Cdn.Inf.Holding Unit by the first available train leaving Lancaster on the 8th Dec. 41, and that these verbal directions were given to Pte.Towns at the same time that he was personally handed his Route

contd/

C.M.H.Q. 1933

2) cont'd.

Letter and the Transport Warrant.

A. A. Davis pte 132092

A.32092 - Pte. Davis, A.D.

No. C4121 Name TOWNS G.N. Sqn., Battery, or Company H.P.E. Corps No.1 C.I.H.U. Date of enlistment G.C. Badges Service or Proficiency Pay

M F M 6 (A.F.B.133) 1000M—8.39 (1782) H.Q. 1772-45-18

Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon Camp	2/8/40	Sgt.		Absent from staff Parade at Bn. Orderly room at 2030 hrs.	Sgt. Webb	Dismissed	5/8/40	Mj. Young	
Bordon Camp	30/8 /40	Pte.		Absent without leave from 0800 hrs. 30/8/40 to 1330 hrs. 3/9/40	Sgt. Warwick	4 days pay stopped	4/9/40	Commanding Officer	
Witley	10/4/ 41	Pte.		A.W.L. from 1600 hrs. 5/4/41 until 1900 hrs. 10/4/41 A.A.15(1)	Sgt. Woodard	12 days detn.	13/4/41	Lt-Col Slack	Forfs 6 days pay ERI 149 (a) Forfs 12 days pay ERI 149 (b) Total forfs 18 days pay.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lancaster 10/ 5/41		Pte.	Nil	Whilst on active service failed to appear at place of parade appointed by his commanding officer namely Piquet parade at 1800 hrs. Royal Kings Arms Hotel. Having been duly warned by Orders. Thereby rendering it necessary to detail another man A.A. Sec. 15 (2).	Major Heard Sgt. Alexander, J.S.	To forf. 1 days pay Art. 149 (a) 150 (b) FRI Can. Army (Can.)	12 May 41	Mj. T.A.Heard	

Confined to ch. Mabel Matthews Lot

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Released from Detention Barracks Chorley 6 Dec. 41 sentenced having expired. Remission earned under Rules for Detention Barracks and Military Prisons 41.1 day Sunday (Initialled - - ?)					

Certificate of Medical Fitness Lost

No. 24121 Name BROWNE C.W. Sqn., Battery, or Company H.P.E. Corps No.1 C.H.U. Date of enlistment G.C. Badges Service or Proficiency Pay

MFM 6 (AFB 133) 500M—8/39 (7733) H.Q. 1771-40-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Lancaster	31/7/41	Pte.		A.W.O.L. 0800 hrs. 29 Jul.41 to 0030 hrs. 30 Aug.41 losing by neglect his equipments, clothing and regimental necessaries to value of £2.18.2. Tried by F.C.C.M. at Lancaster 19 Sept. 41 sentenced to 120 days detention - Stoppages of pay (a) £2.0.0 for loss of equipment. (b) £2.18.5 cost of apprehension.	Sgt. Dorenais Cpl. Roberts Pte. Davis Sgt. Chester		19 Sep. 41 F.C.C.M. proceedings sgd.	F.C.C.M.	(Imbelled - PAR?)
Kate									

Over

(P.T.O.)

Certificate in accordance with the Army Act Section 163 (1) (jj).

I certify that REG'T NO. 6-4121 ..... RANK. Pte ..... NAME. Young. G. W. .....

UNIT. No. 1. Inf. Main. Unit. ..... WAS ARRESTED at (PLACE... Keith. St. ...

. London ... at HOUR. 1440 ... on DATE. 6-Jun-42 ... and that at the time of his

arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or
other officer into whose custody the
above named person was taken in arrest.....

LONDON AREA

MEDICAL OFFICER'S CERTIFICATE

- K.R. (Can) Para. 557 -

I certify that I have this morning examined No. C-4121 Pte. TOWNS, G.W. (Hast. & P.E.R.), No. 1 Canadian Infantry Holding Unit, and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Algonquin Camp, Witley,
27th January 1942.

.....
(Medical Officer)

Z-91

PTE TOWNSEND B.W.

P-40911 Pte TOWNSEND, Basil Whitman
West Nova Scotia Regiment
7 Cdn Inf Rft Unit

2-91

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this sixth day of March, 1943. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ N.R.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~[I am unable to appoint~~ :— N.R.

~~(2. Three Officers to form the Court.)~~ N.R.

~~(3. A Field officer as President.)~~ N.R.

~~for the following reasons, namely :—]~~ N.R.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-Col	D.L. Redman	Calg Highrs

Members.

Rank.	Name.	Regiment.
A Major	from	4 C.I.R.U.
A Captain	from	1 C.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.A. McAulay Colonel

of Commanding "D" Group, Cdn Rft Units

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
P-40911 Private TOWNSEND, Basil Whitman West N.S.R. 7 C.I.R.U.	First Charge --- A.A. Sec 15 (1) See Charge Sheet attached.	Guilty	Guilty Sentence: To undergo Detention for a period of Seventy Five (75) Days at the pay under Regulations of pay until he has made good 7 2 - 1 - 3 the expenses of his apprehension Return 8th Mar 1943 NW	I confirm the finding and sentence of the District Court Martial J. A. Mc Intosh Col D.S.O.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J. A. Mc Intosh Colonel (Signed) NW Townsend

a/ Commanding "D" Group, C.R.U.

Convening Officer (c) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The interpreter~~)
4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 8th day of March 1943.

NW Townsend

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 9 day of March 1943.

J. A. Mc Intosh Col.

Confirming Officer.

DO 30 d/10 March 43

Promulgated and extracts taken in the case of F40911 Pte. Basil Whitman Townsend W.N.S.R. 7C.I.R.U.

(*a*) (Dated) March 9 - 1943 (Signed) CAPT ADJT 7 CDN INF REINF UNIT

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W1. 47767/1937 35 M. 5/41. KJL/5265(2) Gp. 698/3

CHARGE SHEET

The accused No. F 40911 Pte. Basil, Whitman, TOWNSEND, West Nova Scotia Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army (Overseas) is charged with.

FIRST CHARGE
SEC 15 (1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at Algonquin Camp, Witley, Surrey, absented himself without leave from 1800 hours 28th day of January 1943, until he surrendered himself to the Bradford City Police at approximately 1910 hours 27th day of February 1943. Thereby incurring a cost of apprehension to the amount of £ 2-1-3.

Total time Absent 30 days 1 hour 10 minutes

J.R. Calkin Col.

(J.R. Calkin) Colonel
Commander
7 Cdn. Inf. Reinf. Unit.

In the Field
5th day of March
1943

To be tried by Field General Court Martial.

J.A. McIntosh

(J.A. McIntosh) Colonel
A/Commander
"D" Group, Cdn Rft Units

In the Field
6 Mar 43

8 Mar 43

This is to certify,
I have Medically examined F40911 Pte. Basil Whitman TOWNSEND, West Nova Scotia Regiment, 7 C.I.R.U., and find him fit to undergo F.G.C.M.

(J.A. Baker) Capt. RCAMC,
for:- Medical Officer,
7 Cdn. Inf. Reinf. Unit.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT SALAMANCA BARRACKS, ALDERSHOT, HANTS.,
ON THE 8th DAY OF MARCH 1943

The accused No.911 PTE. TOWNSEND, R.W., WNSR. Unit J.C.I.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by R.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L.S.REDMAN, V.D. Unit H.Q., C.W.U.

Members MAJOR J.D. FAIRHEAD Unit W.C.I.R.U.

CAPTAIN A.P. EMMAR, R.A.M.C. Unit I.C.I.W.U.

The officers under instruction are duly sworn:-

LIEUT. L.C. KING Unit FDS. S.E.C. N.C.T.R.U.

..... Unit .....

Prosecutor ..... Unit .....

Defending officer ..... Unit .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
~~The Prosecutor is sworn and produces~~ MFB 355 ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a statement in mitigation of punishment.~~
(b) ~~calls witnesses as to character.~~
(c) ~~calls witnesses in mitigation of punishment.~~
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation by Def. Officer with letter thereon referred to are attached

Case of F40911 Pte. Townsend, D.H.

Plea for mitigation of punishment

Sir,

In the case of the accused I wish to submit for your consideration the letter herewith attached. The letter giving the reasons why the accused went A.W.L.

I ask that the following factors also be taken into consideration:-

1) The accused has a good conduct sheet

2) He has been in the following fights for the past seven months

A.H. Hughes Lt.

RM

SUMMARY OF EVIDENCE

In the case of No F 40911 Private Basil, Whitman, TOWNSEND, of the West Nova Scotia Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, this summary of Evidence was taken under oath.

FIRST WITNESS FOR THE PROSECUTION. Lieut. A.J.W. Dyer, West Nova Scotia Regiment, on strength of 7 Canadian Infantry Reinforcement Unit having been duly sworn states:

" I am Lieut. A.J.W. Dyer, West Nova Scotia Regiment on strength of 7 Canadian Infantry Reinforcement Unit. I hereby produce the following Exhibits. Exhibit "A" certified true copy of the Record of the Declaration of a Court of Inquiry of the illegal absence of F 40911 Private Basil, Whitman, TOWNSEND. Exhibit "B" list of deficiciencies. Exhibit "C" certificate of cost of apprehension, and "D" certificate of apprehension.

The accused declines to cross examine this witness.

.....Lieut.
(A.J.W. Dyer)

The accused having been duly cautioned in accordance with Rules of Procedure 4 (E), reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused at Leipzic Barracks, Ewshott, Hants, on the 5th day of March 1943, and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been duly complied with.

.....Capt.
(Officer taking the Summary)

In the Field
5th day of March
1943

International Headquarters:
Queen Victoria Street, London, E.C. 4

EVANGELINE BOOTH,
GENERAL

The Salvation Army

WILLIAM BOOTH, FOUNDER

HAVE YOU READ "The War Cry"?

HEADQUARTERS OF THE WOMEN'S SOCIAL WORK:

280 MARE STREET,
HACKNEY, LONDON, E. 8

Telegraphic Address: RECLAIM LONDON
Telephone: AMHERST 1181, 1182, 1183
Leader of the Women's Social Work:
Commissioner CATHERINE BRAMWELL-BOOTH

Confidential
In reply please quote:
C.A.P.T.
and enclose stamped envelope where reply is required

ENC. .....

25th January, 1943.

Dear Sir.,

I am writing you on behalf of Miss Marjorie Kinalda Page, who is in one of our Institutions, and who is expecting to give birth to a child in March.

Miss Page states that you are the putative father of her child, and has placed the matter in our hands in order that a satisfactory settlement may be arrived at with regard to the maintenance of the little one, when born.

Assuming Miss Page's statement to be correct, we would suggest you sign one of our Agreements to pay the young lady, through us, a certain sum of money per week for the maintenance of the little one when born.

The question is a serious one, and no doubt will give you cause for grave thought. If you have not hitherto learned to look to God for help and guidance in life's perplexities, I would urge that you do so in the present circumstances.

If the foregoing does not commend itself to you, then I must remind you that you leave Miss Page the alternative of taking stronger measures that are available to her.

Will you please let me hear from you as to which course of action you prefer should be taken upon the question at issue.

Yours faithfully,

Nancy Gordon

LIEUT. COLONEL.

Private Basil Townsend, F 40911,
C.H.C.D.I.R.U. West Nova Scotia Coy.
Canadian Army. England.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Leipzic Barracks Ewshott, Hants. on the 24th day of February 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. F 40911 Private Basil, Whitman, TOWNSEND, West Nova Scotia Regiment, on strength of 7 Canadian Infantry Reinforcement Unit.

DECLARATION

The Court declare, that F 40911 Private Basil, Whitman, TOWNSEND, West Nova Scotia Regiment, on strength of 7 Canadian Infantry Reinforcement Unit, illegally absented himself without leave at Algonquin Camp, Witley, Surrey, on the 28th day of January 1943, that he is still so absent, and that on the 24th day of February 1943, he was deficient, and that he is still deficient of the following articles of Arms, Ammunition, Equipments, Instruments, Regimental necessaries or clothing to the value of £ 10-15-2½.

Names of President and Members:

Capt. C.V. Matson - President - North Nova Scotia Highlanders, 7 Canadian Infantry Reinforcement Unit

Lieut. L.F. Thornton - Member - Carlton & York Regiment, 7 Canadian Infantry Reinforcement Unit

Lieut. D.C. Kennedy - Member - Carlton & York Regiment, 7 Canadian Infantry Reinforcement Unit

Signature of Commanding Officer J M Calkin Colonel
(J.M. Calkin) Commander
7 Canadian Infantry Reinforcement Unit

Certified true copy H McDougall Lieut.
Signature of Officer having custody of original record.
(H.J. McDougall) Records Officer
7 Canadi an Infantry Reinforcement Unit

M.Y.D.HQ.
[illegible]

(1) I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Leipzic Barracks, Ewshott, Hants, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at Leipzic Barracks,
Ewshott, Hants,
this 6th day of
March 1943.

F40911 Pte Townsend. Bw

(2) I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Leipzic Barracks, Ewshott, Hants, preliminary to my Court-Martial.

(3) I hereby request that the Convening Officer appoint an officer to represent me at my trial.

I desire the services of Lt. A.H Mac Lean - W.N.S. 7C.1.R.U if he is available.

Dated at Leipzic Barracks,
Ewshott, Hants,
This 6th day of
March 1943.

F40911 Pte. Townsend Bw

EXHIBIT "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. F 40911 Rank Pte Name Townsend B.W. Unit WNSR Coy 7CIRC

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Bradford Yorks

Date	Particulars	Amount		
3/11/43	Escorts return fare from LONDON To Bradford (1 portion)		14	9
	Prisoners single fare to LONDON From Bradford		14	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (1 portion)		11	9
	Total £	2	1	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

EXHIBIT "D"

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army Lists.

(18958) Wt.27459/787 25,000 9/40 A.A.E.W.Ltd. Gp.698 Forms/O.1617/13

I CERTIFY that the man whose personal description is given below surrendered himself to* Albert Gershaw, Police War Reserve Constable.
at Bradford. at (hour) 7-10pm. on the
27th day of February 1918 as being No. P. 40911
(Rank and Name) Private. TOWNSEND, Basil Whitman.
a deserter (or absentee without leave) from Whitley, Surrey.
and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 25 Height 5 Feet 11 Inches
Complexion fresh. Hair brown Eyes grey
Marks None.
In uniform or plain clothes In uniform.

Probable Date and Place of Attestation	16 July 1915 Aldershot, Nova Scotia.
Probable Date of Desertion or beginning of absence, and from what place	29th January 1918. Whitley, Surrey.

Signature of Officer of Police in charge of [signature] City of Bradford D Div Station.
27/2/18 Date of Signature.

LIST OF WITNESSES FOR THE PROSECUTION

Lieut. A.J.W. Dyer, West Nova Scotia Regiment,
7 Canadian Infantry Reinforcement Unit

J. R. Calkin Col.
(J.R. Calkin) Colonel
Commander
7 Cdn. Inf. Reinf. Unit.

In the Field
5th day of March
1943

No. F 40911 Name Journeaud, B.W. Sqn., Battery, or Company | Corps | Date of enlistment 16-7-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 175M—7-41 (15511-39) H.Q. 1272-35-1852

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending sentence	By whom awarded	Remarks
		Pte		Creating a disturbance in a Public Place.		48 hrs detention forfeit 1 days pay	3-2-41		
		Pte.		Sentenced to forfeit 1 days ordinary pay for A.W.L. 0445 hrs 10.6.41 to 0900 hrs 10.6.41 (Not captured) (open arrest) Art. 149 (1) (E) F.R. & I.		forfeit one (1) days pay.	12-6-41		
				A.A. Sec. 40 Awd. 7 days C.B. Forf. 7 days pay FRI. 149.2 A.A. Sec. 10.2		Lt. McKaggall Lieut (Certified true copy By Officer having original copy)	1 June 42		

(P.T.O.)

Army Form B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
F 40911	Private	Basil, Whitman, TOWNSEND	7 Cdn. Inf. Reinf. Unit

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 40	One time	Two times.
For Sec 15 (1)	times	One time.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~2. The accused has not been previously convicted, or~~

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 9 days in military custody, making a total of 9 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25 years 9 months.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 16th July 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 197/365

8. The accused is entitled to deferred pay or gratuity in respect of 2 197/365 service.

9. The accused is entitled to reckon 2 197/365 service for the purpose of determining his pension, etc.

10. ~~"The~~ [redacted] ~~no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)).~~"

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental rank of

12. ~~(In the case of an officer.)~~ ~~The accused holds in the army the rank of~~ ~~dated~~ ~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

(*18230) W1.15832/144 125,000 6/41 A & E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F 40911 Rank Private Name Townsend, B.W. of 7 C.I.R.U. Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9th day of March 1943

(H.J. McDougall) Lieut.
Records Officer
7 Cdn. Inf. Reinf. Unit.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion—

In the rank of— years.—

In the rank of— years.—

In the rank of— years.—

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

SA- 175

Tpr. Townsend, E. J.

RECORDED AT CMHQ IN AB 188 p 54-145

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 43-P.A.C.-1808 (7864)

REVIEWED 5 AUG BRANCH

Convened by Order of Brig J.S. Lord Comd 12 C I B dated 28 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D127201	Gnr	Elmer James	TOWNSEND	4 PLDG

PROCEEDINGS REVIEWED
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.
3 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 13 Feb 45

28 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

25/81-

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1105 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(6), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to the interpreter ? Ans~~
~~The interpreter is sworn.(1) Do you object to the shorthand writer ? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires (RP 67(3)). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G A Henderson	Lan & Rn Scot R
Member	Capt	J W H Wilson	Westmr R(MG)
Member	Lt	C J Pratt	4 PLDG
Judge-Advocate	Capt	W M W Shaw	HQ 5 Can Armd Div
Prosecutor	Capt	E S Hare	4 PLDG
Defending Offr	Capt	D A Ames	4 PLDG

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed to vote~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D127201 Gnr Elmer James TOWNSEND, 4 PLDG

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		guilty	guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~64~~ present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 32 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for eighteen months.

(Sgd) W M W Shaw Capt 13 Feb 45 (Sgd) G A Henderson Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court.

I direct that the accused be ~~not committed to prison or detention barracks~~ until further orders.(1) JJL

(1. AA 57A. Delete if not used.)

Date 13 Feb 45 (Sgd) J.D. Lord Brig
Commanding 12 Can Inf Bde.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D127201 Gnr Elmer James Townsend	14 Feb 45	Capt

Jo Lt Col C Pitch OC 4 PLDG

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without asking from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir .....(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B). 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes Sir .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir I do offr. .....(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D 127201 Tpr Elmer James TOWNSEND 4th Princess Louise Dragoon Guards, a soldier of the Canadian Army Overseas, is charged with:-

First Charge Army Act Sec 15(1) When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE in that he

in the Field, after his Squadron had been warned for action, absented himself without leave from the unit lines of the 4th P.L.D.G. from 0800 Hours the 27th Dec 44 until he surrendered himself to the 3 Bn Detention Room at 2145 hours on the 12th of January 1945.

In the field
12 Feb 45

(C. PETCH) Lt-Col.,
Commanding Officer
4th Princess Louise Dragoon Guards.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

12 Feb 45

(J S H Lind) Brig
Comd 12 Cdn Inf Bde

3 Regd
Witness

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1097 (2903)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 127201	Tpr		Elmer James	TOWNSEND	4 PLDG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 12 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*)	G A Henderson (*Must be named. RP 106.*)	Lan & Ren Scot R (*Unit.*)

MEMBERS.

Capt	To be detailed by CO WESTMR R(M)	
Capt or Lt (*Rank.*)	To be detailed by CO 4 PLDG (*Named or detailed. RP 106.*)	(*Unit.*)

WAITING MEMBER.

Lt (*Rank.*)	To be detailed by CO 4 PLDG (*Named or detailed, if any. RP 106.*)	(*Unit.*)

JUDGE-ADVOCATE.

Capt (*Rank.*)	W M W Shaw (*Must be named, if any. RP 106.*)	HQ 5 Cdn Armd (*Unit.*) Div

On Active Service in the Fd

in ITALY (*Country.*)	(J S H Lind) (*Signed personally. RP 105 fn 2.*)	Brig (*Rank.*)

Date 12 Feb 45 Commanding 12 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overl. for oaths and notes for use on trial.*)

MEDICAL OFFICER'S CERTIFICATE

I have this date examined the accused D 127201 Tpr Townsend, E.J.

and find him f.f.b. to undergo trial by

F.C.C.M.

In the field
13 Jul 45

(L.J. CALVERT)
Capt.,
RMO., 4th Princess Louise Dragoon Guards.

Character Evidence

Pte Witness Lt MA Sparrow 4PLDG duly sworn states:

Recognize accd member of my Pl for appr 2 months been in action was a keen gnr & did very good job. No complaints about him.

Cross-Exam - Nil

Court good soldier in action - don't know if had any reason to go AWL - don't know if accd ever ... further action

R.P.88(B) complied with.

Plea in Mitigation - joined Army 42 - came overseas shortly after - to Italy Feb 44 - was in RCASC & volunteered for inf to 48 Highrs. Jul 44 came to 4PLDG - has been good soldier & his conduct sheet only 3 charges minor charge - was wounded & came back & in actions regt has been through - sgn warned some officially but on Christmas prejudice to the accd to put that in - had not had any leave since Oct 43 - this time under the influence but did not leave to avoid any service - due to fact he has been thru a number of actions & no leave reason for going AWL.

WMWS

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D 127201 Tpr Townsend, E.J. 4th Princess Louise Dragoon Guards, Canadian Army Overseas.

By direction of the Commanding Officer, Evidence is taken on Oath.

First Witness for the prosecution

A 59690 L/Sgt Caskenette, R.J. 4th P.L.D.G. having been duly sworn states:-

I am A 59690 L/Sgt Caskenette, R.J. During Dec 44 I was a Sgt with "B" Sqn. The accused Tpr Townsend whom I recognize was a member of 12 troop. On the 26th of Dec 44 there was a beer ration for the troop and Townsend was not present. This was not a parade; Next morning at about 0800 hours on the 27th of Dec I tried to find the accused but he was not present. I did not see the accused again until to-day. If he had returned I would have known of it.

At Christmas dinner the Colonel came and spoke to us and said somthing about going into action in the near future. I can't say whether or not the accused was on that parade.

I present to the Court a certificate in accordance with Sec 163 (i) (j) of the Army Act and purporting to be signed by Major R.D. Glendenning as T/Comd of 3 Cdn Rft Bn 1 C.B.R.D. This document refers tothe accused man.

R.J. Caskenette Sgt
R.J. Caskenette Sgt

The accused declines to cross examine this witness.

Second Witness for the prosecution

D 131106 L/Cpl COLLIGAN, J.F. 4th P.L.D.G. having been sworn states:-

I am D 131106 L:Cpl Colligan of 15 troop "C" Sqn. On the25th December last I was a trooper in 12 troop "B" Sqn There was a Christmas dinner served that day. I was at this dinner. The accused Tpr Townsend whom I recognize was at this dinner. The C.O. and the Sgt Major spoke to us at that dinner.

The accused declines to cross examine this witness.

J.F. Colligan
J.F. Colligan L/Cpl

"A"

The certificate referred to by the witness, Produced, read over to the accused, marked exhibit "A", signed by me and attached hereto.

(E.S. THORNE) Capt.,
4th Princess Louise Dragoon Guards.

The accused having been warned as follows:-

"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you give will be taken down in writing and may be given in evidence",

declines to make any statement or to give evidence.

Certified that R.P. 4 (c) (d) (e) & (f) have been complied with.

This Summary of Evidence consisting of two (2) pages was taken down by me in writing in the presence and hearing of the accused

In the field
6th Feb 45

(E.S. THORNE) Capt.,
4th Princess Louise Dragoon Guards.,
Officer taking this Summary.

A
Vernon

SCHEDULE "G"

Certificate under the Army Act, Section 163 (1)(J)

I Major R.B. Glendenning certify that D127201 Pte. Townsend, E.J.
surrendered himself to C-80019 Sgt. McCurrie, W. (3 Bn Detention Room
on the 12th day of January 1945 at 2145 hours

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing military uniform.

(R.B. Glendenning) Major,
T/Commanding Officer,
3 Cdn Rft Bn, 1 C.B.N.V.

13 Jan 45

This is exhibit A to the summary of Evidence dated the 6th of Feb. 45

WMcC

ARMY FORM B(2256)(war)

CERTIFICATE AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

For use at trials by Field General Courts-Martial only

Number	Rank	Name	Regiment
D 127201	Tpr	Townsend, E.J.	4th P.L.D.G.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For	AA Sec 15(1)	2 times
For	AA Sec 40	1 time
For		times
For		times
For		times

Date of first entry in Field Conduct Sheet 21.9.42

Date of last entry in Field Conduct Sheet 10.7.44

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the schedule overleaf.~~ Nil

3. ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been waiting trial on the present charges for ..... days in civil custody; and for 32 days in Military custody ..... days in open arrest, 32 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 22 years

6. The date of his attestation is 17 Jul 42

7. ~~The service which the accused is allowed to reckon is .....~~ Nil

8. The accused is in possession of CVSM & Clasp (Military decorations if any)

9. ~~If the accused is a warrant Officer or N.C.O., the accused has served continuously without reduction, to the present date.~~ Nil

If the substantive rank of ....

If the war substantive rank of ....

In the acting rank of ....

INSTRUCTION:- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraphs must be struck through.

"B"

T

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or suspended
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my possession are correct to the best of my knowledge and belief.

Signed this 12th day of Feb 45

(W.F. POWELL) Capt.,
Adjt., 4th Princess Louise Dragoon Guards.

MFM 6
(AFB 122)
40/PAM/136 (3438)

No. 127201 Name Townsend, E.J. Sqn, Battery, or Company — Corps RCAMC — Date of enlistment 17.7.42 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1. — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
St.Johns Que	21.9.42	Pte		AA Sec 15(1) AWL from 0600 hrs 19.9.42 to 2200 hrs 20 Sept 42.	CSM Connors	2 days pay	21.9.42	Maj Tucker	
Field	21.3.44	Pte		AA Sec 40 carelessly fireing his Tommy Gun	Sgt Robertson	Forf 10 dys pay	22.3.44	Maj Cheatley	
Field	10.7.44	Pte		AA Sec 15(1) AWL 3 hrs	Sgt Galloway	5 days C.B.	11.7.44	Capt Cameron	

CERTIFIED TRUE COPY taken from records in my possession 7 Feb 45

(W.H. POWELL) Capt.,
Adjt., 4th Princess Louise Dragoon Guards.,
Officer having custody of Original.

(PTO)

LIST OF WITNESSES

For the Prosecution

A 59690	L/Sgt	Ckenette, R.J.	~~4th P.L.D.C.~~
D 131166	L/Cpl	Colligan, J.F.	4th P.L.D.C.

For the Defense

Nil

List of Exhibits

1. Certificate of apprehension

Prosecuting Officer

Capt E.S. Thorne 4th P.L.D.C.

Defending Officer

I request that the convening Officer detail an Officer to represent me at my trial.

In the field
9 Feb 45

E.J. Townsend Tpr

WMLOS

4/C-93

PTE TOWNSEND GC.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-11774 Pte Grant Clyde TOWNSEND, 20 Cdn Spec Emp Coy

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	8(1)AA.	Not guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 54, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as to lists of Kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

45 days detention.—

(Sgd) ..... Judge-Advocate, if any.

24 oct Date awarded.

(Sgd) K. L. Derry maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence but remit fifteen (15) days detention.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

Date 25 OCT 44 (Sgd) G Francoeur (G Francoeur) Brig

Commanding 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M.11774 Pte TOWNSEND, G.C, 20 Cdn Spec Emp Coy.	25 Oct 44.	A. E. Mason MAJOR, O.C. 20 CDN. SPECIAL EMP. COY.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 4 NOV 1944 MG BR CMHQ

RECORDED AT CMHQ IN AB 160 HC-93

FIELD GENERAL COURT-MARTIAL

CFA86 (To lieu of AFA31 40/P & B/1688 (10/43)) 4/38B

Convened by Order of Brig G FRANCOEUR Comd 2 CBRG dated 23 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-11774	Pte	Grant Clyde	TOWNSEND	20 Cdn Spec Emp Coy

PROCEEDINGS REVIEWED
REVIEWED AT CMHQ JAG BRANCH CMHQ
PROCEEDINGS REVIEWED D.J.A. Date 27 JAN 45 CMHQ GHQ 21 Army Gp

DCAC To Supplement 3 Nov 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 24 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/44

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is(are) amenable to military law, and each charge discloses an offence.(3) KLD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 14:00 hours trial commences. KLD

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) KLD

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1) KLD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2) KLD

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J L DERY	RCA,	12 CBR Bn
Member	Capt.	Seely D.F.	CIC.	11 CBR Bn
Member	Lieut	Parent D.M.	CIC.	11 CBR. Bn
Judge-Advocate				
Prosecutor	CapT	W W Glover	RCASC	20 Cdn Spec Emp Coy
Defending Offr	LieuT	F. McCaffe	RCAPC	20 Cdn Spec Emp Coy

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2) KLD

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused M-11774 Pte TOWNSEND G C. before arraignment make(s) (no) (~~a~~) plea(s).(1) KLD

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule. KLD

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D KLD

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*2*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 33(*B*) *fn* 5; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*b*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. NO .....Do you intend to call witnesses on your behalf?

Ans. NO .....Are they witnesses as to character only? Ans. NO .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (6), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 12. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(3)

(1. *AFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. NO .....(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 71(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M.11774 Private Grant Clyde TOWNSEND, of 20 Canadian Special Employment Company, a soldier of the Canadian Army overseas, is charged with:

1st CHARGE SEC 86(1)AA

WHILE ON ACTIVE SERVICE

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

In the Field, on 16 Oct 44, after having been ordered by R.12107 CSM Lunt, E., at approximately 1000 hrs, to take guard duty, replied, "I will do no duties", or words to that effect.

In the Field,
22 Oct 44.

(A.E. Kelsey), Major,
Officer Commanding,
20 Cdn Spec Emp Coy.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
23 OCT 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-11774	Pte		Grant Clyde	TOWNSEND	20 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 OCT 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Jd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none be appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J L DERY	RCA,	12 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 23 OCT 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA85 (In lieu of AFA3) 40/F & S/1097 14931)

(*See overleaf for oaths and notes for use on trial.*)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M11774 (No.)
Pte (Rank) Townsend J.C. (Name) and in my opinion he is fit ~~unfit~~ to undergo trial by Court-Martial.

Station Tisdale

Date. OCT 24 1944

(Sgd)
Medical Officer
(unit) 20 Can. Spec. Emp. Coy.

D-2
9h D.

Recording of proceedings.

Address of Prosecutor.

Prosecuting officer declares that he intends to bring witnesses to prove substance of charge against the accused.

That he will call two witnesses

First Witness for prosecution D-3

B12107 C.S.M. Lieut. E. sworn, states

On monday act 16, I, C.S.M. Lieut was told by Sgt. Hanop that the accused Pte Townsend had refused to obey an order. I ordered Sgt Hanop to parade the accused to the orderly.

I asked ~~Sg~~ Pte Townsend if he had understood the order given him by Sgt Hanop. He said he had understood the order.

I then ordered the accused to stand guard at 14:00 hrs.

His answer was "I will do no duties."

I immediately placed the accused under close arrest.

This was at approximately 10 00 hrs.

Q by Prosec. Did the accused give any reason

for refusing to obey the order. Did he appear to be ill or say that he was not well.

Ans. I asked the accused if he knew what his duties were with the 20 Can Special Employment Coy. That he was a battle exhaustion and subject to any duties as laid down by Coy orders.

His only answer was a shrug of the shoulders.

He gave no verbal answer whatsoever

Cross-Exam

Q.- Is it not true that you had been riding Pte Townsend

A.- This was the first time that Pte Townsend was ever paraded to me.

Q.- Were you aware that Pte Townsend was a battle exhaustion case.

A.- No

Q. Did you try and find out whether or not Pte Townsend was ill on that date

A.- No Sir.

Q.D.

Q.- Were you aware that accused had stomach trouble on the morning of the offence

A.- No sir.

Q.- Were you influenced in any way by Sgt Stanop to place this man under arrest

A.- Definitely not sir.

Witness wishes to add to his statement that "on the morning of the offence the accused to my knowledge had not reported on sick parade."

Cross-Examination

Q.- Did you check with the R.A.P. to see if Pte Townsend was on sick parade on the morning of the 16th

A.- I checked my Orderly Sgt. R.A.P. ~~Sick~~ Report Book.

R.P. 8313 complied with

Second witness for the prosecution

B67849 Sgt Hanop J. sworn, states, at about 10 00 hrs on the 16 inst. I, Sgt. Hanop, Section Sgt, approached the accused Pte Townsend for a fatigue. I gave him the order to proceed with the Cpl on this fatigue

and he did not comply with the order. He passed around with his equipment and I then told him to see me which he refused to do.

I asked him why he refused to obey orders and his answer was "You would'nt understand."

He had refused to do guard duty that day at 14 00 hrs.

I paraded the accused pte Townsend to C.S.M. Lunt and explained to him that Townsend refused to obey orders.

C.S.M. Lunt gave the accused an order to be on parade at 14:00 hrs for guard duty.

Pte Townsend answered "I will do no guard duties or any other duties"

C.S.M. Lunt ordered the accused to be placed under close arrest in the guard room to appear before the major.

Q- Did you hear C.S.M. Lunt ask Pte. Townsend why he had refused to obey the order & did the C.S.M. ask Pte Townsend his reasons for refusing to obey the order

A.- No

Q. — Did the accused give any reason for refusing to obey the order

A- No the accused simply refused to obey the order.

Cross-Examin

Q. — Was Pte Townsend not on his bed when you went to his room?

A- Yes sir he was laying on his bed.

Q.- Were you aware that Pte Townsend was a battle exhaustion

A- No sir

Q.- Did you endeavour to find out if he was ill on the morning of 16 oct

A- Yes sir I did
R.P. 833 complied with.

Closing Address by Prosecution — D-6

The prosecution states that:
Battle exhaustion cases at 20 Special Employments are all carefully medically inspected and all offrs & N.C.Os are aware of this. all those which are unfit for duty are not given duty.

Defence has submitted that battle exhaustion was the reason why accused was not able to carry out duties.

It is submitted that he was given opportunity to say so ~~although~~ if sick. and he offered no excuse whatsoever at the time.

Closing address by Defence. D-6

The defending officer for the accused, states that the accused having been in the line 8 weeks was evacuated as a battle exhaustion case and should not have been given duties.

Defence claimed that the charge should have been under Sec 9-1

E-3 Address by accused on the contents of his Conduct sheet. The accused states:

Regarding the offence of 1 July 43 shown on my conduct sheet - M.F.M.-6 - I wish to state that my fiance had been bombed out of her hospital and was wanted. I asked if I could go up to see her to see if she had been hurt or ill. And they said no and this prompted me to commit that offence.

H.W. Ex-1. A.

ARMY FORM B 296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
M.11774	Private	TOWNSEND, C.C.	20 Cdn Spec Emp Coy.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section [illegible] of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months		* Since Enlistment	
For	A.A. Sec 15(1)	two times	one	times
For	A.A. Sec 10(4)	one times		times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and ~~6~~ [illegible] days in military custody, making a total of ~~8~~ [illegible] days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs 6 mons 23 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 24 Apr 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 5 mons 24 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 5 mons 24 days service

9. The accused is entitled to reckon 4 yrs 5 mons 24 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military award to~~ is in possession of *or* entitled to (*state any military decoration or reward*). Cdn Volunteer Service Medal & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ ~~, dated~~ ~~and in his regiment (or corps or department) the rank of~~ ~~dated~~

W.L.57637/1519 20M. 5/44. P. Ltd. TS1-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of October 1944

W. W. Glover, Capt

19—The second box served as a non-commissioned officer consecutively, without reduction, to the present date—

In the rank of _____ years.

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTION—If any matter in any of the above paragraph cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such source as is available and the paragraph corrected accordingly.)

Date of Promotion.

Ex 2 3/17 MM 6 B

No. M11774 Name Townsend G.C | Sqn, Battery, or Company | Corps | Date of enlistment 4 Apr 40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 7 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Field	1-7-43	Pte.		AA Sec 15(1) WCAS. AWL from 0800 hrs. 1 July 43 until 0700 hrs. 3 July 43. Absent 47 hrs.	L/Cpl. Shaw V.W. Sgt. Pratt J.	Forf 8 days pay.	5 July 43	Lt. Col. DG. MacLauchlan	Forf 2 days pay. FR&I.
Field	2-5-44	Pte.		AA SEC 15(1) WCAS AWL from 2359 hrs. 2 May 44. until 1300 hrs. 4 May 44. Time absent- 1 day 13 hrs. 1 min.	L/Sgt. Madson J.J.	7 days CB.	4 May 44.	Capt. M.N. Baw.	Forf 2 days pay FR&I.
Field	7-5-44	Pte.		(1) AA Sec 10 (4) WCAS breaking out of bks in that he, when a defaulter on 7 May 44 was absent from tattoo at 2300 hrs.	Sgt. Milvain C.	7 days forf of pay.	11 May 44	Lt. Col. G Lebourneau	Forf 1 days pay FR&I Total forf 8 days pay.

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-5-44	Pte.		(2) AA Sec 15(1) WOAS AWL in that he was AWL from 2300 hrs. 7 May 44 until 1940 hrs. 8 May 44. (Time absent 20 hrs. 40 min)					

CERTIFIED TRUE COPY

W. W. Glover, Capt

OFficer having custody of original document

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M.11774 Private Grant Clyde TOWNSEND, 20 Cdn Special Employment Company, a soldier of the Canadian Army Overseas.

R.P. 4(f) The Commanding Officer directs that the evidence shall be taken on oath.

1st Witness B.12107 CSM Lunt, E., 20 Canadian Special Employment Company, having been duly sworn, states:

"On 16 Oct 44, at approximately 1000 hrs, Pte Townsend was paraded to me by his section Sgt, Sgt Harrop, with the complaint that he had refused to take guard duty. I then issued an order to Pte Townsend to be ready to stand guard at 1400 hrs.16 Oct 44. His answer was, "I will not do any duties", or words to that effect. I asked Pte Townsend if he had any reason for refusing these orders. He said he had no reason and I placed him under close arrest."

B12107 CSM Lunt E.
B.12107 CSM Lunt, E.

The accused declines to cross-examine this witness.

2nd Witness B.67849 Sgt Harrop, J., 20 Canadian Special Employment Company, having been duly sworn, states:

"At approximately 1000 hrs 16 Oct 44, I paraded Private Townsend to CSM Lunt after he had refused to do guard duty. I heard CSM Lunt gave Pte Townsend a direct order, to take guard duty at 1400 hrs 16 Oct 44. I heard Pte Townsend say he would do no duties, or words to that effect. CSM Lunt then ordered Pte Townsend placed under close arrest".

J Harrop J.
B.67849 Sgt Harrop, J.

The accused declines to cross-examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two (2) pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

W.W. Glover 6
(W.W. Glover) Captain,
Officer detailed to take
Summary of Evidence.

In the Field,
22 Oct 44.

NN·98
PTE TOWNSEND J.E.L.

C.38525 Pte Townsend, Joseph Ernest, Lloyd, RCOC, Adm Wing, CTS.

NN-98

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-EIGHTH day of JULY, 19 . FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
for the following reasons, namely—]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	HQ CRU.

Members.

Rank.	Name.	Regiment.
A CAPTAIN	FROM	1 CBOW
A LIEUT	FROM	1 CORU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.C. Roberts (J.H. Roberts) Maj-Gen.,
Commanding Cdn Rft Units.
Convening Officer.

Arthur S. Pettapiece, Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.38525 Pte Joseph Ernest Lloyd TOWNSEND, RCOC; Admin Wing, C.T.S.	FIRST CHARGE Sec 40 A.A.	Not Guilty	Guilty Sentenced to undergo detention for a period of one hundred and twenty (120) days. 31 Jul 43. A.A.P.	Confirmed, but I remit sixty (60) days detention. J.H.L.
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—No

(Signed) J.H. Roberts (Signed) Arthur A. Bettgenis Majr.
J.H. Roberts Maj-Gen., Commanding Cdn Rft Units.
Convening Officer (a) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th & 31st days of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) —
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable

A.A.P. A.A.P.

Signed this 31st day of July 1943.

Arthur A. Bettgenis, Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1939.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~President of the Court Martial~~

A.A.P. A.A.P. A.A.P. A.A.P.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

J.H.L.

Signed this 7 day of Aug 1943

J.H. Roberts
Confirming Officer.
J. H. ROBERTS, Maj-Gen.
Cdn. Rft. Units.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of

(a) (Dated) 10 Aug 43 (Signed) Jane Barber Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(28056) Wt.38300/411 80,000 12/42 A.A.&W.Ltd. Gp.698

CHARGE SHEET

The accused, No.C.38525 Pte TOWNSEND, Joseph Ernest Lloyd, of the Royal Canadian Ordnance Corps, posted to Admin Wing, Canadian Training School, a soldier of the Canadian Army Overseas, is charged with,

1st CHARGE
Section 40
Army Act

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

at Bordon camp on 20 JUL, 43, at 2030 hours, did operate a gambling device in a public place.

E. C. Peckham.

(E.C. Peckham) Maj, Linc & Welld R,
OC, Adm Wing, Canadian Trg School.

Havannah Barracks,
Bordon, Hants,
24 JUL, 1943

To be tried by Field General Court-Martial.

J.C. Roberts

(J.C. Roberts) Maj-Gen.,
Comd, Cdn Rft Units.

In the Field,
28 Jul 43.

Arthur A. Pettapiece. Mjr
President

CTC/HQ

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No C.38325 Regiment,

Pte. Townsend, J.E.L. of RCCC
Rank Name

~~posted/attached~~ to No A Wing, Cdn Trg School, and in my opinion

he is fit/~~unfit~~ to undergo trial by E.C. Court Martial.

Station Havannah Brks Bordon Hants

Date 30 Jul 43

(Signed) H Kingstone Capt
R C A M C

Medical Officer, No HQ Wing
Canadian Training School

CTS/BO

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No C.38525
Regiment,
Pte. Townsend. of RCOC/CTS
Rank Name

posted/~~attached~~ to No A Wing, Cdn Trg School, and in my opinion

he is fit/~~unfit~~ to undergo trial by F.C. Court Martial

Station Havannah Brks, Bordon Hants

Date 31 July 43

(Signed) H Kingstone Capt
J.H. Kingstone R C A M C
Medical Officer No HQ Wing
Canadian Training School

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Advanced Base Army Garden, Haut
ON THE 20th DAY OF July 1943

The accused:- 38525 Lt/Commander C.A. Unit... C.T.S. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Major C. of Pitt-Lewis ....Unit. H.Q.C.A.A. ....

Members Capt. R.H. Buck .....Unit. 1 C.B.O.U. ....

Lt. C.F. Rowan .....Unit. 1 C.A.R.U. ....

~~The officers under instruction are duly sworn:-~~ N/A

.....Unit.... N/A

.....Unit.... N/A

Prosecutor Lt. J.J. McKenna ..Unit. 1 C.A.A.U. ....

Defending Officer Capt. W.A. Haly ~~opbc~~ ....C.T.S. .....

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ N/A
is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER~~ N/A

The accused pleads "Not Guilty" to the charge

R.P. 39(A) is complied with.

The Prosecutor proceeds to call witnesses.

1st Witness for Prosecution

A9009 S/Sgt Titus T.M. of 7 Cdo. Pnr. Coy., having been duly sworn, states:-

On 20 July 43 in the evening, an instructor received & provided to Boden Camp with armed other Provost people. Pte Lewis and myself went into a clearing in the woods behind the Soldiers Club. There were a number of tables there with people playing games at them. There was at least 50 people there. Lewis and I stood at the table where a game of Crown & Anchor was in progress. The accused was at the table and he was operating the table. He handled the dice and was collecting money. He used a tin box and dice and the players were using money. Money also used the dice except the accused. I do not know very much about the game. He seemed to be collecting and paying out money. Then a shout was blown and we turned the accused. He made a grab at the money on the table and tried to get away.

I identify Exhibit "A" as the cream and carmine sheet that was on the table. I also produce a notice which was on the table Exhibit "B".

Cross-examination

The accused was using 3 dice, that I am not sure. I actually saw money on the table when the whistle blew. I do not know what happened to the money that was on the table. I picked up a cup that was near there. There were pennies and ha'penny bits on the table.

2nd Witness for Prosecution

17074 Pte. Lewis, S. of No. 7 Adv. Aer. Sq. having been duly sworn, states:

On 20th July in the evening I went to a clearing in a bush at Barton. There I saw the accused standing near a table running a crown and anchor game. He was picking up the dice and money. I know how the game is played. The accused was picking up the money and the dice. I stood there for about 2 minutes before a whistle was blown. The place in the woods where we were was pointed out. I recognise Exhibit "B" as a notice that was on the table. I also identify Exhibit "A" as the sheet on which the game was being played. I spotted the accused when the whistle blew. I do not know what happened to dice. There were about 150 people there.

Cross-examination

All I saw was the accused putting in the bag and money. The money was in front of the accused. I do not know what happened to the money that was in the tote. He made a grab at the tote just before I caught him.

The Prosecution is closed.

The Defence moves under R.P. 40 that the prosecution has not made out a prima facie case.

The submission is disallowed.

R.P. 40 is complied with.

The Defence says nothing

The Prosecutor makes a closing address (attached hereto)

The Defending officer makes a reply (attached hereto)

The Court is closed for consideration of finding.

The Court is re-opened and Ovenden R.O. 3262 is complied with.

The Prosecutor produces the MFB355 and MFM6 of the accused.

The accused calls a character witness.

1st Character Witness

P.O. M. J. Davis, No. D73975 J.M.O.B.C., having been duly sworn, states:-

I am the superintending clerk of C.T.S. I have known the accused for some considerable time. He is a very good sailor and soldier. I have had many tasks with him & all

No cross-examination.

The Defending Officer addresses the Court (attached hereto)

Ownmans R. O. 3262 is complied with.

The Court is closed for consideration of sentence.

Allen A. Pettigrew,
Major.

C38525/Townshend J C.

Prosecution

Closing Address:

The case is charged under Sec 40 and evidence has been produced to the effect that there was operating a Crown and Anchor game in a public place. The defence has pointed out in cross examination that the prosecution witnesses did not see everything that went on. That is true but they saw enough.

I submit that if the Court finds that the operation of this game in a public place constitute conduct to the prejudice of good order and military discipline then a conviction would be in order. It is for the Court to decide.

[signature]
Lt
Prosecutor

Closing Address for the Defence

I submit that I point out to the Court that the Prosecution has failed to prove that the accused was operating a gambling device. I submit in my closing address that the last two prosecution witnesses in reality the witness for the prosecution were unable to say that they had seen the accused with money bets placed on a table or actually collect the dice. In the most unlikely event of crown and anchor cannot be played or spun unless bets are placed on the various squares and the dice are rolled. Since the above has not been proved it is therefore impossible to say that the accused was operating a gambling device. The prosecution must produce any money or even the dice that the accused is alleged to have used

Also I should like to submit a question regarding the charge. If the game was being played and if it was supposed to take place in a "public place" the how can it be an offence under the Army Act. The only prohibition of gambling is laid down in Section 1202 of K R Cr which states that it shall not take place in garrisons, camps, barracks or cantonments. Since the above is the only orders against gambling and since the charge still reads a "public Place" how can it be an offence under the Army Act.

Adjutant Capt

Defending Officer

Plea in Mitigation of Sentence of the Accused:

1. The M F M 6 is absolutely clean. He has never been up for any charge whatever since joining the army in Apr. 1921.

2. He was shown by the evidence of S.Q.M.S Harris, the accused was only in Bordon from the 10th to 20th July. A period of only 10 days during which it is very unlikely that he should become a big time gambler.

3. Although I can produce no evidence in proof I should like to pass on to the court the fact that the accused never did gamble before joining the army even to the extent that he was just taught how to play "Knock Rummy" on the way across on the boat. This was told to me by the accused himself but by the way in what he told me, I firmly believe his

J. A. Walker Capt.
Defending Officer.

RECEIPT FOR SUMMARY OF EVIDENCE AND CHARGE SHEET

I, No. C 38525 , Pte , Joseph Ernest Lloyd TOWNSEND,
Royal Canadian Ordnance Corps
~~xxxxxxxx~~ posted to Canadian Training School, ~~xxxxxxx~~ hereby admit receipt of a copy of the Summary of Evidence in the forthcoming case against me, and state that my rights under Rules of Procedure 14(b) in the Manual of Military Law as to preparing my defence have been explained to me by

Lt W.A. Murray V.R.C./C.T.S.

I also admit receipt of a copy of the Charge Sheet in the said case and state that said Charge Sheet has been explained to me in accordance with Rules of Procedure 15(b) by the above mentioned Officer. This Summary of Evidence and Charge Sheet have been handed to me and explained this

27 th day of July 1943

at hours.

J. E. L. Townsend

(To be signed in duplicate)

To/
Commandant,
Canadian Training School.

With reference to my pending trial by Field General Court-Martial,

(a) ~~xxxxxxx

FORM OF APPLICATION FOR A COURT-MARTIAL

CANADIAN TRAINING SCHOOL Regiment

Station HAVANNAH BKS, BORDON, HANTS Date 26 JUL, 1943

Application for a Field General Court-Martial

SIR,

I have the honour to submit One charge against

No. C.38525 Pte TOWNSEND, Joseph Ernest Lloyd, RCOC

of the Unit under my command, and request you will obtain the sanction of Comd,

CRU that a Field General Court-Martial may be assembled for his trial

at a place to be designated by higher authority

The case was investigated by (a) Maj E.C. Peckham, Linc & Welld R, OC Adm Wing, CTS, Capt D.K. Hazzard, QOR of C, OIC Adm, #1 (OCTU) Wing.CTS

The accused is now at Havannah Barracks His general character is (c) good

I enclose the following documents (d):—

1. One Charge Sheet
2. Summary of Evidence, original (f)
3.
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6.
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer

E.C. Peckham

(E.C. Peckham) Maj, Linc & Welld R,
OC, Adm Wing,
Canadian Training School.

To/ Commander, CRU

May this request be submitted please.

(F. Barber) Lt.-col

To: Commandant, A/Comd, Cdn Trng School
C.T.S.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. C.38525 Pte TOWNSEND, J.E.L., RCOC Regiment

is* fit to undergo trial by Court-Martial.

Signature of the Medical Officer.

* Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(i) If the accused has elected to be tried under A.A. (8), the fact should be recorded at the top of this form.)

M.F.B. 321
(A.F.B. 116)
35M—5-41 (363)
H.Q. 1772-39-481

LIST OF EXHIBITS

Exhibit	"A"	1 Leather Dice Cup
"	"B"	1 Crown & Anchor Cloth
"	"C"	1 2/6 Limit Card

SUMMARY OF EVIDENCE

In the case of N♭C.38525 Pte TOWNSEND, Joseph Ernest Lloyd, of the Royal Canadian Ordnance Corps, posted to Adm Wing, Canadian Training School, taken before Capt D.K. Hazzard, OIC Adm, No.1 (OCTU) Wing, Canadian Training School.

23 JUL, 43.

The Commanding Officer directs that the evidence be taken on Oath

FIRST WITNESS FOR THE PROSECUTION

H.17074 Pte Lewis, S., #7 Provost Coy, att CRU, being duly sworn, states:--

"At approx 2030 hrs, 20th JUL, 43, whilst on a raid at Bordon, in company with L/Cpl Titus, I saw Pte Townsend operating a "Crown & Anchor" table. Following instructions, which were to arrest operators of gaming tables, indicated by a short blast on a whistle, we did so, and asked Pte Townsend for his paybook, which he produced, and took all his particulars and was ordered to escort him to a station wagon, where he was left in charge of L/Cpl Titus."

THE ACCUSED BEING ASKED, DECLINES TO CROSS-ESAMINE THE WITNESS

S. Lewis, Pte

SECOND WITNESS FOR THE PROSECUTION

A.9039 L/Cpl Titus, T.M., No.7 Provost Coy, CRU, having been duly sworn, states:--

"At approx 2030 hrs, 20th JUL, 43, I arrived in Bordon accompanied by Pte Lewis. We proceeded to a clearing in the bush behind the Bordon Soldiers' Club, where there were a number of gambling tables in operation. We placed ourselves behind the accused, who was operating a "Crown & Anchor" board. At a signal which was a blast on a whistle, we arrested and held Pte Townsend and collected the evidence which I have here, off his table, and took his particulars. I later escorted him to his unit guard room where I received a body receipt for him. At the guard room he made a statement to the D.A.P.M., Capt Cressey, that he had bought his Crown & Anchor board in Manchester and had only been operating it for two or three months."

Questioned by the Accused.

Q.1 "If I was operating a table at the time, where are the money and necessary dice?"

A.1 "You were seen to put dice in your inside pocket, and the money on the table was scattered, as when we grasped you the table was knocked and the money scattered."

Q.2 "Where did this leather cup come from as it is not mine?"

A.2 "It may have been knocked from another table, but as it was picked up closest to yours we brought it along with your possessions."

THE ACCUSED DECLINES TO QUESTION THE WITNESS FURTHER.

T.K. Titus, L/Cpl

THE ACCUSED WAS CAUTIONED AS FOLLOWS:--

"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

D K Hazzard Capt

(D.K. Hazzard) Capt. COR of C,
OIC Adm, No.1 (C.C.T.U.) Wing,
CANADIAN TRAINING SCHOOL.

Havannah Barracks,
Bordon, Hants.

23 JUL, 1943

No. C 38525 Name Townsend, JEL | Sqn., Battery, or Company | Corps R C O C | Date of enlistment 9 Apr 42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (263T)

Date of last entry in Company Conduct Sheet Nil | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. D.A. Mackay Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	PREVIOUS SHEET DESTROYED								D.A. Mackay Capt

JUL 27 1943

CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION. (E.C. Peckham) Maj O C ADM WING — Linc & Welld R C T S

E.C. Peckham

Arthur S. Bettapies, Major

(P.T.O.)

M.F.B. 555
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 38525	Pte	Joseph Ernest Lloyd TOWNSEND	Royal Canadian Ordnance Corps, Posted to Administrative Wing, C.T.S.

1. [illegible] Royal Canadian Ordnance Corps [illegible] Administrative [illegible]

[illegible]

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted

[illegible]

3. The accused is not under sentence at the present time.

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his service & casualty form MFM 4 (Pt1) is 28 years 1month

6. The date of his enlistment in his Service and casualty form MFM4(pt1) is 9 Apr 1942

7. [illegible]

8. The accused is entitled to reckon 1 yrs 3/12 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward [illegible]

10. [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number C 38525 Rank Pte.

Name Townsend JEL of R C O C , posted Adm Wing

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N I L			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st day of July 1943 (F C Peckham) Major Linc & Welld. R
O C Adm Wing C A S

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Arthur S. Rattigan, Major

No.1. CANADIAN ARTILLERY REINFORCEMENT UNIT

31. July 1943

FIELD GENERAL COURTS MARTIAL
C-38525 Pte Townshend. J.E.

Received from Major A.S.Pettapiece, President, Field General Courts Martial, held at C.T.S. 30th and 31st July 1943, the following exhibits.

C-38525 Pte Townshend. J.E.

Exhibit A -One oilcloth Crown and Anchor Cover.
" B -One Sign reading 2s 6d Limit

(J.J.McKenna) Lieut R.C.A.
No.1. C.A.R.U.

VVV-90

Gnr. Townsend K J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D143097 Gnr Keith John Townsend - 3 Cdn ATR att 7 CGH

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 18(2)	Guilty	Guilty	
2nd	Alternative AA 40	Withdrawn by Prosecutor (RP 35C)		
3rd				
4th				
5th			"M"	
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ---------- beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years and to be discharged with ignominy from H.M. service.

"M" (Sgd) -------- Judge Advocate if any. 19 Sep 44 Date awarded. (Sgd) "E.M. Miller" President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

(Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

I confirm the decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be committed to prison or detention barracks with further orders (1).~~ "AWS"

(1. AA 57A. Delete if not used.)

Date 19 Sep 1944

(Sgd) "A.W. Beament" (A.W. Beament) Brigadier Officer i/c Canadian Section Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D143097 Gnr Townsend K.J	22 Sep 44	"??????????????" Major

Registrar: No. 7 CGH

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that I am in receipt of the original Confirmation of the Proceedings of the Field General Court Martial held at No. 7 CGH on the 19th day of Sept 1944 for the trial of D143097 Gnr Townsend K.J. 2 Cdn Inf Bde

RECEIVED 12 OCT 1944 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 YYY-90

FIELD GENERAL COURT-MARTIAL

CFAB6 (To Back of AFA81) W.T.P. & S. 1698 (40/01) 4/38B

Convened by Order of Brig A.W. Beament Comd 1 Ech 21 A Gp Cdn Sec CMHQ dated 17 Sep

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182; 183, fns, KR Can 306, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D143097	Gnr		Keith John	TOWNSEND	3 Cdn ATK R att 7 CGH

PROCEEDINGS REVIEWED 12 Oct 44
JCAC "W.A.D. Gunn" Major
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED. DATE 5 Oct 44 "W.H. Waugh" Major DJA Cdn Sec GHQ 2 Ech

PROCEEDINGS OF TRIAL.

-19- "M"

Held in the Fd in (country) France on (date(s)) 19 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 1/24

"M" A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

"M" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

"M" A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.(1)

"M" A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court martial, which election was witnessed by the CO (2).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"M" A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, MML p 742.)

"M" A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Miller ED KC	RCOC attd Cdn Sec GHQ
Member	Major	M.L. Troy ED	Alg R attd 1 Ech
Member	Capt	F.A. Bullargeon	Cdn Inf attd 21 A Gp
"M" ~~Judge Advocate~~			
Prosecutor	Lt.Col	J.W.G. Thompson	HQ 2 Cdn Div
Defending Offr	Capt	W.A.D. Hungerford	RCASC 1 Ech

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

"M" A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

1st

"M" A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"M" A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Certified true copy of original proceedings herein. J.A.G.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

"M" B1. The President ~~or JA, as may~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

"M" B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you a e liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

"M" B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole of part not used.)

"M" B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

"M" C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 7, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Will give evidence myself on oath only ---

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, ~~which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer~~ States

"M" to the accused, because (i) they purport to be signed in the manner required by AA 108(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admits it in evidence and marked Ex ..... and Ex ..... respectively.(3) are not exhibited

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By Def Offr (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(e), RP 120(A).)

"M" E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D143097 Gnr Keith John TOWNSEND, 3 Cdn A Tk Regt RCA att No 7 Cdn Gen Hospital, a soldier of the Cdn Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 16 Aug 44 by discharging a Schmeizer machine gun wilfully injured himself by shooting himself in the left foot in the region of the great toe with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 16 Aug 44 while with his regt in the line so f negligently handled a Schmeizer machine gun as to shoot himsel in the left foot in the region of the great toe thereby rendering himself unfit for service.

In the Field
14 Sep 44

"C.O. Meader" Col
OC No 7 Cdn Gen Hospital

To be tried by Field General Court Martial.

"A.W. Beament"
(A.W. Beament) Brigadier
OIC
Cdn Sec GHQ 1 Ech 21 A Gp

In the Field
17 Sep 44

"EM"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1e, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D143097	Gnr		Keith John	TOWNSEND	3 Cdn A Tk Regt RCA att 7 Cdn Gen Hosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, "AWB" being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Sept 44 endorsed by me, (~~or have each of them~~), "To be tried by Field General Court-Martial".

"AWB" 2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to convene a separate Court for the trial of~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

"AWB" 4. ~~I appoint the following Offr to act as Judge Advocate.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

"AWB" 5. ~~I appoint the following Offr to act as Prosecutor~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.M. Miller ED KC RCOC	att Cdn Sec

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. Troy Alg Regt	GHQ 1 Ech
Capt	F.A. Baillargeon Gen List	21 A Gp
~~(Rank.)~~	~~(Named or detailed, if any. RP 106.)~~	~~(Unit.)~~
~~(Rank.)~~	~~(Must be named, if any. RP 106.)~~	~~(Unit.)~~

On Active Service in the Fd

in FRANCE (Country.)

"A.W. Beament" (Signed personally. RP 105 fn 2.)
(A W Beament)
Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Convening Officer.

Brigadier (Rank.)

Dat 17 Sep 44

Approved CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 93 (In lieu of AFA 3) 40/F & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

"????????" Capt
Cdn Sec GHQ 1 Ech
21 A Gp
17 Sep 1944

"M"

CERTIFICATE OF MEDICAL FITNESS

19 Sep 44

D143097 Gnr Townsend K.T. ..... has been examined

by me this date and is fit to stand trial by Court Martial.

"M" "C.L. Mulland" Maj

Statement of D143097 Gnr Townsend K.J., 3 A/T Regt R.C.A. taken at No. 7 Canadian General Hospital, 12 Sept 44.

I have been cautioned by L/Cpl Massell of the Canadian Provost Corps that I am not obliged to say anything unless I wish to do so but anything I do say will be taken down in writing and may be used as evidence.

To show I understand the above caution I sign my name herewith.

Sgd: "K.H. Townsend"

I am Keith John Townsend, age 19 of the 3rd A/T Regt RCA. I landed in France with my regt on d & 3 and we set up our first positions on D & 11. On 16 Aug 44 I was with my regt not far from Falaise. We were in our positions and had orders to clean our weapons. I cleaned my rifle first and then cleaned a Schmeizer machine gun which I had picked up about a month previously. While I had the Schmeizer in my hand I decided to wound myself so I pointed it at my left foot and pulled the trigger. I had been in action for two months when I did this and my nerves were shot. I had had all I could stand of seeing my buddies killed all around me. I got so I could not eat or sleep and so I just cracked up. After I shot myself I was evacuated to the R.A.P. and eventually to this hospital. I have read over the above statement and it is true.

Sgd "K.J. Townsend."

Witnessed: L/Cpl Massell
Cdn Pro Corps

"M" This is Exhibit "A" referred to in the Summary of Evidence in the case of D 143097 Gnr TOWNSEND KJ taken before me this 15th day of Sep 44.

??????????????????
Officer taking Summary

E 1

D143097 Gnr Keith John Townsend sworn states:

Born in Quebec Prov 5 Oct 1924. British Parents.
Went to Pub Sch Gr # Seven at age 15 left to do odd jobs and truck driving and volunteered Oct 43.

4 mos Basic & Adv Trg at Petawawa; 1 month at Debert, fatigues.

Arr U.K. as RCA Reinf May 44, fatigues at 2 CARU.

To France 9 June 44 as reinforcement, sent to 3 ATR on 11 June 44 and 2 months in action with that unit. I was No. 2 on gun.

Q. What caused you to do this?
A. Nerves. Being in action so long not much sleep, shelling heavy for a long time. Some of my gun crew were wounded. I have 2 brothers older both now in Italy. I would like to get a job behind the lines if I could as I don't think I could stand it very long at the front.
Weight 163 lbs Ht 5' 7½

My conduct sheet is clear.

Q. How much rest did you have in 2 months?

A. We were in action position all the time except for 2 periods of 3 days each for reorganization.

Q. Did you report to anyone that you felt you were cracking?

A. No sir other fellows had and nothing was done about it.

Q. What were the casualties in your troop?

A. When I left about ⅔ of the originals were casualties.

Read over RP 83B

"E.M. Miller"
Pres -

D143907 Gnr Keith John Townsend

3 Cdn A T K Regt RCA

Plea in Mitigation by Defending Officer

"This lad was in action for two months before this unfortunate incident happened. One is impressed with his fine physical bearing. His morale seems to have improved also. It would be a pity if at his age and particularly, having two brothers in action in Italy, if he were not given another chance to vindicate himself. I ask the Court to give him that chance. I think he is deserving of it and I also think that given the right leadership he would make the grade".

"W.D. Hungerford Capt

19.9.44

"M"

D143907 Gnr Keith John Townsend

3 Cdn A T K Regt RCA

Plea in Mitigation by Defending Officer -

"This lad was in action for two months before this unfortunate incident happened. One is impressed with his fine physical bearing. His morale seems to have improved also. It would be a pity if at his age and particularly, having two brothers in action in Italy, if he were not given another chance to vindicate himself. I ask the Court to give him that chance. I think he is deserving of it and I also think that given the right leadership he would make the grade".

19.9.44 "W.D. Hungerford Capt

"A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D143097 Gnr TOWNSEND K.J., 3 Canadian Anti Tank Regiment RCA att No 7 Canadian General Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40)

By direction of the Commanding Officer the eivdence is taken on oath.

First witness — A56056 L/Cpl Massell CB, 8 Cdn Pro Coy, Cdn Pro Corps having been sworn states:-

I am A56056 L/Cpl Massell CB, 8 Cdn Pro Coy, Cdn Pro Corps, On the 12 Sep 44 I interviewed Gnr Townsend KJ, the accused, whom I recognize at No 7 Cdn Gen Hosp. There was no one else present. I told him I was a member of the Cdn Pro Corps and wanted him to tell me how he received his wound as I was investigating the matter. The accused was not under arrest at this time. I cautioned him as follows: You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence. He understood the caution. He gave a voluntary statement which I took down in writing and he signed same after I had read it over to him and he had read it over himself. There were no threats, promises or inducements extended to the accused. I produce the statement as evidence and I recognize the signature on the statement as that belonging to the accused.

"C.B. Massell"
Witness

The accused declines to cross-examine this witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

Second witness — Capt W E Armour, medical officer of No 7 Cdn Gen Hosp sworn states:-

I am Capt W.E Armour, medical officer in charge of ward 6 of No 7 Cdn Gen Hosp. Gnr Townsend was admitted to my ward from 110 Brit Gen Hosp on the 18 Aug 44 suffering from a wound of the left great toe. It was a through and through wound of the promimal phalanx of the great toe on the lateral side, extending in a vertical direction and had been treated when first seen by me. X-ray taken at Brit Gen Hosp showed no fracture. The wound has healed satisfactorily and he is now fit for full duty without change of category as far as the wound is concerned. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the wound the weapon might have been fired.

"W.E. Armour" Capt
Witness

The accused declines to cross-examine this witness.

"EM"

Third Witness Capt AM Johnson, RCAMC, No 10 Cdn Gen Hosp.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as Exhibit "B".

??????????????????
Officer taking Summary

I do not require the attendance of Capt AM Johnson for the purpose of cross-examination.

"K.J. Townsend"
Accused

The accused is cautioned as follows:-

Do you wish to make a statement or give evidence on oath? You are notobliged to say anything or give eivdence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement at this time.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down before me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

??????????????????
Officer detailed to take the Summary of Evidence

In the Field
15 Sep 44

Ex A

"EMM"

SPECIALIST

Hospital or Sick List Record

Enlisted Oct 43 UK - May 44 BLA D plus 3
In action 66 days.

Problem suspected SIW - flesh wound (Schmeizer) Intent denied.

Family, Social Record, Intellect, Personality, Morale

Adequate - not very aggressive.

In action since D day, fairly adquate performance - panic denied. No evidence that he wasn't able to appreciate the nature and quality of his acts at the time of the accident. Fit to stand trial and punishment if necessary.

"M" Psychologically NAD(W) M1S1

"A.M. Johnson Capt"
22-8-44

This is a certified true copy of Exhibit "B" referred to in the summary of evidence in the case of D143097 Gnr Townsend KJ, taken before me this 15th day of Sep 44.

??????????????????????
Officer Taking Summary.

In the Field
16 Sep 44.

CERTIFIED TRUE COPY OF ORIGINAL HOSPITAL RECORD RETURNED TO PROSECUTOR.

"E.M. Miller"
Pres.

19 Sep 44

I, Keith John Townsend ..... desire to have an officer assigned to represent me at my trial by court martial. I desire the services of Capt W.J.D. Hungerford if he is available.

"K.J. Townsend"
(Signature of accused)

"M"

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-143097 Gnr Keith, J T, 3 Cdn A.Tk Regt, RCA, att 7 Cdn Gen Hosp

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 18(2)	Guilty	Guilty	
2nd	Alternative AA 40	Withdrawn by Prosecutor (RP 35C)		
3rd				
4th				
5th				
6th				

"Em"

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for [redacted] beginning on (date) [redacted] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which [redacted] days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two (2) years and to be discharged with ignominy from H.M.Service.

19 Sep 44 (Sgd) "E.M.Moore" Major
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings. "A.Beard" Capt for (T.C.Norris) Col D.A.A.G. Cdn Sec GHQ 1 Ech 21 A Gp

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date [redacted] (Sgd) [redacted] Commanding [redacted]

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I [redacted] "A" (1. AA 57A. Delete if not used.)

(Sgd) "A.W.Beament" Brigadier

Date 19 Sep 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 143097 Gnr Townsend, K J	22 Sep 44	"C.M.Bethune" Major Registrar 7 Cdn Gen

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Span Copy

XYZ-90

CPA96 (to form of AFA31) 40-P & S-1000 (40-01)

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brig A.W.Beament Comd Cdn Sec GHQ 1 Ech 21 A Gp dated 17 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 143097	Gnr	Keith John	TOWNSEND	3 Cdn A.Tk Regt, att 7 Cdn Gen Hosp

Certified True Copy

[signature]

D.J.A.

Cdn Sec GHQ 2 Ech 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 19 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/24

"EM" A1. The President, Members, [redacted] assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

"[redacted]" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [redacted] amenable to military law, and each charge discloses an offence.(3)

"EM" (1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [redacted] brought before the Court. At 1400 hours trial commences.

"EM" A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) [redacted]

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"EM" A5. [redacted]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, [redacted] are procedure AA 51, RP 25, 71, 18, MML p 742.)

"EM" A7. The President, Members, [redacted] sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E M Miller ED KC	RCOC att Cdn Sec GHQ 1 Ech 21 A Gp
Member	Major	M L Troy	Alq R att Cdn Sec GHQ 1 Ech 21 A Gp
"EM" Member	Capt	F A Baillargeon	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp
Prosecutor	Lt-Col	J W G Thompson	HQ 2 Cdn Inf Div
Defending Offr	Capt	W G D Hungerford	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused [redacted] before arraignment make(s) (no) (of) plea

"EM" [redacted] (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

"EM" A9. The accused is (are) arraigned [redacted] on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"EM" A10. The Court ([redacted]) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A 108

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 90(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

"EM" B1. The President [redacted], complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the "EM" charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

"EM" [redacted]
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

"EM" B4. On the charge(s) to which the plea(s) of Guilty is [redacted] not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by vtue of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Will give evidence myself on oath only.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn, evidence recorded per Notes.*)

"EM" E2. The Prosecutor [redacted] Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused [redacted] are not available.
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans By Def Offr.
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted] "EM"
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D 145097 Gnr Keith John TOWNSEND, 3 Cdn A Tk Regt RCA att No 7 Cdn Gen Hospital, a soldier of the Cdn Army Overseas is charged with :-

FIRST CHARGE
Army Act
Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field on 16 Aug 44 by discharging a Schmeizer machine gun wilfully injured himself by shooting himself in the left foot in the region of the great toe with intent thereby to render himself unfit for service.

SECOND CHARGE
(Alternative)
Army Act
Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field on 16 Aug 44 while with his regt in the line so negligently handled a Schmeizer machine gun as to shoot himself in the left foot in the region of the great toe thereby rendering himself unfit for service.

"V O Mader" Col
OC No 7 Cdn Gen Hospital

In the Field
14 Sep 44

To be tried by Field General Court Martial

"A W Beament"
(A W Beament) Brigadier
OIC
Cdn Sec GHQ 1 Mch 21 A Gp

In the Field
17 Sep 44

"Gen"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 143097	Gnr		Keith John	TOWNSEND	3 Cdn A.Tk Regt, RCA, att No 7 Cdn Gen Hosp

CONVENING ORDER.

"AWB" 1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 17 Sep 44 endorsed by me, (~~illegible~~), "To be tried by Field General Court-Martial",

"AWB" 2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~illegible~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

"AWB" 4. ~~illegible~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

"AWB" 5. ~~illegible~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E M Miller ED KC	RCOC att Cdn Sec GHQ 1 Ech 21 A Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M L Troy	Alq R att Cdn Sec GHQ 1 Ech 21 A Gp
Capt	F A Baillargeon	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp
	~~illegible~~	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	~~illegible~~	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

"A.W.Beament" (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(A W Beament)

Commanding Cdn Sec GHQ 1 Ech 21 A Gp

Convening Officer.

Dated 17 Sep 44

Approved "J.B.Howard" Capt ADJA Cdn Sec GHQ 1 Ech 21 A Gp 17 Sep 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"EW" 4/38A (CFA86 (In lieu of AFA3)) 40/P & S/1697 (4821)

(See overleaf for oaths and notes for use on trial.)

CERTIFICATE OF MEDICAL FITNESS

19 Sep 44

D 143097 Gnr Townsend, K J, has been examined by me this day and is fit to stand trial by court martial.

"C.L.Hulland" Major

"EM"

I, Gnr Keith John Townsend, desire to have an officer assigned to represent me at my trial by court martial. I desire the services of Capt W.G.D.Hungerford if he is available.

"K.J.Townsend"
(Signature of accused)

"EM"

E 1

D 143097 Gnr Keith John Townsend, sworn, states:

Born in Quebec Prov. 5 Oct 1924. British parents. Went to Public School, gr. 7 at age 15, left to do odd jobs and truck driving and volunteered Oct 43. 4 mos basic and adv trg at Petawawa; 1 month at Debert, fatigues, arr U.K. as RCA Reinf May 44, fatigues at 2 CARU, to France 9 Jun 44 as reinforcement, sent to 3 A.T.R. on 11 Jun 44 and two months in action with that unit. I was No. 2 on gun, and nerves caused me to do this. Being in action so long, not much sleep, shelling heavy for a long time, some of my gun crew were wounded. I have two brothers older both now in Italy. I would like to get a job behind the lines if I could as I don't think I could stand it very long at the front.
Weight 163 lbs ht 5'7½".
My conduct sheet is clear.
Q. How much rest did you have in 2 months?
A. We were in action position all the time except for two period of 3 days each for reorganization.
Q. Did you report to anyone that you felt you were cracking?
A. No sir, other fellows had and nothing was done about it.
Q. What were the casualties in your troop?
A. When I left about half of the originals were casualties.

Read Over RP 83B

"E.M.Miller" Major Pres

D 143907 Gnr Keith John Townsend, 3 Cdn A.Tk Regt, RCA.

Plea in Mitigation by Defending Officer.

This lad was in action for two months before this unfortunate incident happened. One is impressed with his fine physical bearing. His morale seems to have improved also. It would be a pity if at his age, and particularly, having two brothers in action in Italy, if he were not given another chance to vindicate himself. I ask the Court to give him that chance. I think he is deserving of it, and I also think that given the right leadership he would make the grade.

19.9.44

"W.D.Hungerford" Capt

"EM"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D 143097 Gnr TOWNSEND, KJ, 3 Canadian Anti Tank Regiment RCA att No 7 Canadian General Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40)

By direction of the Commanding Officer the evidence is taken on oath.

First Witness

A 56056 L/Cpl Massell CB, 8 Cdn Pro Coy, Cdn Pro Corps having been sworn states :-

I am A56056 L/Cpl Massell CB, 8 Cdn Pro Coy, Cdn Pro Corps. On the 12 Sep 44 I interviewed Gnr Townsend KJ, the accused, whom I recognize at No 7 Cdn Gen Hosp. There was no one else present. I told him I was a member of the Cdn Pro Corps and wanted him to tell me how he received his wound as I was investigating the matter. The accused was not under arrest at this time. I cautioned him as follows :- you are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence. He understood the caution. He gave a voluntary statement which I took down in writing and he signed same after I had read it over to him and he had read it over himself. There were no threats, promises or inducements extended to the accused. I produce the statement as evidence and I recognize the signature on the statement as that belonging to the accused.

"L B Massell" Witness

The accused declines to cross-examine this witness.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

Second Witness

Capt W E Armour, medical officer of No 7 Cdn Gen Hosp sworn states :-

I am Capt W E Armour, medical officer in charge of ward 6 of No 7 Cdn Gen Hosp. Gnr Townsend was admitted to my ward from 110 Brit Gen Hosp on the 16 Aug 44 suffering from a wound of the left great toe. ~~According to medical records accompanying him the wound was incurred on the 10 Aug 44.~~ It was a through and through wound of the proximal phalanx of the great toe on the lateral side, extending in a vertical direction and had been treated when first seen by me. X-ray taken at Brit Gen Hosp showed no fracture. The wound has healed satisfactorily and he is now fit for full duty without change of category as far as the wound is concerned. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the wound the weapon might have been fired.

"W Edward Armour" Capt RCAMC Witness

The accused declines to cross-examine this witness.

"fm"

Third Witness — Capt AM Johnson, RCAMC, No 10 Cdn Gen Hosp.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence signed by him, has been read to the accused and is attached hereto as Exhibit "B".

"J W G Thompson" Lt Col
Officer Taking Summary

I do not require the attendance of Capt AM Johnson for the purpose of cross-examination.

"K J Townsend"
Accused

The accused is cautioned as follows :-

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement at this time.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down before me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

J W G Thompson Lt Col
Officer detailed to take the Summary of Evidence

In the Field
15 Sep 44

for A.
"Emm"

STATEMENT OF D-143097 Gnr. TOWNSEND K.J., 3rd A/T Regt. RCA, taken at No.7 Canadian General Hospital, 12 Sept. 44

I have been cautioned by L/Cpl MASSELL of the Canadian Provost Corps that I am not obliged to say anything unless I wish to do so but that anything I do say will be taken down in writing and may be used as evidence.

To show that I understand the above caution I sign my name herewith.

(Sgd) K.J. TOWNSEND

STATES:

I am Keith John TOWNSEND, age 19 of the 3rd A/T Regt. RCA. I landed in France with my regt. on Dplus 3 and we set up our first positions on D plus 11. On 16 Aug. 44 I was with my regt. not far from Falaise. We were in our positions and had orders to clean our weapons. I cleaned my rifle first and then cleaned a Schmeiser machine gun which I had picked up about a month previously. While I had the Schmeiser in my hand I decided to wound myself so I pointed it at my left foot and pulled the trigger. I had been in action for two months when I did this and my nerves were shot. I had had all I could stand of seeing my buddies killed all around me. I got so I could not eat or sleep and so I just cracked up.

After I shot myself I was evacuated to the R.A.P. and eventually to this hospital.

I have read over the above statement and it is true.

(Sgd) K.J. TOWNSEND

Taken by A-56056 L/Cpl C.B. MASSELL, Canadian Provost Corps, 12 Sept. 44.

This is Exhibit "A" referred to in the summary of evidence in the case of D 143097 Gnr. Townsend K J taken before me this 15th day of Sept 44

"A"

J.W.S. Thompson Lt Col
Officer taking summary

Hospital or Sick List Record

Enlisted Oct 43 UK - May 44 BLA D plus 3
In action 68 days.

Problem suspected SIW - flesh wound (Schmeizer) Intent denied.

Family, Social Record, Intellect, Personality, Morale

Adequate - not very aggressive.

In action since D day, fairly adequate performance - panic denied. No evidence that he wasn't able to appreciate the nature and quality of his acts at the time of the accident. Fit to stand trial and punishment if necessary.

Psychologically NAB(W) MlSl

"A M Johnson Capt"
22-8-44

"B"

This is a certified true copy of Exhibit "B" referred to in the summary of evidence in the case of D 143097 Gnr Townsend KJ, taken before me this 15th day of Sep 44.

"J W Thompson" Lt Col
Officer Taking Summary.

In the Field
18 Sep 44.

Certified true copy of original hospital record returned to prosecution

"E M Miller"
Pres.

19 Sept 44

5J-39

Pt Townsend R.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-65305 Pte Ralph John TOWNSEND

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ---------- beginning on (date) ---------- (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO 4 (FOUR) YEARS IMPRISONMENT WITH HARD LABOUR

(Sgd) ..... Judge-Advocate, if any. Feb 8/45 Date awarded. (Sgd) "T H WHITE" Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I RESERVE THE FINDING AND SENTENCE FOR CONFIRMATION

Date 10 Feb 45 (Sgd) "R B Somerville" Lt-Col A/Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: 2 direct revision as per letter of 27 Mar 45 attached.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 27 Mar 45 (Sgd) "B M Hoffmeister" Maj Gen
Commanding 5 Cdn Armd Div
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

FOR CERTIFICATE OF PROMULGATION SEE PROCEEDINGS ON REVISION

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

5J-39.

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of APA31) 40/P&R/1698 (1000) 4/38B

Convened by Order of Lt Col Somerville A/Comd 11 Cdn Inf Bde dated 7 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-65305 Pte	Ralph John	TOWNSEND,	CBH

Certified true copy
Certified True Copy

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) Feb 8/45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/71

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) [redacted]
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

[redacted]
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	T H WHITE	The Perth Regiment
Member	Capt	N H SHAW	The Irish Regt of Can
Member	Capt	P J STEPHEN	The Cape Breton Highrs
Judge-Advocate			
Prosecutor	Lt	F J CAISSIE	CBH
Defending Offr	Lt	B A NUNN	CBH

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~xx~~ plea prior to trial (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M 1/3

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s).~~ ~~Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened and the President announces that the submission is disallowed on the first charge(s), ~~and allowed on the charge(s),~~ and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. No a witness. Do you intend to call witnesses on your behalf ? Ans. Yes. Are they witnesses as to character only ? Ans. N/A.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the two charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. NO

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFE 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

24(c)

CHARGE SHEET

The accused, F-65305 Pte Townsend, Ralph, John, D Coy Cape Breton Highland C.M.F. is charged with:

FIRST CHARGE
AA Sec 12(1)(a)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

IN THAT HE

In the field, absented himself without leave, with intent to avoid battle, at approximately 1900 hrs 20 Dec 44 and remained absent until he surrendered himself to K-67700 Cpl Bradley, J.S. of the 4th Cdn Rft Bn at approximately 2030 hrs 19 Jan 45.

(Absent 30 days 1 hr 30 mins)

SECOND CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, while under close arrest absented himself without leave at 1520 hrs 26 Jan 45 and remained absent until apprehended by an NCO fo the Military Police on Route 16 at about 1600 hrs 30 Jan 45.

(Absent 4 days 30 mins)

FIELD
6 Feb 45

"J A Nesbitt" Major
A/Officer Commanding
Cape Breton Highlanders.

To be tried by Field General Court Martial

FIELD
7 Feb 45.

"R B Somerville" Lt Col
A/Comd 11 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1097 (2808)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-65305	Pte		Ralph John	TOWNSEND	CBH

CONVENING ORDER.

1. It appears [illegible] to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Feb 45 endorsed by me, ([illegible]) " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ([illegible])

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	T H WHITE		PERTH

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	N H SHAW		I R C
Capt	P J STEPHEN		C B H

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	I S HAMILTON		P L F

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

(Country.)		(Signed personally. RP 105 fn 2.)	(Rank.)
in ITALY		"R B Somerville"	Lt-Col

Date 7 Feb 45 A/ Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 587)

I certify that I have this day examined F-65305

Pte TOWNSEND, R J and in my opinion he is fit ~~xxxxxx~~ to under

trial by Court Martial.

"R W Boyden" Major

Medical Officer

Station Field

Date 8 Feb 45

Unit

CASE OF F-65305 PTE TOWNSEND R.J.
(The Cape Breton Highlanders)

FIRST WITNESS FOR THE PROSECUTION:

F-60015 Cpl MAC INNIS J.A., The Cape Breton Highlanders.:

On the 20th Dec 1944 I reported back from leave to my company and was given a list of men who were to be in my section. Pte Townsend was one of them. The platoon was at that time under orders to move forward into action. At 1900 hrs we received orders to form up andmove fwd. I called Townsend's name and looked for him but he could not be found. We finally moved off without him.

Q. Had the platoon been warned of the impending action?
A. As far as I know, I had only just reported back.

Q. What was the general situation?
A. We were to move fwd to exploit a breach made by the Irish Regiment We expected action that night.

Q. Was the accused a retular member of your section?
A. No, he was given me for that action as I had only 3 men including myself.

X-exam.

Q. Did you know accused personally?
A. No.

Q. Did you see Townsend on the 20th?
A. I cannot say, as I do not know him to see him

Q. Did you call the roll before leaving the area?
A. Yes I did. There was only two Bren gunners and myself in the section.

Q. (by the Court) - Then it would have been impossible for Townsend to be there without you having known it?
A. It would have been impossible.

PROS PRODUCE DEPT OF SURRENDER.

Defence Plea.

It is submitted that the Prosecution have failed to show a prima facie case. They have not shown that Townsend was a member of this section.

DEFENCE - FIRST WITNESS: F-65305 Pte Townsend R.J.:

On the 20 Dec 44 I was in the house wheremy platoon was located. I had been drinking all day and was not warned by anyone that action was imminent. I haven't much recollection of what happened that day. I woke up on the following morning in a house down the road from my platoon house, and had breakfast at my (D) company kitchen. The cooks told me that the company had moved out. I asked the direction and got my equipment and went out after them

Q. Did you at any time try to avoid action?
A. No Sir.

X-exam:

Q. Do you say that you were not warned at any time for action.
A. Yes.

Q. Did you not notices any one getting ready?
A. No I didn't

Q. When did you find your platoon had gone?
A. Next morning. We got drunk in a house down the road and xxxxx next

morning we got our equipment and followed on.

By the Court

Q. When did you go to your platoon ?
A. Just after the L'amone, about 2 days before this.

Q. Were you told what sectinn you were in.
A. I knew what platoon I was in. The Sgt said something about changing my section but nothing definite.

Q. When did you start drinking?
A. On the morning of the 20th.

Q. Where did you go?
A. To a house down the road in Villa Nova.

Q. Where did you wake up on the 21st?
A. In the same house.

Q. Had you any idea on the 20th you were going into theline?
A. Just what the men said - there were going in but expected to rest for a while.

Q. What did you do on the 21st when you went looking for your coy?
A. We went up the road but could not find the bn so we returned to Villa Nova. I figured I might as well stay there as I would get a stiff sentence anyway.

Q. Did you stay at Villa Nova?
A. No, I went to RAVENNA and then to FANO.

Q. Did you make any more attempts to find you batallion?
A. Yes, I looked all around but could not find them

Q. Why did you not return to you coy kitchen.
A. We stayed around up forward in a house for a couple of days and when we came back the kitchen was gone.

SECOND WITNESS FOR THE DEFENCE

F- 30234 Pte STEWART, W.L., The Cape Breton Highlanders.

I am employed in "D" Coy cookhouse. On the morning of Dec 21 the accused came in for b eakfast and asked where the company had gone. I showed him the direction and when I last saw him he was going down the road in the same direction the company had taken.

Q. Did he say he was going back to the coy.
A. Yes, he said he would rejoin the company

ADDRESS BY THE DEFENCE

TOWNSEND was absent for about 30 days - but although he was AWL he did not desert - since he showed an open intention to rejoin his company

DEFENCE PLEA IN MITIGATION

TOWNSEDN has a fairly heavy crime sheet, but he is a useful man in action and I would ask the court to show him as much leniency as possible

2 Pièce Jointe 1.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 155(1)(i)

I certify that No. F-65305 Rank Pte Name TOWNSEND, R.J.

of the Cape Breton Highlanders Regt surrendered himself to K-67700 Cpl BRADLEY J.A. of

4 Cdn Rft Bn at the Guard Room (place) at 2030 hrs on 19 Jan 45

(date). He was dressed in uniform as an absentee without leave.

Date ..... Signature of Provost Marshal, APM, or other officer into whose custody the a/m person was taken on arrest.

Signature & rank "L J Flynn" Lt-Col

Unit or appointment .....

NOTES

Exhibit "A" "T H White"

ADDITIONAL SUMMARY OF EVIDENCE

Additional Summary of evidence in the case of F-65305 Pte Townsend, Ralph John, "D" Coy Cape Breton Highlanders, CMF, charged with one offence under Section 15(1) of the Army Act.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS F-60015 Cpl MacInnis, J.A. BCoy Cape Breton Highlanders having been duly sworn states:

I am F-60015 Cpl MacInnis J.A. B Coy C.B.Highlanders. On 26 Jan 45 I was acting R.P. and had been given a fatigue party of eleven men one of which was F-65305 Pte Townsend, R.J. to work at the YMCA. We were hauling furniture for the coffee shop. I checked the party after each load. At 1530 hrs I checked the working party and found the accused F-65305 Pte Townsend, R.J. missing.

"J A MacInnis"

The accused declines to cross examine the witness.

THIRD WITNESS Capt D U Smith, Adjutant , CB Highlanders having been duly sworn states:-

I am Capt D U Smith, Adjutant C.B. Highlanders, I produce a certificate of arrest pruporting to be signed by J.S. Brassard Capt O.C. 506 Provost Company C.M. Police showing the accused was arrested at FANO at 1600 hrs 30 Jan 45.

"D U Smith"

The accused declines to cross examine the witness.

The document referred to by the abovewitness is attached hereto and marked exhibit "C".

"F J Caissie" Lieut
OFFICER TAKING SUMMARY

The accused was warned as follows:

"Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused, "I have nothing to say at this time."

I certify that R.P. has been complied with.

Taken by me in the field in the presence and hearing of the accused this 6th day of February 1945.

"F J Caissie" Lieut
OFFICER TAKING SUMMARY.

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(i)

I certify that No. B-65305 Rank Pte Name TOWNSEND R.

of 1st Bn THE CAPE BRETON HIGHLANDERS, was arrested at

FANO (place) at 1600 hrs on 30 Jan 45

(date). He was dressed in uniform ~~xxxxxxxxxxxxxxxxxx~~

Date 31st Jan 45 Signature of Provost Marshal, A.P.M., or other officer into whose custody the a/m person was taken on arrest.

"F S Bramwell" Capt

Signature & Rank

OC

Unit or appointment

Commanding 506 Provost Company CM Police

NOTES

Exhibit "B" "T HW hite"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may
B-65305	Pte	TOWNSEND, R.J.	CB Highrs

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For .... times

For .... times

For [redacted] ..... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for ..... NIL days in civil custody; and for ..... days in military custody, making a total of ..... days of which ...5.. days were spent in hosp.

5. The present age of the accused is .24.....

6. The date of his attestation is 6.Feb.42....

7. The service which the accused is allowed to reckon is .....

State the military decorations (if any) held by accused.

8. The accused is in possession of # CVSM & C

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

Date of Promotion

In the substantive rank of ....

Exhibit "B" "T HW hite"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may
B-65305	Pte	TOWNSEND, R.J.	CB Highrs

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For .... times

For .... times

For .... times

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for ..... days in military custody, making a total of ..... days of which ...5.. days were spent in hosp.

5. The present age of the accused is .24.....

6. The date of his attestation is 6.Feb.42....

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of # CVSM & C

State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

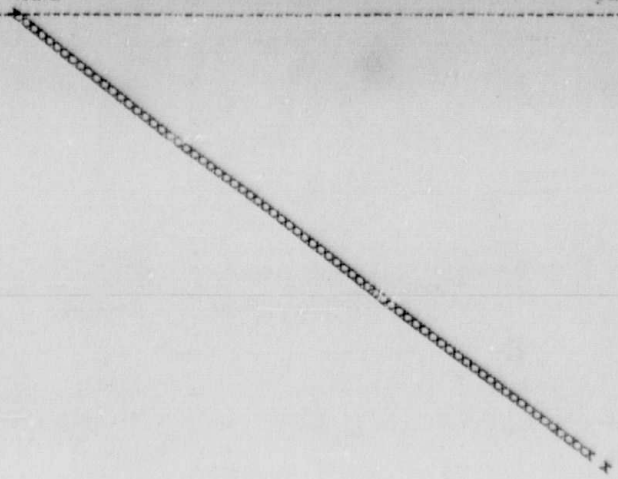
	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended



I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24 Jan 45 day of .....

"D W ??????????" Capt
Officer I-c Regtl Books
CB Highlanders.

NOTE: CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

3/17 MFM 6
(AFB 122)
46/FAS/125/10413

No. F-65305 Name TOWNSEND, R.J. Sqn, Battery, or Company D Corps Infantry Date of enlistment 5 Feb 42 QC Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	8/9/42	Pte		AA Sec 15(1) WOAS?AWL from 2359 hrs 8-9-42 until 2030 hrs 9/9/42 Absent 20 hrs 30 mins	L/C Webb	7 days CB	10-9-42	RB Simmonds	10days pay
	10/9/42	Pte		AWL while a defaulter from 1930 hrs 10-9-42 until apprehended at 1420 hrs 12-9-42 Absent 1 day 18 hrs 50 mins	L/C Webb Documentary	4 days pay	18-9-42	RB Simmonds	2 days pay cost of app
	25/9/42	AA Sec 15(1)		AA Sec 15(1) WOAS,AWL from 2200 hrs 25-9-42 until apprehended a t 1400 hrs 10-10-42 Absent 15 days 16 hrs	Sgt Archibald Documentary	20 days Det 14 days FP	13-10-42 25-11-42	AS Robinson Lt Col HS Robinson Lt-Col	Forf 14 days pay
FIELD	15/11/42	Pte		(1)WOAS Sec 40 conduct to the prej etc in that he failed to comply with a lawful order given by a superior officer (2) AA Sec 40 in that he was insulant to a superior officer	Documentary				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	15/1/43	Pte		AA Sec 40 WOAS, conduct to the prej etc in that he at 1700 hrs 15-1-43 appeared on a public street improperly dressed.	Documentary	5 days CB	17-1-43	Capt MacAinnon	
FIELD	3/2/43	Pte		AA Sec 40 conduct to the prej etc in that he hesitated to obey an order given by his superior officer.	CQMS Foster L/C O'Neil	5 days F.P. 5 days pay	3-2-43	HS Robinson	forf 5 days pay
FIELD	21/3/43	Pte		AA Sec 40 conduct to prej etc in that he appeared on a public street improperly dressed	Documentary	7 days CB	23-3-43	RL Simmons Capt	

No F-65305 Name TOWNSEND, RJ | Sqn, Battery, or Company D | Corps Infantry | Date of enlistment 6 Feb 42 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 126) 40/PAS/1561418

Sheet No 2. | Signature OC Company, etc | Character

Date of last entry in Company Conduct Sheet: Place	Date of offence	Rank	Cases of drunkenness	No. and date of last drunk	Period not reckoning towards freedom from extra fine	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4/2/44	Pte				AA Sec 11 WOAS neglecting to obey camp standing orders in that he at approx 2130 hrs was appr in the town of GRAVINA contrary to camp standing orders.	Sgt Bonnar J	5 days CB	5 Jan 44	WW Ogilvie Maj	
FIELD	9/10/44	Pte				AA Sec 15(1) WOAS AWL 2 days 8 hours	Sgt MacDonald Documentary	1 day FP 8 days pay	16 Oct 44	Lt Col L.J. Flynn	Aut forf 3 days pay
FIELD	16/10/44	Pte				AA Sec 15(1) WOAS, AWL 2 days 7 hrs 30 mins	CSM Porter Documentary	28 days FP 28 days pay	19 Oct 44	Lt Col L.J. Flynn	Aut forf 3 days pay.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
FIELD	16 Nov 44	Pte		AA Sec 40 Conduct to the prej etc in that he at approx 2200 hrs 16 Nov 44 whne acting as coy guard was not alert at his post (2) AA Sec 40 Conduct to the prej etc in that he at approx 2200 hrs 16 Nov 44 acting as coy guard was smoking at his post (3)WOAS, conduct to the prej etc in that he at approx 2200 hrs 16 Nov 44 behaved in an insolent manner towards a superior officer Certified true copy 6 Feb 45 "F J Caissie" Lieut	Documentary Cpl Keeping when	21 days FP 21 days pay EXHIBIT "C" "TH White"	21 Nov	Lt Col RB Somerville	

6. The accused gave evidence that he had not been warned by anyone that action was imminent. He stated that he knew the platoon he was in, but that the Sgt said something about changing his section, but nothing definite. He was drinking all day of the 20 Dec 44 in his platoon house and woke up the next morning in a house down the road. He did not notice anyone getting ready. There was some talk among the men about going into the line but they expected to rest for a while.

7. The accused further stated that when he went for breakfast to his company cookhouse on the morning of 21 Dec 44 the staff told him that the company had gone, and told him the direction. The accused then got his equipment and started after the company. This is corroborated by a member of the cookhouse staff who gave evidence. The accused stated that he looked for his unit but could not find it.

8. It is therefore my opinion that there is no evidence that the accused was properly warned for the forthcoming action, nor is there the necessary evidence of an intent to desert.

9. I advise therefore that as the findings and sentence have been reserved to you for confirmation you should not confirm the finding on the first charge but may confirm the finding on the second charge, and that you should vary the sentence under RP 55.

10. If you accept my advise you should endorse on Part III, page 4 of GF A96 the following minute: "I do not confirm the finding on the first charge. I confirm the finding on the second charge. I vary the sentence so that it shall be as follows: 'To be imprisoned with hard labour (or without hard labour) for ___ years' and I confirm the sentence as so varied."

11. It should be noted particularly that a sentence of imprisonment will not be in excess of two years. You may of course in view of the non-confirmation of the finding on the first charge impose a sentence of not more than two years detention instead of imprisonment, in which case your minute, as above set out, should be varied to read: "To undergo detention for ___ years (or ___ months) etc." You should date the minute and sign as GOC 5 Cdn Armd Div.

12. After the proceedings have been dealt with by you, may they be passed to the ADJA 5 Cdn Armd Div in order that the same may be transmitted for promulgation.

(T G Norris) Colonel
DJAG
Cdn Sec 1 Reh HQ 21 A Gp

Copy to

ADJA 5 Cdn Armd Div

REVIEW

RESTRICTED

HQ

529/CM/1/2 (DJAG)

16 Mar 45

GOC
5 Can Armd Div

FGCM - 8 Feb 45
F.65305 Pte Townsend R J
C B H

1. These proceedings have been reviewed by me, the finding and sentence having been reserved for confirmation. They are enclosed herewith.

2. The accused was charged on two charges as follows:

First Charge
Sec 12(1)(a) Army Act — WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,

in that he, in the field, absented himself without leave, with intent to avoid battle, at apprex 1900 hours 20 Dec 44 and remained absent until he surrendered himself to K.67700 Cpl Bradley J S, of the 4 Cdn Rft Bn at apprex 2030 hrs 19 Jan 45. (Absent 30 days 1 hr 30 mins).

Second Charge
Sec 15 (1) Army Act — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he, in the field, while under close arrest absented himself without leave at 1530 hrs 26 Jan 45 and remained absent until apprehended by an NCO of the Military Police on Route 16 at about 1600 hrs 30 Jan 45. (Absent 4 days 30 mins).

He pleaded not guilty to the first charge and guilty to the second charge. He was found guilty on both charges and was sentenced to undergo four years imprisonment with hard labour.

3. While the findings and sentence have been reserved for confirmation as the sentence is a sentence of imprisonment the matter of confirmation may be dealt with by you. Such sentence is in excess of the punishment authorized by law - the maximum sentence of imprisonment being a sentence of two years with or without hard labour.

4. I must further advise that the finding on the first charge should not be confirmed for the reasons hereinafter indicated.

5. The first charge alleges that the accused absented himself without leave "with intent to avoid battle". The only witness for the prosecution gave evidence that he did not know the accused, that he was given a list of men who were to be in his section and that he called the role. The accused could not then be found. This witness was the section commander. He did not know if the section had been warned of any impending action as he had just returned from leave.

...../2

5-20-3/A
HQ 5 Cdn Armd Div
27 Mar 45

Major T H White,
Perth R

Field General Court Martial - 8 Feb 45
F65306 Pte TOWNSEND R J
C B Highrs

1 On 8 Feb 45 you were the President of a FGCM with Capt N H Shaw, Ir R C and Capt P J Stephen, C B Highrs, as members, for the trial of the m/n on two charges (1) when on active service deserting His Majesty's Service and (2) when on active service absenting himself without leave. The accused pleaded not guilty to the first charge and guilty to the second, was found guilty of the first charge, and was sentenced to undergo four years imprisonment with hard labour.

2 By reference to AA Sec 44, sentences of imprisonment may not be in excess of two years so that the sentence awarded by you in this case was excessive.

3 The first charge alleges that the accused absented himself without leave "with intent to avoid battle". The only witness for the prosecution gave evidence that he did not know the accused, that he was given a list of men who were to be in his section and that he called the roll. The accused could not then be found. This witness was the section comd. He did not know if the section had been warned of any impending action as he had just returned from leave.

4 The accused gave evidence that he had not been warned by anyone that action was imminent. He stated that he knew the platoon he was in, but that the Sgt said something about changing his section, but nothing definite. He was drinking all day of the 20 Dec 44 in his platoon house and woke up the next morning in a house down the road. He did not notice anyone getting ready. There was some talk among the men about going into the line but they expected to rest for a while.

5 The accused further stated that when he went for breakfast to his Company cookhouse on the morning of 21 Dec 44 the Staff told him that the Company had gone, and told him the direction. The accused then got his equipment and started after the Company. This is corroborated by a member of the cookhouse staff who gave evidence. The accused stated that he looked for his unit but could not find it.

6 It is therefore my opinion that there is no evidence that the accused was properly warned for the forthcoming action, nor is there the necessary evidence of an intent to desert.

7 For the reasons given above, I therefore direct that you re-assemble this Court at the earliest opportunity for the purpose of reconsidering your finding on the first charge, and the sentence for both charges. Your attention is directed to AA Sec 54(2), RP 52 and MML page 759 for procedure on revision, and to AA Sec 44 for the scale of punishments which may be awarded. Your attention is also drawn to AA Sec 58(3). The record of your revision will be set out in the form given on page 759 MML.

8 Original proceedings are attached hereto for your consideration, and will be returned with your record of revision.

(B M Hoffmeister) Maj
GOC 5 Cdn Armd Div

5-20-3/A
HQ 5 Cdn Armd Div
27 Mar 45

Major T H White,
Perth R

Field General Court Martial - 8 Feb 45
M65305 Pte TOWNSEND R J
C B Highrs

1 On 8 Feb 45 you were the President of a FGCM with Capt N M Shaw, Ir R C and Capt F J Stephen, C B Highrs, as members, for the trial of the m/n on two charges (1) when on active service deserting His Majesty's Service and (2) when on active service absenting himself without leave. The accused pleaded not guilty to the first charge and guilty to the second, was found guilty of the first charge, and was sentenced to undergo four years imprisonment with hard labour.

2 By reference to AA Sec 44, sentences of imprisonment may not be in excess of two years so that the sentence awarded by you in this case was excessive.

3 The first charge alleges that the accused absented himself without leave "with intent to avoid battle". The only witness for the prosecution gave evidence that he did not know the accused, that he was given a list of men who were to be in his section and that he called the roll. The accused could not then be found. This witness was the section comd. He did not know if the section had been warned of any impending action as he had just returned from leave.

4 The accused gave evidence that he had not been warned by anyone that action was imminent. He stated that he knew the platoon he was in, but that the Sgt said something about changing his section, but nothing definite. He was drinking all day of the 20 Dec 44 in his platoon house and woke up the next morning in a house down the road. He did not notice anyone getting ready. There was some talk among the men about going into the line but they expected to rest for a while.

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6 It is therefore my opinion that there is no evidence that the accused was properly warned for the forthcoming action, nor is there the necessary evidence of an intent to desert.

7 For the reasons given above, I therefore direct that you re-assemble this Court at the earliest opportunity for the purpose of reconsidering your finding on the first charge, and the sentence for both charges. Your attention is directed to AA Sec 54(2), RP 52 and MML page 759 for procedure on revision, and to AA Sec 44 for the scale of punishments which may be awarded. Your attention is also drawn to AA Sec 56(3). The record of your revision will be set out in the form given on page 759 MML.

8 Original proceedings are attached hereto for your consideration, and will be returned with your record of revision.

(B M Hoffmeister) Maj
GOC 5 Cdn Armd Div

F-65305 Pte TOWNSEND, R J
C B Highrs REVISION

In BELGIUM on the ninth day of April 1945 at o'clock, the Court re-assemble by order of Maj Gen B M Hoffmeister, GOC 5 Cdn Armd Div, for the purpose of reconsidering their finding on the first charge, and the sentence on both charges.

Present the same members as on the 8 Feb 45.

The letter directing the re-assembly of the Court for revision, and giving the reasons of the confirming authority for requiring a revision of the finding on the first charge and the sentence on both charges is read, marked "X", signed by the President, and attached to the proceedings.

The Court having attentively considered the observations of the confirming authority, and the whole of the proceedings:

(a) do now respectfully adhere to their finding on the second charge, and do now revoke their finding on the first charge, and their sentence, and find the accused not guilty of deserting His Majesty's Service but guilty of absenting himself without leave on the first charge, and sentence the accused to be imprisoned with hard labor for two years.

SIGNED in the field in BELGIUM, this 9 day of April 1945.

"T H White"
(T H White) Major
President

I confirm the finding on the second charge and I confirm the revised finding on the first charge, and the revised sentence.

"B M Hoffmeister"
(B M Hoffmeister) Maj Gen
GOC 5 Cdn Armd Div

In the field
10 Apr 45

Promulgated and extracts taken.
F65305 Pte Townsend R J (date)-18 May 45

"J N Medhurst" Lt Col
Comdg 1 Cdn Disciplinary Centre

KKK-131

PTE TOWNSEND WC.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-52197 Pte William Charles TOWNSEND, HLI of C, 9 Bn, 2 CBRG

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A. W. O. L.	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; [illegible] RP 44 fn 6.)

~~At present undergoing~~ ~~sentence of~~ ~~imprisonment~~ ~~detention~~ ~~with hard labour~~ ~~for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of 180 days and to be put under stoppages of pay until he has made good the sum of £9 Nine Shillings in respect of cost of apprehension and return to his unit

(Sgd) E.E. Pearlman Capt. — Judge-Advocate, if any.
16 May 44 — Date awarded.
(Sgd) [illegible] Lt-Col — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1. AA 57A. Delete if not used.)

(Sgd) E Francoeur

Date 17 May 44 — Commanding 2 CBRG — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. — Date. — Signature of Offr.

B52197 Pte. William Charles TOWNSEND — 18 may 44 — [illegible] Capt & Adjt 9 Bn, 2 CBRG

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Vol I p 9

RECORDED AT CMHQ IN AB 160 [illegible]

RECEIVED 22 MAY 1944 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CFA96 (To Dirn of AFA31 40/P & S/1698 (40/0)) 4/38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 16 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Pmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-52197	Pte	William Charles	TOWNSEND	HLI of C, 9 Bn, CBRG

PROCEEDINGS REVIEWED 24 May 44 R. Dean Wills capt. REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 24 May 44 D.J.A. Sec. GHQ 2 Echn 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 16 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 6/25

A1. The President, Members, waiting Member, JA, ~~[illegible] and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1055 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to [illegible] as interpreter? Ans~~ The interpreter is sworn.(1) Do you object to K-70650 Cpl Davie JW as shorthand writer? Ans No Sir. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and [illegible] instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E W THOMAS		RHC, 11 CBR Bn
Member	Capt	P LESSARD		R de Chaud, 9 CBR Bn
Member	Lieut	R M ALLAN		RCA, 9 CBR Bn
Judge-Advocate	Capt	E E PEARLMAN,	ADJA	HQ 2 CBRG
Prosecutor	Capt	J H CAMPBELL		8 Recce, 9 CBR Bn
Defending Offr	Lieut	N H CHATE		Cams of C, 9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-52197 Pte TOWNSEND W C before arraignment make(s) ~~(are)~~ plea Guilty (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B1.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(4).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or recalling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your statement the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. I.e. making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity, later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No Sir.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (a) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). (b) The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule (or amended) accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. ~~On the charge to which the plea of Guilty is not changed~~ The President records findings of Guilty ~~All the charge(s) to which the plea(s) of Guilty is (are) not changed~~ the President records findings of Guilty on Part I of the Schedule.(1) IN PART I OF THE SCHEDULE
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A" initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as refer to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 53, paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D5.
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 3.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A93. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 82, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Sir.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copies (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, through my defending officer. See Para allowed(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-52197, Pte. William Charles TOWNSEND, H.L.I. of C., on strength of 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec. 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, on 23 Apr 44, absented himself without leave from 9 Bn, 2 C.B.R.Gp, from 2359 hours, 23 Apr 44, until apprehended at 1000, 9 May 44. (Absent 15 days, 10 hours, 1 minute). Cost of apprehension nine shillings (9/0).

(H.W. Rick), Lt.-Col.
Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field.
15 May 44

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
16 May 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-52197	Pte		William Charles	TOWNSEND	HLI of C, 9 Bn, 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 16 May 44 endorsed by me, (~~or by another of my equal rank~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a [illegible] as President, for the reasons I have attached hereto~~.
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	E W THOMAS (*Must be named. RP 106.*)	RHC, 11 CBR Bn (Unit.)

MEMBERS.

Capt	To be detailed by OC 9 CBR Bn	9 CBR Bn
Lieut (Rank.)	To be detailed by OC 9 CBR Bn (*Named or detailed. RP 106.*)	9 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	To be detailed by OC 9 CBR Bn (*Named or detailed, if any. RP 106.*)	9 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E E Pearlman, ADJA (*Must be named, if any. RP 106.*)	HQ 2 CBRG (Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(G Francoeur) (*Signed personally. RP 105 fn 2.*) Brigadier (Rank.)

Date 16 May 44

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

9 CANADIAN BASE REINFORCEMENT BN

ABP

THIS IS TO CERTIFY THAT No B.52197 Rank PTE Name TOWNSEND W.C.
of 9TH BN NO. 2 C.B.R.G. is ~~unfit~~ fit to undergo trial by Court Martial

Date 16 May 44

H.S. Farrell Capt
Medical Officer
9 Bn, 2 C.B.R.G.

B-52197 PTE. WILLIAM CHARLES TOWNSEND, R.C.I.C. ON STRENGTH 9 SN. 20 Coy R.

The accused has for some time been under a certain mental strain, the circumstances of which have led to his illegal absence.

He had been very desirous of proceeding abroad on a C.M.F. draft with the rest of his army associates but through circumstances was left off the draft when it eventually did leave. After this he was moved about from place to place and one unit to another. He was finally put on a C.M.F. draft only to be taken off at the last minute. This occured at still a later date this year. Having been turned back so many times gave him a fed-up attitude.

During the past year or so he has been associating with a young lady whom he had and still has intentions of marrying as this lady was going to bare his child he applied for permission to marry her. This was around the first of December 1943. His Commanding Officer refused permission on the grounds that his public debt was too high to warrant such action. However it is to be borne in mind that his unit Padre had given consent to the marriage. The C.O. also assured him that he would be granted [illegible] proceeded on a C.M.F. draft should such an occasion arise.

[redacted]

Just before Christmas 1943 he again applied for permission to marry and was again refused on the same grounds. At this time however his debt was insignificant.

On the 2 December 1944 the young lady gave birth to a child and is living with [illegible] mother who cannot afford to keep her and also by the accused who sends home money.

This leads up to a recent date when the accused received a letter from the young lady urging him to come as his child was very ill. He then applied for a pass and received one.

Due to this constant worry hanging over him and his very evident concern for the well being of his child the accused illegally absented himself because he thought he could be of service to his family. He was apparently returning to his unit when he was apprehended.

EXHIBIT 'A'

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr.42

I Certify that No. B-58197 Name Pte. Townsend W.C.

Unit P.Pass Rein. Group N.I.L. was arrested at London (Place)

at 10.00 (hour) on 9 May 44 (Date) and that at the time of arrest he was wearing (Military Uniform) or (Civilian Clothing)

Signature of Provost-Marshall, Assistant Provost-Marshall or officer or the Commanding Officer of the portion of His Majes Forces or the officer, warrant-officer, non-commissioned off in charge of the detachment of the Canadian Provost Corps, C Army into whose custody the above named person was taken on

(Strike out part inapplicable).

London
9 May 44.

R. J. STINSON
ADMN. OFFICER - D.P.W's SR.
C.A.P.C.

Expense Voucher Re—

Ref: K.R. & O. (Can) 559

Reg. No. B32192 Rank Pte Name Saunders, W.G. Unit 1 Bn 2 C.B.D.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (Expenses)	Amount		
13 May 44	Escorts return fare from LONDON To Maidstone		4	6
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Maidstone		4	6
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. W. Stinson LIEUT.

Officer Issuing Railway Warrant and Expense monies STINSON
No. 6 Provost Company, Canadian Provost Corps, Dorchester ADMN. OFFICER - D.P.M's BR.
C. M. H. Q.

C.M.H.Q. 1000:55
40/P & S/483

(Margin for filing purposes)

Sched 1-B.

Army Form A.F.W. 3012A (Duplicate Books of 100)

A.F.W. 3012A Serial No. 125

Number of sheets to this return

X-4 List (H.L.I.)

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)--
~~CASUALTIES DUE TO ACCIDENTS AND SICKNESS--OFFICERS AND NURSES~~
~~OFFICERS AND OTHER RANKS ATTACHED FROM ANOTHER UNIT OR CORPS~~

Personal No.	Rank	Name and Initials	Corps or Regiment	Casualty: Nature of Casualty	Casualty: Date	REMARKS Any available information for communication to relatives should be stated
ABSENT WITHOUT LEAVE						
(a)	A.W.L. from 1800 hrs 15 Apr 44.			Still absent 1800 hrs 23 Apr 44 (absent 8 days)		
B-75133	Lte.	Reid, A.T.	H.L.I.	2 C.I.R.U.		
(b)	A.W.L. from 2359 hrs, 23 Apr 44.			Still absent 2359 hrs 25 Apr 44.		
B-58197	Lte.	Townsend, W.C.	H.L.I.	2 C.I.R.U.		

CERTIFIED TRUE COPY

(C.L. Nelson), Capt.,
Adjutant,
9 Bn, 2 C.B.R.Gp.

9 Bn, 2 C.B.R.G.
(Unit)

(Date) 26 Apr 44 194

(Sgd) W.W. Thom, Lieut.
Records Officer.
(Signature and Appointment of Officer)

(Bde., Divn., Area, etc., with which unit is serving)

Forms W3010B/1

E & P

SUMMARY OF EVIDENCE

in the case of

B-52197, Pte. William Charles TOWNSEND, H.L.I. of C., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

(a) When on Active Service, absenting himself without leave. A.A. Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS for Prosecution

D-72086, Sgt. Robertson, D.W., H.L.I. of C., on strength 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"On 24 Apr 44 I was Company Orderly Sergeant of 42 Coy, 9 Bn, 2 C.B.R.G. When checking over the Platoon Parade States I found a blank opposite the accused's name, which indicated to me that he was missing from parade at 0800 hours. I checked with the gate list in the Guard Room, and found he had not turned in his pass, which expired 2359 hours, 23 Apr 44. I then entered his name on the reveille absentee report as absent from 2359 hours, 23 Apr 44."

The accused declines to cross examine the witness.

D W Robertson

D-72086, Sgt. Robertson, D.W.

SECOND WITNESS for Prosecution

Documentary certificate in accordance with P.C. 2797 of 10 Apr 42. This form has been shown to the accused, marked as Exhibit "A" for the prosecution, and attached to the Summary of Evidence.

J.H. Campbell

(J.H. Campbell), Captain,
Officer detailed to take
the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me, in the presence of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

J.H. Campbell

(J.H. Campbell), Captain,
Officer detailed to take
the Summary of Evidence.

In the Field.
15 May 44

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

B-52197, Pte. William Charles Townsend, H.L.I. of C., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, charged with:

(a) When on Active Service, absenting himself without leave. A.A. Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

THIRD WITNESS
For Prosecution

Documentary. Certified True Copy of Casualty Return, H.L.I. X-4 List, No. 125, dated 26 Apr 44. This form has been shown to the accused, marked as Exhibit "B" for the prosecution, and attached to the Summary of Evidence.

(J.H. Campbell), Captain,
Officer detailed to take
the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or give evidence.

The accused does not call any witnesses for the defence.

I certify that the foregoing Additional Summary of Evidence, consisting of one page, was taken down by me, in the presence of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

(J.H. Campbell), Captain,
Officer detailed to take
the Summary of Evidence.

In the Field.

15 May 44

MFM 6 (AFB 122) 40/PAS/136 (3458)

No. 35197 Name TOWNSEND William Charles | Sqn, Battery, or Company | Corps | Date of enlistment 29 Aug 41 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc J.M.D.Clank

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	10 Nov 41	Pte		AWL from 2359 hrs 8-11-41 to 1900 hrs 9-11-41 (A.A. 15 (1) (19 hours)	Cpl Cameron Cpl Gillies	14 days C.B.	10-11-41	J.C.B.	Forfeits 1 days pay FR&I 149(1)(a
Debert NS	13 Feb	Pte		Conduct to the prejudice of good order and military discipline. Failed to get out of bed and dress until 0815 hours	L/Cpl Balderstone C.S.M. Murray	5 days C.B.	13-2-42	K.Y. Dick	
Borden	14 Mar 42	Pte		A.W.L. from 0100 hrs 14 Mar 42 until 1315 hrs 19 Mar 42 (5 days 11hrs 15 Mins)	Documentary Evidence	Deprivation of pay for 8 days FR&I 149(2)		R. Bellanger Maj.	Forfeits 6 days' pay FR&I 149(1)(a TOTAL STOPPAGE 14 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	4-4-42	Pte	1	1. A.W.L. 1500 hrs 4-4-42 to 1140 hrs 6-4-42. (1 day 20 hrs 40 min. A.A. 15(1)	Cpl. Murrary Sgt Fletcher(Doc)	28 Days Detn.	15-4-42	E.L. Dinsmore Major	Forfeits 6 days pay FR&I 149(1)(a) 28 days pay FR&I 149(1)(b)
				2. Broke out of barracks when under open arrest. A.A. 10(4)	Sgt England				
				3. A.W.L. with intent to avoid embarkation from 0600 hrs 7-4-42 until apprehended by Can. Provost at 0015 hrs 11-4-42. (3 Days 18 hrs 15 Min.) A.A. 15(1)	Cpl Murray L/Cpl Butler(Doc) Pte Gurr P/2 Can. Provost Sgt. Clark (Doc)				
				TOTAL ABSENCE 5 days 14 hrs 55 mins					
Camp Borden	24-5-42	Pte	NIL	AA. Sec. 12(1)(a) Deserting his Majesty's Service in that he at Camp Borden after having been duly warned to proceed on draft absented (cont'd)	Cpl. Hare Sjt. Allen	28 Days Detention	1-6-42	Lt.-Col E.L. Denison	Forfeits 4 Days pay FR&I 149(1)(a) 28 days Pay FR&I 149(1)(b)

MFM 6 (AFB 122) 40/PAS/136 (3455)

No B52197 Name TOWNSEND, W.C. | Sqn, Battery, or Company | Corps | Date of enlistment 29 Aug 41 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc F.H. McKerinan Lt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(cont'd) himself with intent to avoid such embarkation from: 1300 hrs 24-5-42 until apprehended at Brampton, Ontario at 0130 hrs. 28-5-42. (84 hrs. 30 Min.)				R.L.D.	
Field	13 Nov 42	Pte	Nil	Sec. 15(1) A.A. AWL from 0400 hrs 13 Nov 42 to 0900 hrs 14 Nov 42 TOTAL ABSENCE 29 hrs	Cpl Donald R.	Forfeiture 2 pay FR&I 149(2)	14Nov 42	H.W. Barclay Lt	Automatic Forf 1 days pay FR&I 149(1)(a) TOTAL FORF 3 days pay
Field	23 Nov 42	Pte	Nil	Sec 40 A.A. Conduct to the prejudice of good order and military discipline in that he while a member of H.Q. guard on the night of 23 Nov 42 did not do his tour of duty as warned.	Sgt Green	2 Extra Guards	26Nov 42	H.W. Barclay Lt	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Dec 42	Pte	Nil	Sec 40 A.A. Conduct to the prejudice of good order and military discipline in that he while on duty as a member of H.Q. guard was improperly dressed	Sgt Defoe	Forfeits 6 days pay FR&I 149(2)	4 Dec 42	H.W. Barclay Lt	Forf. 6 days pay FR&I 149(2)
Field	20 Dec 42	Pte	"	Sec 15(2) A.A. AWL from 1900 hrs to 1105 hrs 20 Dec 42. Total Absence 9 hrs 45 mins.	Sgt Green	Forfeits 6 days pay FR&I 149(2)	21Dec42	H.W. Barclay	Forf 6 days pay FR&I 149(2)
Field	4 Jun 43	Pte	"	Sec 15(1) A.A. AWL from 2300 hrs 4 June 43 to 0845 hrs 5 Jun 43 Total Absence 9 hrs 45 min.	Sgt Donald	10 days F.P.	7 Jun43	H.W. Barclay Lt	Automatic Forfeiture 1 dys pay FR&I 149(1)(a)
Field	31 Jul 43	Pte	"	A. .L. from 2300 hrs 31 Jul 43 till surrendering himself at 1830 hrs 3 Aug 43. Total absence 2 days, 19 hrs,30 min. A.A. Sec 15(1)	CSM Darwin	10 days F.P. 10 days pay	4 Aug 43	G.F.Clingan Lt.Col	Forf. 3 days pay FR&I 149(1)(b) Forfeits 10 days FRI 149(1)(b) Total forfeiture 13 days pay

MFM 6
(AFB 122)
40/P&S/156 (3488)

No B52197 Name TOWNSEND, W.C. | Sqn, Battery, or Company | Corps | Date of enlistment 29 Aug 41 | GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc J.H. McKerman Lieut | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Aug 43	Pte		WOAS, A.W.L. whilst a defaulter from 1800hrs 4 Aug 43 till 2300 hrs 4 Aug 43 Total absence 6 hrs A.A. Sec 15 (1)	Documentary	7 days Detn	6 Aug 43	G.F.Clingan Lt-Col	Forf. 7 days pay FRI 149 (1)(b) Forf to run concurrent with previous award.
			(2)	WOAS, A.W.L. whilst a defaulter from 0600 hrs 5 Aug 43 until 0745 hrs 5 Aug 43. Total absence 1 hour 45 minutes. A.A.Sec 15(1)	K 42013 Cpl Farquharson	14 days F.P.	9-9-43	Lt-Col. R.D.King	Forfeits 9 days pay FR&I 149(1)(a)
Field	31 Aug 43	Pte		WOAS. A.W.L. from 1330 hrs. 31 Aug. 43 until 0100 hrs. 9 Sep. 43.(Time absent 8 days 11 hrs. 30 mins.) A.A.Sec. 15(1)	Documentary R 46679 Cpl. Carefoote T.D.				

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-11-43	Pte		WOAS Conduct to the prejudice etc.appearing on guard mounting 0900 hrs 15 Nov 43 improperly dressed. i.e. failing to have his hair cut after being duly warned A.A.Sec 40	Sgt. Baker Lt. Kemp	5 days pay	22-11-43	Lt.-Col R.D. King	
Field	14 Jan 44	Pte		WOAS, AWL from 2200 hrs 14 Jan 44 till surrendering to Unit Guard Room at 0800 hrs 17 Jan 44 Total absence 2 days 10 hrs A.A.Sec 15 (1)	Cpl Windeyer	10days F.P. 10 days pay	17 Jan44	Lt-Col G.F. Clingen	Forf 3 days pay FR&I 149(1)(a) Forf 10 days pay FR&I 149(1)(b) Total forf 13 days
Field	23 Jan 44	Pte		WOAS/AWL in that he at Tournay Barracks, Farnborough Hants absented himself without leave from 1300 hrs 23 Jan 44 to 0800 hrs 24 Jan 44 as a defaulter. Absent 19 hrs. AA Sec 15(1)	Documentary	10 days pay 10 days F.P. 2 days to run concurrent with award on 17 Jan 44 Total 9 days pay.	25Jan 44	Lt-Col G.F. Clingan	Forf 1 days pay FR&I 149(1)(a) 10 days pay FR&I 149(2) Total forf. 9 days pay.

MFM 6
(AFB 122)
40/PAS/136 (5428)

No B 52197 Name TOWNSEND, William Charles | Sqn, Battery, or Company | Corps | Date of enlistment 29 Aug 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 4 | Signature OC Company, etc J.Hawkings Lt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	30Jan 44	Pte		(1st Charge) WOAS, AWL from 1800 hrs 30 Jan 44 till apprehended by the CPC at Portsmouth at 1635 hrs 7 Feb 44 thereby incurring expenses for cost of apprehension in the amount of £0.11.6. Total absence 7 days 22 hrs 25 mins. AA Sec 15(1)	Documentary	28 days detn 28 days pay FR&I 149 (2) Stoppage of pay for cost of apprehension £0.11.6	11 Feb 44	Lt-Col CF Clingan	Forf 8 days pay FR&I 149 (1)(a) Total forf 36 days pay plus cost cost of apprehension £0.11.6
Field	7 Feb 44	Pte		(2nd Charge) WOAS, Contravening Camp Standing Orders para 49 (c)(vi) in that he was improperly dressed, was wearing a collar and tie when stopped by CPC at Portsmouth Hant 7 Feb 44. A.A. Sec 11	Documentary				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						(see reverse side for punishment, etc)			
Field	7 Feb 44	Pte		WOAS, an act to the prejudice, etc in that he at Portsmouth 7 Feb 44 when questioned by CPC stated that he was absent from his Unit from 5 Feb 44, well knowing it to be a false-hood. A.A.Sec 40	Documentary				
Field	7 Mar	Pte		WOAS, AWL in that he at Tournay Bks did absent himself without leave from 2200 hrs 7 Mar 44 until surrendering himself to C Coy Orderly Room, 5 CIRU at 0755 hrs 8 Mar 44	Cpl Reid	28 days F.P. 28 days pay FR&I 149(2)	8 Mar 44	Lt-Col GF Clingan	Forf 1 days pay FR&I 149(1)(a) Total forf 29 days pay
Field	29 Mar 44	Pte		A.A. Sec 15(1) Sec 15(1) A.A. AWL 3 hrs 30 mins	Sgt T.J. Mantyerick	Forfeit 1 days pay FR&I 149(2)	30 Mar 44	Lt.Col WJ Bingham	
Field	4 Apr	Pte		WOAS, AWL 2230 hrs 4 Apr 44 to 2300 hrs 4 Apr 44 TOTAL ABSENCE 30 Mins A.A.Sec 15(1)	L/Cpl Carter S.F.	Forfeit 1 day 6 Apr 44 pay FR&I 149(2)	6 Apr 44	Lt.Col WJ Bingham	

CERTIFIED A TRUE COPY as taken from Regimental Books in my Custody

15th April 44 (C. L. Nelson), Capt., Adjutant, 9 Bn, 2 C.B.R.G.

Ex B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-52197	Pte.	Townsend, W.C.	H.L.I. of C., on strength 9 Bn, 2 C.B.R.Gp.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet. Prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15(1), A.W.L.	17	times.
For AA 40	5	times.
For AA 10(4)	1	times.
For AA 12(1)	1	times.
For AA 11	1	times.

Date of first entry in Field Conduct Sheet 10 Nov 41

Date of last entry in Field Conduct Sheet 4 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been awaiting trial on the present charges for No days in military custody, *i.e.*, N11 days in open arrest, N11 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 22 years (Born 2 May 22)

6. The date of his attestation is 29 Aug 41

~~7. The service which the accused is allowed to reckon is~~

8. The accused is in possession of C.V.S.M. and Clasp

†State the military decorations (if any) held by accused.

~~9. If the accused is a warrant officer or N.C.O. The accused has served continuously without reduction, to the present date.~~

~~In the substantive rank of Date of Promotion~~

~~In the war substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8670/468 120,000 4/42 A. & E.W.Ltd. Gp.598
(25459) W1.20526/1572 60,000 9/42

Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 16th day of May, 1944

(C.L. Nelson), Capt & Adjt.
9 Bn, 2 C.B.R. Group.

3 4m - 58

Pk. Townsend, W. C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-52197 Pte William Charles TOWNSEND - CIC - 2 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA40 Sec 15(1)	Guilty	Guilty	
~~2nd~~				
~~3rd~~				
"R" ~~4th~~				
~~5th~~				
~~6th~~				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~As to all or any of the~~ Relating to the (1)

(1. Insert sentence being served, or delete, if not applicable. See AP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one (1) year

(Sgd) ..... Judge-Advocate, if any. 14 Jun/45 Date awarded. (Sgd) "DL Redman" Lt.Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~(1) "JDF"

(1. AA 57A. Delete if not used.)

(Sgd) "JD Forin" Col

Date 16 Jun 45

ACommanding 13 C.I.T. Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.52197 Pte Townsend, W.C. Entered Order No.144 Date 20 Jun 45 By J Merton	18 Jun 45	"AH Krieger" Lt. (A.H. Krieger)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Rec'd 28 Jun 45 JAG Branch CMHQ

Recorded at CMHQ in AB 160 5M-58

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA31) 40/P & S/1698 (5144) 4/38B

Convened by Order of Brigadier KG BLACKADER Comd 13 CITB dated 13 JUN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.52197		William Charles	TOWNSEND	CIC 2 CITR

Proceedings reviewed 30 Jun 45 WMWS "KH Grant" Capt Reviewing Officer, JAG Branch CMHQ

Certified true copy of original proceedings herein. 7 Jul 45 [signature] Capt

PROCEEDINGS OF TRIAL.

"R" Held in the Fd in (country) ENGLAND on (date) 14 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

"R" A1. The President, Members, ~~and Judge-Advocate~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

"R" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

"R" The Court is satisfied that it is properly convened and constituted,(2) accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

"R" A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

"R" A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

"R" ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"R" A5. ~~President to accused: Do you object to an interpreter?~~ ~~Ans~~

"R" ~~The interpreter is sworn.~~(1) ~~Do you object to the shorthand writer? Ans~~

"R" ~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, sir.

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

"R" A7. The President, Members, ~~JA: if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.-Col	D.L. REDMAN	HQ CRU
Member	CAPT	W.E. SCYTHES	1 CITR
Member	LIEUT	J.M. DUFF	1 CITR
"R" ~~Judge-Advocate~~	Capt detailed by CO #3 CITR did not report and he was replaced by waiting Member		
Prosecutor	Lieut	A.M. TERRUNE	2 CITR
Defending Offr	Lieut	J.M. DUFF	1 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See Dir p 2.)

"R" A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

"R" A9. The accused is (~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"R" **A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"**

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No ~~Sick~~.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D6.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans..... Do you intend to call witnesses on your behalf ?

Ans..... Are they witnesses as to character only ? Ans.....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans.....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Nil.(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.52197, Pte William Charles TOWNSEND, C.I.C., on strength of 2 Cdn Infantry Training Regt., a soldier of the Cdn Army Overseas, is charged with:-

Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, at 0830 hrs 26 Jan 45 illegally absented himself without leave until he surrendered himself at 1200 hrs 5 June 45.

(Total time absent; 130 days, 5 hrs. 30 min)

In the Field,
12 June 45.

"J.G. Bourne"
.....
(J.G. Bourne) Lt-Col.,
A/Comd, 2 CITR

To be tried by Field General Court Martial.

"K.G. Blackader"
(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
13 Jun 45

"R"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-52197	Pte		William Charles	TOWNSEND	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 13 Jun 45 endorsed by me, (~~or by an offr of my staff (or me)~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) "KB"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by Comd	3 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	1 CITR

"KB" ~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in	(Country.)	"KG Blackader" (Signed personally. RP 105 fn 2.)	Brigadier (Rank.)
Date	13 Jun 45	Commanding	(K G Blackader) 13 Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"R"

MED OFFICER'S CERTIFICATE

K.R. Can. Para 557

I certify that I have this morning examined No. B.52197, Pte. Townsend, W.C. and in my opinion he is fit to undergo trial by Court-Martial.

In the field

14 June 45.

"G.MacDonald" Capt.

"R"

B.52197 Pte Townsend W.C.

I should like to make this plea for mitigation of sentence on behalf of the accused. He is a married man although his documents do not show it, as he married before the time authorized in the permission given. He has almost four years service, three years in this country. He has volunteered for the Far Eastern Campaign. He was worried about the condition of his wife and the expenses to be paid. In view of these facts I believe thatleniency should be shown in the sentence.

"J.M. Duff"
Defending Officer

E-3

TOWNSEND

E-1

On 25 Jan 45 I received a telegram stating that my wife was admitted to Epsom Hospital. I was worried and decided to go and see her with the intention of coming back that night. I found that the wife was dangerously ill, so I stayed with her in the meanwhile working to pay expenses. When all the expenses were paid I returned to 2 CITR and surrendered to the unit detention.

[redacted]

SUMMARY OF EVIDENCE

In the case of B.52197, Pte Townsend, W.C., CIC, on strength of 2 Cdn Inf Training Regt., a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness Lieut B.Y. MacLeod, 2 CIDB, 2 CITR, having been duly sworn states as follows:-

"I am Lt. B.Y. MacLeod, Asst. Adjt. 2 CIDB, 2 CITR and I produce the following as exhibits for the prosecution:-

Exhibit "A":- Certified True copy of Record of Decl of Court of Inquiry assembled in the Field on the 10th day of March 1945, showing that B.52197, Pte. Townsend, W.C., illegally absented himself without leave at 0830 hrs on the 26 January 45.

Which above exhibit pertains to the accused herein."

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

"B.Y. MacLeod" Lieut
(B.Y. MacLeod)

Second Witness A.105667, L/Cpl. Belt, R.W., 2 CIDB, 2 CITR, having been duly sworn states as follows:-

"I am A.105667, L/Cpl Belt, R.W. and am employed as an N.C.O. Det'n Bks., 2 CIDB, 2 CITR,

At 1200 hrs 5 June 45, the accused, B.52197, Pte Townsend, W.C. whom I now recognize, surrendered to me at the Unit Det'n Bks.",

The accused declines to cross-examine this witness.

"R.W. Belt" L/Cpl
(R.W. Belt) A.105667

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (D) (E) and (F) have been complied with.

In the Field

8 June 45.

"A.H. Krieger) Lieut.
(A.H. Krieger)
Officer detailed to take the Summary of Evidence.

Exhibit "A"

...ied at IN THE FIELD

...for the purpose of investigating ...ty, and deficiency, if any, in ...ental Necessaries, or Clothing

...WNSEND W C

... day of January 1945 ,

... he was deficient, and

ARTICLES	VALUE
...e Overleaf	

...dhurst" President
...irst) Capt, RRofC 2 CITR

...leen" Lt. Member
...) Lieut, ESR, 2 CITR

... Member

...A. Wilson" Col
...n) Col, Comd 2 CITR

...y "P.Saperia" Lieut
Signature of Officer having custody of original record

COUNTER NUMBER 593538

HOUR 1230

OPERATOR'S INITIALS AL

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Kay Lacoste of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated DEC.4 1952

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		57/12
TOTAL NO. OF IMAGES		5414

JOB NO. 44 REEL NO. 101

BOOK NO. 7-5

INDEXING DATA 44-1014 44-1019

BEGINS WITH THOMPSON P.J. TENNER G.I.

1. THOMPSON M.J. TIPLEY D.T.

2. THOMS T.D. TOOLE J.A.

3. TOOGOOD D.A. TOURANGEAU R.

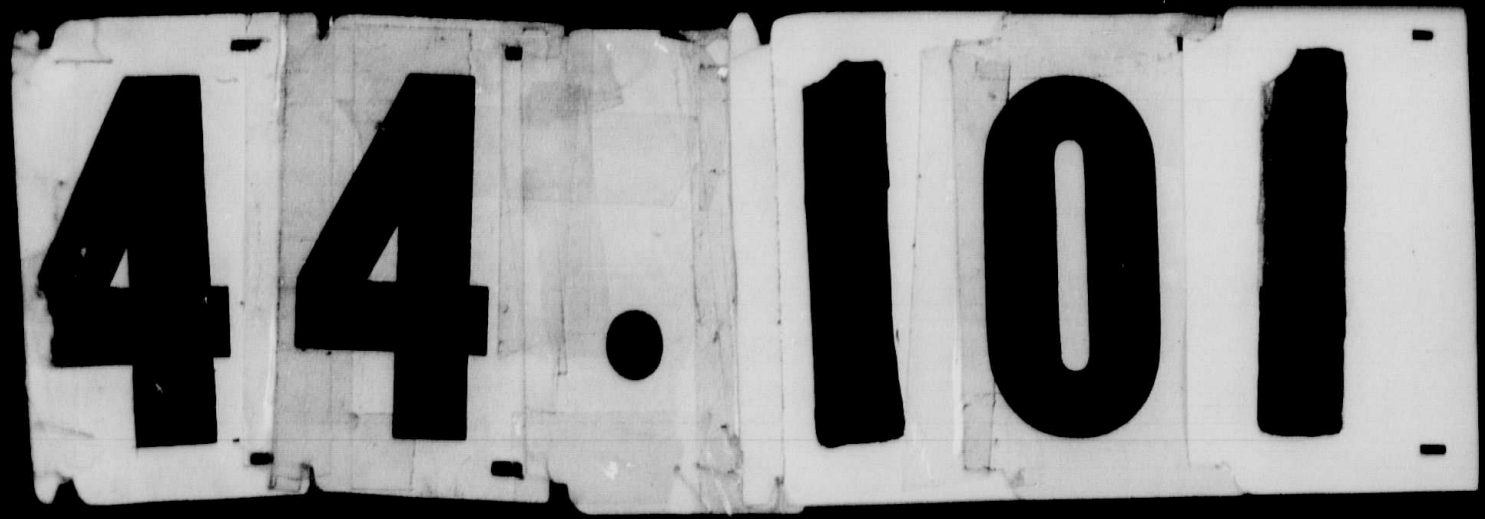
ENDS WITH TOUSSAINT A.E. TOWNSEND W.C.

J.D.

END

SECOND

SIDE


44.101